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



COMMONWEALTH REGISTER VOLUME 26 NUMBER 01

JANUARY 20, 2004

COMMONWEALTH REGISTER

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JAN 1 2 2004

DECLARATION OF EMERGENCY

Volcanic Eruption on Anatahan

L JUAN N. BABAUTA, by the authority vested in me as Governor pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, and in accordance with the recommendations of the Emergency Management Office, Commonwealth of the Northern Mariana Islands and US Geological Survey (attached hereto and incorporated herein by this reference) hereby declare another 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 maintaining the off-limits zone from 30 nautical miles to 10 nautical miles.

This Declaration shall become effective upon signature by the Governor and shall remain in effect for thirty (30) days unless the Governor shall, prior to the end of the 30day 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 I. BABAUTA

Gøvernor

Cc:

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

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commonwealth of the northern mariana islands Emergency Management Office Office of the Director



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

JAN 0.2 2004

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

MEMORANDUM

To Governor

From: Director

Subject: Declaration of Emergency

The EMO seismic staff and USGS, once again with close consultation has informed me that Anatahan volcano occasionally steaming and releases sulfiric gaseous vapors. In addition, tremors and seismic energy release are at their lowest levels caused by the volcanic activity are frequently recorded by the seismograph at EMO office.

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 and to maintain the *off limits zone from 30 nautical miles to 10 nautical miles* around Anatahan until further notice. 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 January 10, 2004.

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

Sincerely

Rudolfo M. Rua

Xc: LT. Governor SAA Mayor, NI

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Attachment:

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 COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE 021520







Northern Mariana Islands Volcanic Activity

Anatahan Home | Current Update | Archive of Updates | Photo Gallery |

Activity Update

The first historical eruption of Anatahan Volcano began suddenly on the evening of May 10. An eruption column as high as 10 km resulted in a far-reaching eruption cloud to the west. No one was directly threatened by the initial activity, because residents had long before evacuated the small volcanic island (9 km long and 3 km wide). Thus far, the eruption has consisted of a nearly continuous small eruption column (less than 5 km) punctuated by stronger explosive activity. In early June, a small lava flow erupted in the volcano's east crater, but was mostly destroyed by subsequent explosive activity.

| Eruption Overview | Washington VAAC Volcano Ash Advisories |

Anatahan Volcano Update

Anatahan Volcano Update for December 23-29

Submitted Tuesday, December 30 at 11:30 a.m. local Anatahan time

For the past week, Anatahan volcanic seismicity has been low, at a level similar to that of the past several months. There were no apparent eruption signals or precursory events. Tremor and seismic energy release are at very low levels.

Recorded seismicity was dominated by reactivation of a tectonic swarm that began on December 13. These events approached magnitude 4 and were closest to the Sarigan station, at a slant distance of about 35 km. Seismicity was particularly pronounced from December 14 at 23:00 UTC to December 15 at 05:00 UTC and December 25 at 13:00 UTC to December 26 at 02:00 UTC. Roughly 35 of these earthquakes were large enough to be recorded on both the Sarigan and the Anatahan crater seismic stations over the past week.

Two large regional events were recorded by the seismic network this week. The first was a magnitude 4.8 on December 23 at 07:41 UTC. This event was located by the National

Earthquake Information Center about 40 km (25 miles) west-northwest of Agrihan, at a depth of 205 km. A second earthquake, apparently from south of Saipan, occurred on December 29 at 14:54 UTC. This event is approximately 210 km (130 miles) south of Anatahan. Two large distant earthquakes were also recorded in the Loyalty Islands on December 26 at 21:26 UTC (M6.5) and December 27 at 16:01 UTC (M7.0).

Contact persons:

Juan Takai Camacho, Geophysical Seismic Technician, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: juantcamacho@hotmail.com Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: science@hotmail.com Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: science@hotmail.com Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: science@hotmail.com Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: science@hotmail.com Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: science@hotmail.com Ramon Chong, Geophysical Instrument science@hotmail.com science@hotmail.com science@hotmail.com science@hotmail.com science@hotmail.com science@hotmailto:science@hotmail.com science@hotmail.com science@hotmailto:science@hotmailto:science@hotmail.com science@hotmailto:science@hotmail.com science@hotmailto:science@hotmail.com science@hotmailto:science@hotmailto:science@hotmail.com science@hotmailto:science@hotmail.com science@hotmailto:science@hotmailto:science@hotmail.com science@hotm

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PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENTS TO IMMIGRATION RULES AND REGULATIONS TITLE VIII

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General finds that under 1 CMC § 9104(b), the public interest requires an amendment to Title VIII of the Immigration Rules and Regulations. Currently there is no statutory or regulatory authority by which the Division of Immigration can bar entry to persons arriving from areas where the Commonwealth is unable to adequately ascertain the backgrounds of such persons. Due to the serious harms, including the possibility of a terrorist attack or epidemic, that could result from permitting persons of unknown and possibly criminal backgrounds into the Commonwealth, the Office of the Attorney General 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 due to increased terrorist threats against the United States, the reappearance of the SARS virus in certain parts of Asia, and because the notice period would prevent application of the regulations during much of the hightourist season, when the dangers are at their peak. 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.

INTENT TO ADOPT: It is the intent of the Office of Attorney General to adopt the emergency amendments to the Immigration Rules and Regulations, Title VIII as permanent, pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested parties may submit written comments on these emergency amendments to Pamela Brown, 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:

wn Attorney General RABA Governor

Approved by:

Filed and Recorded by:

BERNADITA B. DE LA Corporate Register

113/84 Date

Date

Date

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

Dated this day of January 2004.

MELA BROWN Attorney General

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PUBLIC NOTICE EMERGENCY AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS TITLE VIII

These regulations are promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq.

| 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 proposed additions to the Immigration Rules and Regulations will improve the Attorney General's ability to regulate entry into the Commonwealth and thereby to protect its borders. |
| Brief Summary of the | |
| Proposed New Section: | The proposed additions to the Immigration Rules and Regulations are promulgated to: |
| | Establish a procedure and guidelines by which the Attorney General may discontinue issuance of entry permits to persons from certain locations; and |
| | (2) To ensure that such procedures, guidelines and determinations are readily available to the public. |
| For Further | |
| Information Contact: | Eric S. O'Malley, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2426 or facsimile (670) 234-7016. |
| Citation of Related and/or Affected Statutes, Rules and Regulations, | |
| and Orders: | The proposed amendments affect the Immigration Rules and Regulations, Title VIII. |

Dated this $\underline{/34}$ day of January 2004.

ubmitted by: wn

PAMELA BROWN Attorney General

PROPOSED AMENDMENTS TO TITLE VIII OF IMMIGRATION RULES AND REGULATIONS

Immigration Regulation Title VIII is hereby amended to add the following Section 804:

Section 804. Threat to Public Safety.

A. The Attorney General at his discretion may discontinue issuance of entry permits to nationals, citizens, subjects or residents of any country, or any state, province, subsection, territory, division or subdivision thereof, if the Attorney General determines: (i) that the government of such country, state, province, subsection, territory, division or subdivision is unable to provide adequate information regarding backgrounds of the persons embarking from that location; (ii) that the Commonwealth is unable to promptly and accurately assess the backgrounds of such persons; or (iii) that admission of such persons poses an unacceptable risk to the security, health and welfare of the Commonwealth.

B. Determinations made pursuant to Section 804A may take effect immediately, but shall in every case be published in the next printed edition of the Commonwealth Register and shall be subject to bi-annual review and renewal. The discontinuance of entry permits may be terminated by future order of the Attorney General, may be renewed indefinitely, or may be for a set period of time.

C. The Attorney General at his discretion may issue a preliminary waiver, on a case-bycase basis, of the exclusion of a person from an excluded country, state, province, subsection, territory, division or subdivision, provided that the person has satisfied all other requirements for entry under the applicable laws and regulations, and has provided evidence that the following additional conditions have been satisfied prior to embarkation:

- (1) Either: (i) the person, or his or her sponsor, has provided to the Division of Immigration the sum of Five Thousand Dollars (\$5,000), to be held by the Department of the Treasury for the duration of the person's stay, such amount to be immediately forfeited should it be found by a court of the CNMI that the person has committed a crime or has violated any condition of entry; or (ii) the Attorney General has made a good faith determination that the person is a medical professional seeking to enter the CNMI for the sole purpose of rendering medical services, or is entering the Commonwealth pursuant to a Minister of Religion Permit under Section 706L or a Religious Missionary Permit under Section 706M; and
- (2) The person bears an original, written statement, bearing the official seal of the relevant immigration or government authority in the excluded country, declaring that such country will unconditionally accept the return of the person without delay. The letter shall be signed by a person authorized to expedite entry into that country and shall include the title and official contact information of said signatory.

A signed letter issued by and bearing the seal of the Office of the Attorney General, and imposing any additional conditions as the Attorney General may see fit, shall be delivered to the applicant and shall evidence the issuance of a waiver under this Section.



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary



PUBLIC NOTICE

NOTICE OF FINDINGS AND STATEMENT OF REASONS FOR EMERGENCY ADOPTION OF AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE MEDICAID DRUG FORMULARY

Emergency: The Secretary of the Department of Pubic Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC section 2605, hereby finds that the public interest requires adoption on an emergency basis of amendments to the Rules and Regulations Governing the Medicaid Drug Formulary in order to add additional items as Medicaid approved out patient medications and to clarify that the Commonwealth Health Center Inpatient Drug Formulary is approved for all Medicaid inpatients. The Secretary of Public Health further finds that it is in the best interests of the public that the amendments to the regulation become effective immediately upon concurrence by the Governor and the Office of the Attorney General and filing with the Commonwealth Register. Once approved, the emergency amendments to the regulations shall remain in effect for a period of 120 days.

Reason for the Emergency: Since the implementation of the Rules and Regulations Governing the Medicaid Drug Formulary, Commonwealth Health Center physicians have advised the Secretary that out patients would be better served medically by the new formulary, which is more tailored to their needs and includes a broader range of outpatient appropriate pharmacy items.

Contents: The amendments add items as Medicaid approved out patient medications and clarify that the Commonwealth Health Center Inpatient Drug Formulary is approved for all Medicaid inpatients.

Intent to Adopt: It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CHC section 9104, in amending the Rules and Regulations. Copies of the proposed Rules and Regulation may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulations may be sent to the Office of the Secretary of Public Health, Department of Public Health, P.O. Box 500409 CK, Saipan, MP 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

Authority: The Department of Public Health is authorized to implement these amendments to the Rules and Regulations Governing the Medicaid Drug Formulary pursuant to 1 CMC section 2605 and 2603(d).

Issued by: JAM U. HOFSCHNEIDER, MD Secretary of Public Health Department of Public Health Concurred by: N./BAB**A**UTA Governo Received by: EBUTEB Special Assistant for Administration

Date OI / og (67

门厅九月 Date

Date

Certification by Office of the Attorney General

Pursuant to 1 CMC section 2153, the emergency amendments to the rules and regulation attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Office of the Attorney General.

Certified by

PAMELA BROWN Attorney General

Filed and Recorded by:

Date

BERNADITA B. DÉLA CRUZ

Registrar of Corporation

. Section

Date 1/8/04

1-8.04

Emergency Amendments to the Rules and Regulations Governing the Medicaid Drug Formulary

| Citation of Statutory Authority: | 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC Section 2603(d) gives the Department of Public Health the authority to establish and administer the Medicaid Program. |
|---------------------------------------|---|
| Short Statement of Goals & Objectives | The purpose of the amendments is to expand the list of drugs available for the treatment of Medicaid outpatients and to clarify that the existing inpatient hospital formulary applies to Medicaid patients. |
| Brief Summary of the Proposed Rule: | The amendments add additional items as Medicaid approved out patient medications and clarify that the Commonwealth Health Center Inpatient Drug Formulary is approved for all Medicaid inpatients. |
| Contact Person(s): | Helen C. Sablan, Medicaid Administrator, telephone 670/664-4882. |
| Citation of Related Provisions: | Rules and Regulations for the Adoption of Medicaid Drug Formulary, Vol. 25 No. 6 Commonwealth Register (July 15, 2003) and Commonwealth Register, Volume 25, Number 7, August 22, 2003; federal Medicaid statutes (42 U.S.C. 1396a et seq.) and related federal regulations (42 CFR). |

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EDICAID OUTPATIENT DRUG FORMULARY

All generic medications are covered under this formulary. The following name brand medications are also covered if generic alternatives don't exist or the physician determines that use of the name brand is medically necessary (and so states on the prescription). Some name brands require prior authorization (listed as "PA required" or "PA **REQ."**). All prescriptions over \$500 require prior authorization. The Medicaid Administrator shall have the authority for medical necessity or other good cause to add other drugs to this outpatient formulary, or to otherwise authorize Medicaid reimbursement.

NAME BRAND MEDICATIONS

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|------|--------------------------|
| 2 | ANTIGUNERGIAMES |
| 2 | |
| | Cephalosporins |
| | OMNICEF |
| | Erythromycins |
| J | ZITHROMAX |
| 3 | BIAXIN, -XL |
| 3 | Quinolones |
| 3 | CIPRO |
| | LEVAQUIN |
| _ | Antituberculosis |
| 7 | MYAMBUTOL |
| • ، | Antifungal |
| 9 | FULVICIN UF, FULVICIN /G |
| - 19 | Antiyiral |
| Ĵ | VALTREX |
| N. | ۲ ۲ |
| | |

Presently all drugs specifically indicated for the treat ment of HIV and its opportunistic infections are on formulary

| Antimalarial |
|------------------------------|
| DARAPRIM |
| PRIMAQUINE |
| FANSIDAR |
| ARALEN |
| LARIAM |
| Amebicides |
| YODOXIN |
| Antheimintics |
| MINTEZOL |
| Miscellaneous Antiinfectives |
| TRIMPEX |
| DAPSONE |
| THALOMID |
| RIFAMATE |
| FLAGYL 750mg |

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All oral FDA-approved antineoplastic and immunosuppresive agents are eligible.

| 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 |

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Teens should be referred to the Family Planning Clinics for free medications and supplies. Adults may receive the following (along with generics) as Medicaid covered benefits.

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 By injection DEPO-PROVERA 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 (MARD) (OMASIODINAR MED) (MARCONIS 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

Angiotensin Converting Enzyme Inhibitor...

MEXITIL

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 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 OH HISTUSSIN HC Adrenergic Stimulants-Inhalers... ALUPENT INHALER MAXAIR AUTOHALER COMBIVENT PROVENTIL HEA SEREVENT Adrenergic Stimulants-Oral Tabs BRETHINE VOLMAX Xanthine Derivatives.. UNIPHYL, SLO-PHYLLIN Corticosteroids for Inhalation...... PULMICORT AZMACORT FLOVENT Leukotriene Inhibitor

LATE Other Drugs Asthma...... ATROVENT INHALER ADVAIR Respiratory Specialty Drugs...... PULMOZYME (PA Required) TRACLEER (PA Required) \$7.5514;30) {\$144514 {\$14644444} (\$4444 (\$1865 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 CIAN COLUMNARY 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 H PROSCAR and the state of t N N Antidepressants.... ANAFRANIL CELEXA 200 PAXIL EFFEXOR, -XR WELLBUTRIN SR 4 ZOLOFT Monoamine Oxidase Inhibitors..... PAGE PARNATE CNS Stimulants..... DEXEDRINE ADDERALL CYLERT METADATE CD PROVIGIL Other CNS Drugs ARICEPT

EXELON

Smoking Deterrents: Patients should be referred to th. Community Guidance Center for its smoking cessation program, where the medications and supplies are free.

ANALCIASIOS Non-Narcotic Analgesics.... ESGIC-PLUS AXOCET Narcotic Analgesics. FIORICET/CODEINE KADIAN OXYCONTIN DURAGESIC ACTI0 Non-Steroidal Anti-Inflammatory Drugs VOLTAREN Cox-2 Inhibiting CELEBREX Antirheumatics...... CUPRIMINE PLAQUENIL RIDAURA Migraine Agents... AXERT ERGOMAR AMERGE IMITREX N # 01:00 M 04:00 0 M

Anticonvuisants..... MYSOLINE ZONEGRAN Antiparkinson Drugs PERMAX REQUIP MIRAPEX TASMAR COMTAN Skeletal Muscle Relaxants..... DANTRIUM Anticholinesterase Muscle Stimulants..... MESTINON

210) a 20 (018/4) 21:(01010) as

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 P.x., PA required after first Rx) Antiplatelet Drugs... PLAVIX ASA/ER

Miscellaneous Antiplatelet Agents..... PLETAL (•12) : h () / A () & (•1 A) = (•) (•/ A (• (A) S Alpha-adrenoceptor Agonists

ALPHAGAN Non-steroidal Anti-inflammatory Drugs..... ACULAR VOLTAREN Anti-allergic Agents... ZADITOR LIVOSTIN ALOMIDE PATANOL Ophthalmic Mast Cell Stabilizers..... ALOCRTI Antibiotics and Antibiotic Combinations. OCUFLOX Antivirals. VIROPTIC VIRA-A Artificial Tear Products/Lubricants..... 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

FAR, NOSE AND HEROTAL MED (MAD ONIS

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

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All topical dosage forms of listed items are formulary Topical Antifungals... LOPROX PA REQ. OXISTAT PA REO.

Topical Antivirals. ZOVIRAX Topical Corticosteroids... GROUP I (VERY HIGH POTENCY) DIPROLENE, -AF ULTRAVATE PA REO. **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

> OTHER MYCOPHENYLATE GENGRAF SORIATANE ZYPREXA



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary



PUBLIC NOTICE

NOTICE OF FINDINGS AND STATEMENT OF REASONS FOR EMERGENCY ADOPTION OF AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

Emergency: The Secretary of the Department of Pubic Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC section 2605, hereby finds that the public interest requires adoption on an emergency basis of amendments to Attachment 1 of the Rules and Regulations Governing the Administration of the Medical Referral Program in order to include additional facilities for medical referral. The Secretary of Public Health further finds that it is in the best interests of the public that the amendments to the regulation become effective immediately upon concurrence by the Governor and the Office of the Attorney General and filing with the Commonwealth Register. Once approved, the emergency amendments to the regulations shall remain in effect for a period of 120 days.

Reason for the Emergency: Since the implementation of the Rules and Regulations Governing the establishment and administration of the Medical Referral Program, the Commonwealth Health Center physicians have determined that some sophisticated and complicated medical procedures and services cannot be performed properly or without significant risk, or are not available to be timely performed, at existing facilities. Further, several major CNMI insurers no longer have contracts with the major Hawaii hospitals. The Medical Referral Program and the physicians have identified additional providers that specialize in performing these medical procedures and services not available in the CNMI. The Secretary would like to expand the Medical Referral Program to allow services at these specialty medical centers to further meet the medical needs of CNMI patients. It is also hoped that these centers, by becoming authorized medical referral providers, will provide cost-effective services to CNMI patients.

Contents: Attached to this Notice of Emergency is the amended Attachment 1 to the Rules and Regulations Governing the Establishment and Administration of the Medical Referral Program. Attachment 1 has been modified to include referral health facilities in Guam and the Republic of the Philippines.

Intent to Adopt: It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CHC section 9104, in amending the Rules and Regulations. Copies of the proposed Rules and Regulation may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulation of the Commonwealth Health Center. Comments on the proposed Rules and COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE 021531

Regulations may be sent to the Office of the Secretary of Public Health, Department of Pubic Health, P.O. Box 500409 CK, Saipan, MP 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

Authority: The Department of Public Health is authorized to implement these amendments to the Rules and Regulations Governing the Establishment and Administration of the Medical Referral Program pursuant to 1 CMC section 2605.

Issued by: JAMES U. HOFSCHNEIDER. MD Secretary of Public Health Department of Public Health Concurred erríor Received by THOMAS TEBUTEB Special Assistant for Administration

Date 1/08/04

Date 61/13/04

Date 1/17/04

Certification by Office of the Attorney General

Pursuant to 1 CMC section 2153, the emergency amendments to the rules and regulation attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Office of the Attorney General.

Fan Certified by: PAMELA BROWN Attorney General

Date

1-14.04

Filed and Recorded by:

Idela (Vui BERNADITA B. DEL Commonwealth Registrar

Date 1-14-04

Emergency Amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program

| Citation of Statutory Authority: | 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC section 2603 (f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities. This includes the authority to operate the Medical Referral Program. |
|--|--|
| Short Statement of Goals & Objectives | The purpose for the amendment to the rules and regulations is to recognize the Asian Medical Center located in the city of Alabang, Republic of the Philippines, Guam Surgicenter, the Simard Cardiology Group in Guam, and Good Samaritan in Los Angeles as official providers of medical care for authorized medical referral patients. |
| Brief Summary of the Proposed Rule: | The amendment to the Rules and Regulation establishes the Asian Medical Center, Guam Surgicenter, the Guam Simard Cardiology Group, and Good Samaritan in Los Angeles as recognized "referral health care facility" for medical referral patients from the CNMI. |
| Contact Person(s): | Ben Borja. Medical Referral. Department of Public Health. |
| Citation of Related and/or affected Statutes, Regulations, and Orders: | Rules and Regulations Governing the Administration of the Medical Referral Program, Vol. 18 No. 7 Commonwealth Register (July 1996); Vol. 20 No. 2 Commonwealth Register (February 1998) |

Vol 22 No 05 Commonwealth Register (May 2000).

ATTACHMENT 1

For purposes of these Rules and Regulations, the following health care facilities, and those health care providers and ancillary care providers associated with these facilities, shall be recognized as "referral health care facilities" for medical referral patients from the CNMI:

Territory of Guam **Dededo Polymedic Clinic** Espaldan Clinic, Inc. **Family Medical Clinic** Good Samaritan Clinic Guam Memorial Hospital **Guam Pacific Medical Clinic Guam Seventh Day Adventist Clinic Specialty Clinic** St. Anthony Clinic The Doctor's Clinic Cancer Institute of Guam Naval Hospital Guam ÷ MR Imaging Group **Guam Eye Clinic Guam Public Medical Clinic** Simard Cardiology Group **Guam SurgiCenter**

State of California *San Diego Children's Hospital *California Pacific Medical Center Good Samaritan Hospital, Los Angeles State of Texas

The Brown Schools of Central Texas (San Marcos Treatment Center, Health Care Rehabilitation Center, etc.)

State of Hawaii

Kapiolani Medical Center Kuakini Medical Center Queen's Medical Center Rehabilitation Hospital Shriner's Hospital For Crippled Children St. Francis Medical Center Straub Clinic and Hospital Cancer Institute of Maui Renal Treatment Center Tripler Army Medical Center Island Cardiology Kahi Mohala

Republic of the Philippines

Makati Medical Center Saint Luke's Medical Center Philippine General Hospital Asian Hospital and Medical Center

* Referral to these referral health care facilities shall be authorized only for infant heart surgery, kidney transplant, or other highly sophisticated surgical procedures as substantiated and approved by the Medical Referral Committee.



Commonwealth of the Northern Mariana Islands Department of Public Works Juan S. Reyes, Secretary Caller Box 10007, Gualo Rai, Saipan, MP 96950 (2nd Floor Joeten Commercial Building) tel: 670. 235.9714 fax: 670.235.6346

PUBLIC NOTICE OF EMERGENCY REGULATIONS WHICH ARE AMENDMENTS TO THE REGULATIONS OF THE DEPARTMENT OF PUBLIC WORKS

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The Commonwealth of the Northern Mariana Islands, Department of Public Works, finds that (1) pursuant to 1 CMC § 9104(b), the public interest requires the adoption of the attached regulations upon fewer than 30 days' notice, and (2) that pursuant 1 CMC § 9105(b)(2) the public interest requires the effective date of today, January 12, 2004.

Because of the above findings and the filing directed below, these Regulations shall become effective immediately. (1 CMC § 9105(b)(2))

AUTHORITY: The Department is required by the Legislature to adopt rules and regulations regarding those matters over which the Department has jurisdiction (1-CMC sec 2403, Public Law 1-8, tit 1, ch. 15, § 4), and over matters regarding the cutting and trenching of roads (2 CMC §§ 4131-36 (PL 5-41). See Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch).)

SUMMARY: These Regulations do the following: The Regulations provide clear legal authority for the Department or its designee to remove obstructions and encroachments to, and to restrict the uses of, public streets, highways, drains, and other public rights-of-way. They also provide procedures for determinations and orders, penalties, permits, complaints, and appeals relating to obstructions, encroachments and restrictions of use.

These Regulations shall be amendments to the Department of Public Works Regulations. These amendments add to the Regulations of the Department of Public Works, Section 5 (Divisions) Subsection D (Roads and Facilities Division) the attached new Paragraph 6 (Regulations for Public Rights-of-Way and Related Facilities).

REASON FOR EMERGENCY ADOPTION: There are three independent, but related, reasons for the promulgation of these regulations on an emergency basis.

1. As a result of recent investigation into encroachments in the Garapan District, the Commonwealth has determined that part of the reason for the continual appearance of unsafe bacteria in the Saipan Lagoon is illegal hookups of waste pipes to the District's

Page 1 of 3

surface drainage. The public swims in the Lagoon. The Commonwealth, through the Garapan Revitalization Project, seeks to eliminate these and other polluting and potential disease-causing connections to the surface drainage by installing buried drainage pipes in place of the surface drainage. The Project will require excavation, installation and other civil engineering and construction work in the public-rights-of-way. In order to protect the public's safety, the excavations and other works will need to be segregated from pedestrian and vehicular travel, by fences, foot bridges and other obstructions to the public right-of-way. The Project is to begin construction on or about January 12, 2004.

2. With the advent of the Commonwealth's dry season, beginning in November-December, the Department has the opportunity to begin. and to timely and costeffectively complete, numerous road improvement projects. This work must be completed by the rainy season, which begins in July-August. This work includes, but is not limited to, the Garapan Revitalization Project.

3. In order to strengthen the Commonwealth's economy and protect the economy against the projected loss of garment industry revenues in the next two years, the Commonwealth has undertaken the multi-year, multi-million-dollar Garapan Revitalization Project. The Project's aim is to enhance the tourist economy by rectifying the substantial deficits in infrastructure, health and safety which the District presents, responding to documented tourist industry claims that the shabby, non-family-oriented nature of the Garapan District detracts from CNMI's ability to attract substantial tourism revenue. The first phase of the project is to rebuild Third Street into "the Promenade". replacing road and sidewalk surfaces, and the drainage system, adding lighting, street furniture, plantings and other amenities and security measures. In order to meet a key deadline for its use, the June 10, 2004, 60th anniversary commemoration event for the Battle of Saipan and Tinian, and the thousands of tourists expected for it, the manymonths construction period is scheduled to begin in mid-January 2004, during the dry season. Also, in order to make the Promenade an attractive, tourist- and family-friendly venue, the street mall, once completed, will need to be restricted to non-vehicular traffic for substantial portions of each day. Portions of the Promenade will become available for such restrictions as the Project moves from its starting point, at Beach Road, to its end point on Coral Tree Avenue, during the period January 12 - June 10, 2004.

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In order to undertake all of these works for the stated purposes the Project immediately requires clear legal authority to remove obstructions and encroachments to the public works and to close streets as required on a temporary basis. Thus, it is in the public interest to implement these regulations as emergency regulations effective January 12, 2004.

INTENT TO ADOPT AS PERMANENT: It is the intent of the Department of Public Works, pursuant to 1 CMC § 9104(b), to adopt these emergency Regulations, as permanent regulations, pursuant to the procedures of 1 CMC § 9104(a)(1) and (2), with publication in the Commonwealth Register. An appropriate Notice shall be published.

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DIRECTIONS FOR FILING AND PUBLICATION: These Regulations shall be filed with the Registrar of Corporations, and copies mailed under registered cover to the Governor. (1 CMC 9105(b)(2)) This Notice and findings shall be filed with the regulation and the Department of Public Works shall take appropriate measures to make these emergency regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)), including publication in the next edition of the Commonwealth Register.

FOR FURTHER INFORMATION: Contact Alan J. Barak, Assistant Attorney General, Civil Division, Attn: New DPW Regs, Box 10007, Saipan MP 96950; telephone 670.664.2341; fax 670.664.2349; email: *barak@vzpacifica.net*.

Submitted by:

ES S. REY Secretary of Public Works

1204

Concurred by:

JUAN N. BABAUTA Governor

Filed and Recorded by:

01-12-04 Date

BERNADITA B. DE VA CRUZ Comronwealth Register

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

ay of January, 2004. Sated the

PAMELA S. BROWN, Attorney General

0 DPW Rt of Way Public Notice Emerg & Intent to Adopt.wpd

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Commonwealth of the Northern Mariana Islands Department of Public Works

1 Bele Cri april : **Emergency Regulations and Proposed Regulations:** 2 3 4 Add to the Regulations of the Department of Public Works, Section 5 (Divisions) 5 Subsection D (Roads and Facilities Division) the following new Paragraph 6 6 7 (Regulations for Public Rights-of-Way and Related Facilities): 8 6. Regulations for Public Rights-of-Way and Related Facilities 9 10 Table of Contents to 11 Regulations for Public Rights-of-Way and Related Facilities 12 13 14 Purpose and findings Page 2 of 23 15 1 16 17 2 Definitions Page 3 of 23 18 "Department" Page 3 of 23 2.1 19 2.2 "Determination" Page 3 of 23 20 2.3 21 "Encroachment" Page 4 of 23 2.4 22 2.5 2.6 2.7 25 2.8 26 "Remediation" Page 6 of 23 2.9 $\overline{27}$ 2.10 "Remediation costs" Page 6 of 23 28 2.11 29 2.12 "Road" Page 7 of 23 30 2.13 31 2.14 32 33 3 Powers and duties Page 7 of 23 34 3.1 35 3.2 Enforcement and delegation of power Page 8 of 23 36 3.3 Public Safety Page 8 of 23 37 3.4 38 39 4 40 41 Prohibition on closure of public right-of-way Page 9 of 23 5 42 43 6 Prohibition on encroachments and/or obstructions Page 9 of 23 44 45 7 46 7.1 Prohibition on closure for private purpose Page 10 of 23 47 7.2

| 1 | | 7.3 Permits | 3 |
|----------------------------------|-----|---|--------------------|
| 4567890 1123 1123 | 8 | Permits for the use of a public right-of-wayPage 11 of 28.1ApplicationsPage 11 of 28.2Public notice of application for a permitPage 12 of 28.3Time limitsPage 12 of 28.4Procedure, form for applicationPage 12 of 28.5Conditions for issuance of a permitPage 12 of 28.6Name of permiteePage 13 of 28.7FeesPage 13 of 28.8Revocation, suspension and penaltiesPage 13 of 28.10FinalityPage 16 of 2 | 333333333333333333 |
| 14 15 16 | 9 | 8 11 Stays of determination Page 16 of 2 Complaints Page 16 of 2 | |
| 17 | | | |
| 18 19 | 10 | Removal of an encroachment or obstruction | |
| 20 21 | 11 | Remedies and procedure for remedies Page 17 of 23 | 3 |
| 22 23 24 25 26 27 | 12 | Procedures for removal of obstructions and/or encroachments, and for suspensions, revocations and fines Page 18 of 23 12.1 Standard procedure for removal Page 18 of 23 12.2 Summary pre-removal hearing Page 19 of 23 12.3 Expedited procedure for removal before a hearing Page 20 of 23 12.4 Procedures for suspensions, revocations and fines Page 20 of 23 | 3 3 3 |
| 61 6 | | 12.4 Procedures for suspensions, revocations and fines Page 20 of 23 12.5 Waiver Page 20 of 23 12.6 Immediate effect Page 20 of 23 | |
| 30 31 32 | | 12.7 Notice of effect and appellate procedures Page 20 of 23 12.9 Enforcement of penalties Page 21 of 23 | 3 |
| 33 34 | 13 | Notices and service, in general Page 21 of 23 | 3 |
| 35 36 | 14 | Claims against the Department or the Secretary affecting personalty or real property | 3 |
| 37 38 | 15 | Appeals to the Secretary of Department determinations and other actions | 3 |
| 39 40 | 16 | Other remedies | 3 |
| 41 42 | 17 | Construction of these regulations | 3 |
| 43 44 45 46 47 48 | 18 | Severability | \$ |
| 49 | 1 | Purpose and findings | |
| 5 0 51 | 1.1 | The Department has the power and authority to construct and maintain all public | |

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works and roads, unless otherwise provided by law and to construct, maintain and operate public signs, traffic signals, public vessels, public buildings, and public works
 functions previously performed by chartered municipalities, unless otherwise provided by
 law. (1 CMC § 2403) The Department has jurisdiction over this property and these
 facilities for the stated matters.

- The Department is required by the Legislature to adopt rules and regulations
 regarding those matters over which the Department has jurisdiction. (1 CMC § 2404; 2
 CMC § 4923) The promulgation of regulations to accomplish these ends is necessarily
 and fairly implied in and incident to the powers expressly granted and is essential to the
 accomplishment of the declared objects and purposes.
- 1.3 The Department's functions include repairing, improving and maintaining in good
 and safe condition all public roads, sidewalks, sewers, drains and other public rights-of way.
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17 1.4 The Department hereby finds and declares that the public is entitled to the 18 uninterrupted, unimpeded and unobstructed use and quiet enjoyment of every portion 19 and part of public rights-of-way and the public's rights therein are not limited to the 20 traveled portion. The public includes pedestrians and vehicular travelers as well as 21 property owners and users who receive services through the rights-of-way. The public's 22 uses include driving vehicles, cycling, horseback riding, walking, gathering and meeting 23 for commerce, recreation, cultural and religious matters and ceremonies.

2 Definitions

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28 2.1 "Department" means the Department of Public Works and its successor
29 agencies, as well as an instrumentality of the CNMI that is authorized by the
30 Department, or otherwise by law, in writing to undertake specific notice, complaint,
31 enforcement and or other regulatory action of the matters addressed in these
32 regulations. Such instrumentality may include, but is not limited to, a Mayor or his/her
33 designee.

35 2.2 "Determination" means a decision which is reduced to writing and includes a
 36 description or discussion of the reasons for it.
 37

38 2.3 "Drain" whenever used in these regulations, is a facility or surface feature which
 39 collects and transmits or conducts water that has originated as rainfall or otherwise
 40 collected on the surface of the ground, either covered or uncovered, and includes:

- 42 2.3.1 the main stream or trunk and all tributaries or branches of a creek; a 43 watercourse, wash, ravine, pond, hole or ditch:
- 44 2.3.2 a natural depression that, during rainy weather, collects water as a pond;
- 45 2.3.3 a pipe, culvert, main, or constructed ditch;

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1 2.3.4 a sanitary sewer or a combined sanitary and storm sewer;

2.3.5 a storm sewer or conduit composed of tile, brick, concrete, or other material; and/or

- 4 2.3.6 the following mechanical or constructed devices:
- 6 2.3.6.1 structures or mechanical devices, that treat, purify, sift or clean the flow of 7 such drains;
- 8 2.3.6.2 pumping or lifting equipment necessary to assist or relieve the flow of such 9 drains; and/or
- 2.3.6.3 a levee, dike, barrier, or a combination of any or all of same, constructed,
 or proposed to be constructed, for the purpose of drainage or for the purification, sifting
 or cleaning of the flow of such drains;
- 2.3.7 but shall not include a dam, impoundment, or other surface feature, pipe, conduit,
 and flowage rights used in connection with any of these, which is isolated so that it
 guides and/or retains water solely on one user's real property.
- 18 2.4 "Encroachment" of a right-of-way means:
- 20 2.4.1 something that comes within the following general description:
- 22 2.4.1.1 situated upon, in or over a right-of-way without a permit, deed, lease,
 23 license or other official written permission; and
- 2.4.1.2 which may be of either a legal or a physical nature, or both,
- 27 2.4.2 something that includes, but is not limited to, one of these specifically described
 28 things or conditions when located on, in or over a right-of-way:
- 30 2.4.2.1 fences;
- 31 2.4.2.2 signs;

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- 32 2.4.2.3 awnings;
- 33 2.4.2.4 platforms and pads;
- 34 2.4.2.5 tanks, waste containers or storage containers;
- 2.4.2.6 bollards, planters, dividers, and other traffic or landscaping constructions,
 whether poured in place or pre-built and placed on site;
- 37 2.4.2.7 walls, footings, roofs, overhangs and other components of buildings;
- 38 2.4.2.8 fixtures, including but not limited to, heating, air conditioning and
- 39 ventilating equipment, electrical equipment, lighting equipment, and plumbing;
- 40 2.4.2.9 underground pipes, conduits, tanks, vaults and traps; and
- 41 2.4.2.10 personal, movable property;
- 43 2.5 "Highway" means a road designed to accommodate vehicles traveling at speeds
 44 greater than 30 miles per hour, including, but not limited to, Beach Road, Middle Road
 45 (Chalan Pale Arnold) and Cross-Island Road (Chalan Pale Monsignor Guerrero).

2.6 "Obstruction" of a right-of-way means:

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2.6.1 something that comes within the following general description:

5 6 2.6.1.1 an object located alongside, thereon or therein, or overhead which is large 7 enough and situated in such a way as to:

9 2.6.1.1.1 interfere with foot, animal, cycle or motor vehicle traffic, maintenance or 10 the free passage of drainage waters; and/or

11
12 2.6.1.1.2 interfere visually with vehicular traffic and/or pedestrian cross traffic,
13 and/or

15 2.6.1.2 an object, excessive noise, smoke or vapor, fuel or lubricant drip, or other 16 pollution which creates a safety hazard or other traffic congestion;

17 2.6.1.3 an object or material located within a public drain so as to impede the free 18 flow of water therein; and/or

- 19 2.6.1.4 interference or impairment to travel, whether the travel is by foot, by 20 animal, by cycle, or by motor vehicle; and/or
- 21
 22 2.6.2 something that is one of these specifically described things or conditions in, on,
 23 over or under, and when specifically stated, alongside, the public right-of-way:
- 2.6.2.1 a fence or curb,
- 26 2.6.2.2 a ditch, cut, trench, hole or other opening thereon;
- 27 2.6.2.3 a current of water directed so as to saturate, wash or do damage;
- 28 2.6.2.4 A building, installation, roadside stand, gasoline pump and related facility, 29 or other structure or use:
- 30 2.6.2.5 Signage located therein, thereon, overhead or alongside, including but not
 31 limited to, a poster, billboard, sandwich board, free-standing or trailer-mounted sign,
- 32 other than traffic sign or signal: 33
- 34 2.6.2.5.1 which constitutes a safety hazard; and/or
- 2.6.2.5.2 a prohibited sign, marking or signaling device under the CNMI Vehicle
 Code, 9 CMC § 5204, or succeeding provision;
- 2.6.2.6 a vehicle or load, including an animal which is being led, ridden or driven,
 or a vehicle drawn by an animal, which constitutes a safety hazard;
- 41 2.6.2.7 An immobilized or legally inoperative vehicle, push cart, wheelbarrow or 42 similar device:
- 43 2.6.2.7.1 constituting a safety hazard or interfering with maintenance operations
 44 therefor; and/or
- 45 2.6.2.7.2 left on or along a public right-of-way in excess of 7 days without a permit;

1 2.6.2.8 unused poles, wires, structures or other appliances; 2.6.2.9 solid waste: J 2.6.2.10 a failen tree: and/or 4 5 2.6.2.11 a dead animal: and 6 7 2.6.3 Provided that, this definition shall not apply to any person who shall: 8 9 2.6.3.1 first secure a lawful permit or other authorization for the obstruction; 2.6.3.2 lawfully fell any tree for use and shall immediately remove the same out of 10 11 the right-of-way: or 2.6.3.3 desire to drain or otherwise improve his/her property, through or along 12 13 which property a public right-of-way may pass, and who shall: 14 15 2.6.3.3.1 give due notice to the proper government authority of such intention, and 16 who shall secure from such government authority any required written permission for any work or excavating s/he proposes to do within the limits of the right-of-way; and 17 further, with respect to which the Department shall not have 18 2.6.3.3.2 19 communicated in writing an objection on the grounds of public health, safety or welfare. 20 21 2.7 "Person" includes, but is not limited to a natural person, non-governmental organization, firm, association, partnership, limited liability company, corporation, and/or 22 a government agency or other government corporation, political subdivision or 23 ~ • instrumentality, of the CNMI or the United States. Except that, for the purposes of 2 CMC §§ 4131-36 (PL 5-41) (cutting or trenching into a roadway) the definitions of the ___ CNMI Code, § 4132 shall control, thereby excluding the CNMI and its employees. 26 27 28 2.8 "Public", with respect to "right of way" refers to the right of the public to travel upon or otherwise use the way, and is not restricted to whether the public actually uses 29 30 the way. 31 32 2.9 "Remediation" typically includes all of the following, but is not limited to: 33 34 2.9.1 removing an encroachment or obstruction; 35 2.9.2 filling up any ditch or excavation 2.9.3 regrading, including regrading side gutters or ditches; 36 37 2.9.4 reconstruction of pre-existing pavements, supporting materials and related fixtures and/or utilities: and 38 39 2.9.5 obtaining related permits and approvals; 40 41 2.10 "Remediation costs" include, but are not limited to: 42 43 2.10.1 the direct costs, fees and expenses of remediation; 44 2.10.2 the indirect costs, fees and expenses of remediation, including but not limited to, contractors' overheads and contractors' reasonable profits; 45

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1 2.10.3 related legal and consulting expenses and fees; related public safety costs, including but not limited to, wages, salaries and 2.10.4 other agency costs, both direct and indirect: J 4 2.10.5 the related wages, salaries, other costs, both direct and indirect, for 5 Department and other CNMI employees and contract employees; equipment costs, including but not limited to, rental or the equivalent usage 6 2 10 6 7 of owned equipment, maintenance and repair, and the purchase of required specialized 8 equipment: 9 2.11 10 "Right-of-way" includes, but is not limited to roads, streets, sidewalks, paths, 11 trails, beds for roads or railways, bridges, bridge abutments, culverts, drains, and their 12 foundations and supports, which are dedicated in whole or in part to the passage of 13 people, animals, vehicles and/or drainage water; 14 15 2.12 "Road" means road, street, alley, way or other thoroughfare through or over which vehicles travel. Except that, for the purposes of 2 CMC §§ 4131-36 (PL 5-41) 16 (cutting or trenching into a roadway) the definition of the CNMI Code, § 4132 for a "road" 17 18 shall control. 19 20 2.13 "Safety hazard" includes, but is not limited to an object, fluid, smoke, aerosol, 21 pollutant and/or other material and/or excessive noise that: 22 23 2.13.1 interferes with a person's ability to see or hear another person or object <u>ہ</u> م on a public right-of-way; e . . . 26 2.13.2 impedes the flow of vehicular or pedestrian traffic in such a way as to 27 endanger property, life or health; 28 29 2.13.3 impedes the flow of stormwater drainage, electric or water line or 30 wastewater: and/or 31 32 2.13.4 or otherwise endangers the public health or safety. 33 34 2.14 "Secretary" means the Secretary of the Department, or other chief executive 35 officer of the Department, his/her designee, or, in the case of a hearing conducted 36 pursuant to these regulations, the term shall also include an administrative hearing 37 officer assigned pursuant to the Secretary's order of reference. 38 39 2.15 "Writing" includes hard copy, and such electronic formats as fax, email, pdf 40 format and word processing formats which are generally commercially available. 41 42 43 3 Powers and duties. 44 45 3.1 Specific powers. The Department shall have all powers provided it by law to

S. 71

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- ensure compliance with the requirements of these Regulations, including but not limited
 to:
- 4 3.1.1 inspection at reasonable times;
- 5 3.1.2 use of or entry upon private land incidental to works temporarily undertaken:
- 6 3.1.3 giving of notices;
- 7 3.1.4 granting of permits;
- 8 3.1.5 conduct of hearings and issuance of orders; and
- 9 3.1.6 levying of fines, penalties and suspension and/or revoking of permits.
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3.2 Enforcement and delegation of power. These regulations shall be read to
 authorize their enforcement by the Department and any other instrumentality of CNMI
 government, including but not limited to. the Office of a Mayor, as provided by
 agreement with the Department.

3.3 Public Safety. The Department may request the assistance of the Department of
Public Safety in enforcing the provisions of these Regulations and/or protecting the
public health, safety and welfare with respect to them.

3.4 Determinations as orders. The Department shall issue its determinations
whenever practicable as orders, which shall be titled and numbered.

4 Public rights-of-way, in general.

4.1 The public rights-of-way available for Commonwealth roads, streets and other
rights of way shall be held inviolate for Commonwealth right-of-way purposes, except as
provided in these Regulations.

4.2 These regulations shall not interfere with the following publicly beneficial use by the following entities, as provided herein:

33 4.2.1 The entities:

4.2.1.1 the CNMI government and/or its political subdivisions, agencies and
 instrumentalities

- 38 4.2.1.2 a public utility; and/or
- 40 4.2.1.3 a private telecommunication entity.
- 42 4.2.2 The use:

44 4.2.2.1 use of a public right-of-way for the purpose of laying or erecting pipelines,
45 sewers, wires, cables, poles, ditches, drains, railways, for a public purpose, under an

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- 1 existing agreement or permit, or such agreement or permit hereinafter made by the Department or pursuant to a statute or regulation,
- 4 4.2.2.2 Provided that:

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4.2.2.2.1 such use does not interfere with the public's use of the property, as
provided in these Regulations, except for reasonable interferences during permitted
construction; and

4.2.2.3 no private telecommunication or electrical cable or wire shall be placed in,
 on or over the right-of-way until the person seeking to do so first has secured a permit
 and provides a bond or similarly secure undertaking payable to the Department in an
 amount to be determined by the Secretary.

5 Prohibition on closure of public right-of-way.

5.1 No person shall close a public right-of-way. Except that a person may secure from the Department a permit to close a public right-of-way to a limited extent for public purposes over limited periods of time.

22 5.2 An unauthorized closure of a public right-of-way is a public nuisance, and, for the 23 purposes of these Regulations, may be treated as an encroachment and/or obstruction.

26 6 Prohibition on encroachments and/or obstructions.

6.1 No person shall encroach upon or obstruct a public right-of-way. Except that a
 person may secure from the Department a permit to obstruct or encroach upon a public
 right-of-way.
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32 6.2 An unauthorized encroachment upon, or an obstruction of, a right-of-way is a 33 public nuisance.

6.3 Unless otherwise explicitly stated, nothing in these Regulations shall be
 construed to require as a precondition to the Department's determining an
 encroachment or obstruction:

- 39 6.3.1 the notification thereof to the encroaching or obstructing person;
- 40 6.3.2 a special injury; or
- 41 6.3.3 a financial loss.
- 43 6.4 The determination of an obstruction or encroachment shall be without regard to:
- 45 6.4.1 degree or type;

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| 1 | 6.4.2 | permanence or temporary nature; | |
|----------|--|--|--|
| | 6.4.3 | whether the property interest obstructed or encroached upon is claimed to be in | |
| J | fee, c | or through lease, license, designation or easement; | |
| 4 | 6.4.4 whether the obstruction or encroachment is in fact owned, leased, pledged, | | |
| 5 | | nated or licensed; and | |
| 6 | | whether a person directly created the obstruction him/herself or employed | |
| 7 | | ner to do so, or was employed by another to do so. | |
| 8 | | | |
| 9 | 6.5 | Nothing in these regulations shall be construed to prohibit the valid and | |
| 10 | | prized exercise of the rights of free speech and assembly, as provided under the | |
| 11 | | and Commonwealth Constitutions and the laws of the Commonwealth. | |
| 12 | | | |
| 13 | | | |
| 14 | 7 | Permits for closure or restriction from Department for public purposes | |
| 15 | • | · Gitting for stocard of footheren i ferri opharament for harmo harboose | |
| 16 | 7.1 | Power and authority. The Department may, by permit, provide for the closure of | |
| 17 | | lic right-of-way to some, but not all, uses for public purposes. | |
| 18 | a pub | no right of way to come, but not an, according public purposed. | |
| 19 | 7.2 | Prohibition on closure for private purpose. The Department may not permanently | |
| 20 | | a public right-of-way for private purposes. | |
| 21 | 0030 | a public right of mate purposes. | |
| 22 | 7.3 | Permits. The Department shall provide an application form for a permit to close a | |
| | | right-of-way. Any person may seek a permit. The Department may grant a permit | |
| 23 | | e following purposes and reasons, as requested or with conditions. Conditions | |
| a., a | | nclude, but are not limited to, the provision of a bond, deposit, undertaking or other | |
| 26 | secur | | |
| 27 | 00001 | | |
| 28 | 731 | Bases for granting a permit | |
| 29 | 1.0.1 | babbe for granting a portine | |
| 30 | 732 | Short term permit. The Department may grant a permit for a period less than 8 | |
| 31 | | for a person who seeks to hold an event of a temporary nature for substantially | |
| 32 | - | purposes, including: | |
| 33 | | a parade, assembly, speechmaking, or cultural or religious event; | |
| 34 | | a festival, fair or other public amusement; or | |
| 35 | | an event of a cultural or familial nature that is limited in duration and for which a | |
| 36 | | le private venue is not available. | |
| 37 | Juitab | | |
| 38 | 736 | Long term permit. The Department may grant a permit for a period greater than | |
| 39 | | (7) days for a person who seeks to hold an event of a temporary, but repeating, | |
| 40 | | of or substantially public purposes, including a festival, fair, market, cultural | |
| | | ntation or other public amusement. | |
| 41 42 | hiese | | |
| | 707 | Special use district normanent normit | |
| 43 44 | 1.3.1 | Special use district permanent permit. | |
| 44 45 | 7.3.7. | Ear a special use district which has been declared by the Coverner | |
| 40 | 1.3.1. | 1 For a special use district which has been declared by the Governor: | |
| | | Page 10 of 23 | |
| | | | |

1 7.3.7.1.1 the Department may grant a permanent permit for a person who seeks to provide to the public an integrated group of uses of a repeating nature. J the Department shall grant a permanent permit to an instrumentality of the 4 7.3.7.1.2 5 Commonwealth for the use of a special use district, including but not limited to planning 6 and/or improvement districts for the Garapan District designed to create a pedestrian 7 mall and related facilities, and/or drainage treatment, and/or cultural center and related 8 facilities. 9 7.3.7.2 10 In order to issue a permanent permit, the Department shall determine that 11 the proposed use/s will likely: 12 13 7.3.7.2.1 be accessible to the public; 7.3.7.2.2 enhance the character of the district: 14 15 7.3.7.2.3 contribute to the CNMI's economic or cultural development; 7.3.7.2.4 reasonably balance the uses of the public and the needs of contiguous 16 17 businesses and residences; 18 7.3.7.2.5 not unreasonably burden public agencies to provide utility or public safety services. 19 20 21 7.3.7.3 A subdivision of the Department tasked with construction and/or 22 maintenance may apply for such a permit. 23 ~ · 7.3.7.4 The permanent permit shall be subject to review for renewal, termination or modification on a periodic basis. For the first year such review shall be conducted on 26 a quarterly basis. For succeeding years such review shall be conducted on an annual 27 basis. 28 29 7.3.8 Notice of permit applications. The Department shall provide notice of a permit request to the Secretary of a Department directly affected by the permit, and, upon 30 31 request, to the offices of the local Mayor and the Governor. In all cases the Department 32 shall provide notice of the permit request to the Secretary of the Department of Public 33 Safety. 34 35 7.3.9 Objections to a permit. A person having an interest in the closure of a right-of-36 way and objecting to closure shall have the right to complain to the Department, 37 pursuant to the procedures provided in these regulations for Complaints. 38 39 40 8 Permits for the use of a public right-of-way 41 42 8.1 Applications for and granting of a permit. A person seeking to obstruct or 43 encroach upon a public right-of-way shall obtain a permit from the Department. The 44 Department shall provide for permit applications, forms and fees. 45

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8.2 Public notice of application for a permit to encroach. The Department may, when it deems appropriate, require or provide for the publication, including or limited to posting, of a request for a permit. In deciding whether to require publication, the Department shall consider the impact on the public, the extent of public use of the location, type of use, the permit requestor's history for and ability to follow permit conditions, length of use, and likely cost of publication.

8.3 Time limits. The Department shall act on a request for a permit as expeditiously
9 as possible. If no technical investigation is required, the permit decision shall be made
10 as a determination within seven (7) days. Failure to issue a permit within said period
11 shall constitute a granting of the requested permit, except if the Department has
12 requested an additional seven (7) days to process the request.

14 8.4 Procedure, form for application.

16 8.4.1 The Department shall develop forms for requesting a permit.

8.4.2 The forms shall secure the information which is reasonably necessary for the
Department to render an accurate, balanced and fair decision. Forms shall include a
provision for swearing that the statements made to secure the permit are true and
correct and made upon the penalties for perjury.

- 8.4.3 The Department shall provide for applications in hard copy or by fax, email, or the internet, as its facilities allow. A faxed, scanned or electronic signature shall have the same effect as an original signature unless otherwise prohibited by law or unless there are reasonable grounds to question the veracity of the signature.
- 28 8.5 Conditions for issuance of a permit.

8.5.1 The Department may condition the issuance of a permit on the payment of a fee,
a security deposit and/or undertaking, and public liability insurance.

8.5.2 Where the applicant seeks to modify physically the public right-of-way, or where
the Department reasonably anticipates expenses to supervise or monitor the requested
use, the Department shall require the payment of a refundable security deposit.

- 8.5.3 Where no modification of the public right-of-way is intended or likely, the amount
 of the deposit and/or insurance shall not be so high as to unreasonably interfere with the
 exercise of a First Amendment right.
- 8.5.4 If insurance is required, the policy shall name the Commonwealth as an additionalinsured.
- 44 8.5.5 Security for permits and permitted uses.

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When the Department determines that security is reasonably required to 1 8.5.5.1 secure the performance required in a permit, the Department may require as a condition to a permit a bond, insurance or secure undertaking payable to the Department in an J amount to be determined by the Secretary, or according to a schedule which the 4 Secretary shall issue. 5 6 7 Such bond or undertaking shall be calculated to cover the Department's 8.5.5.2 8 costs in: 9 completing, repairing, and/or maintaining a site or an excavation and/or 10 8.5.5.2.1 other works in order to place property in no worse a state than prior to the permitted 11 12 activity: and 8.5.5.2.2 compensating persons for torts directly related to and caused by the works 13 14 for the placement. 15 16 Name of permitee. The Department shall issue the permit in the name of the 17 8.6 applicant or other party it deems responsible. Except that for a cutting or trenching 18 permit issued pursuant to 2 CMC § 4133 the permit shall be issued in the name of the 19 company if the applicant is a corporation or in the name of the individual if the applicant 20 is other than a corporation. 21 22 Fees. The Department may charge a fee for a permit that is reasonably 23 8.7 ~ • calculated to cover the costs indicated below. Provided, however, that the Department may charge no more than the following for the following purposes: 26 8.7.1 Use periods of less than one day or CNMI agency: No charge. 27 8.7.2 Use periods of less than four days: No more than \$ 50.00; 28 8.7.3 Use of a special district or specially designated events area: No more than \$ 29 30 500.00. 8.7.4 The costs upon which a permit fee may be based are for: 31 32 33 8.7.4.1 issuing the requested permit; supervising, as required, the permitted activity; 34 8.7.4.2 8.7.4.3 publication of notice; 35 required investigation or technical review; and/or 36 8.7.4.4 the conduct of a hearing. 37 8.7.4.5 38 8.7.5 For the purpose of this section the Department shall create and maintain for 39 public inspection a list and description of special districts and specially designated 40 events areas, and the permit fees for each. 41 42 43 8.8 Revocation, suspension and penalties. 44 8.8.1 The Department shall deny or revoke a permit for any of the following reasons: 45

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~ 8.8.1.1 Discovery that false or misleading information was given on an application. or material facts were omitted from an application. False or misleading information does not include information which the applicant reasonably believed, after exercising due 4 5 diligence, was correct at the time of the application; 6 8.8.1.2 The permitee was or has become ineligible to obtain a permit: 7 Any cost or fee required to be paid by these regulations has not been paid; 8.8.1.3 8 The permitee knowingly provides, or with the exercise of due diligence 8.8.1.4 9 should have known the s/he was providing, the permitted use to another person who 10 uses the right-of-way in violation of the terms of a permit; The use of the permit will result, or has resulted, in an unsafe or 11 8.8.1.5 12 hazardous condition, or a condition injurious to the public health, safety or welfare: The permitee knowingly denies, or through the exercise of due diligence 13 8.8.1.6 14 should have known that he/she was denying, access to law enforcement personnel or 15 Department personnel during business hours to any portion of the permitted premises: The permitee attempts to transfer a permit or any interest in a permit; 16 8.8.1.7 17 8.8.1.8 The permitee fails to maintain the premises in the condition provided in the 18 permit; 19 8.8.1.9 The permitted use will violate, or has violated, a statute, ordinance, rule or 20 regulation of the CNMI: and/or 21 8.8.1.10 The permittee has knowingly violated the terms of another Department 22 permit and there is no evidence that the permitee will follow the requirements of the 23 requested permit. 0 A 8.8.1.11 Provided that, notwithstanding any other provision of these Regulations. for violations of 2 CMC §§ 4133-36 (cutting and trenching roads) any person who 26 violates these Code provisions shall be denied a permit until such person complies with 27 the provisions. 28 29 8.8.2 The Department may revoke a permit for any of the following reasons: 30 31 8.8.2.1 The permitee knowingly uses, or with due diligence should have known 32 that the permitee was using, the right-of-way in violation of the terms of a permit. 33 8.8.2.2 The permitee attempted to transfer his/her permit or any interest in his/her 34 permit to someone else without prior Department approval; Another application for a permit to do the same thing or the application for 35 8.8.2.3 36 the renewal of a permit to do the same thing was denied and the administrative denial 37 became final: or 38 8.8.2.4 Any cost, fee or fine required to be paid has not been paid. 39 40 8.8.3 The Department shall revoke a permit for any of the following reasons: 41 42 8.8.3.1 Discovery that false or misleading information or data was given on any 43 application, or material facts were omitted from any application. False or misleading 44 information does not include information which the applicant reasonably believed, after

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45 exercising due diligence, was correct at the time of the application;

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| 1 5 5 | | The permitee has become ineligible to obtain a permit; The permitee knowingly denies, or through the exercise of due diligence known that s/he was denying, access to law enforcement personnel or the Department during business hours to any portion of the permitted |
|--|--|--|
| 6 7 8 9 | 8.8.3.4 terms of the | The permitee has been found by the Department to have violated the permit more than twice within a period of twenty-four (24) months, not period of suspension. |
| 10 11 12 13 14 | (1) year from | son whose permit is revoked shall be ineligible to receive a permit for one the date of revocation. For this purpose, "person" includes the permitee, nd principals, a relative thereof, and/or another person owned or controlled |
| 15 16 17 | | epartment may either fine a permitee, suspend a permit, or both fine and any of the following reasons: |
| 18 19 | 8.8.5.1 | Any cost, fee or fine required to be paid has not been paid; |
| 20 21 22 23 | 8.8.5.2 contemplated 8.8.5.3 8.8.5.4 8.8.5.5 | The permitee fails to maintain the permitted premises in the condition I by the permit or in a safe condition; The permit has otherwise been violated; There is a ground for suspension of the permit; or There is a ground for revoking the permit. |
| 26 27 | 8.8.6 The D | epartment shall immediately suspend a permit if it finds: |
| 28 29 30 31 | 8.8.6.2 | A ground for revocation. The permitee has apparently violated the terms of the permit, and the health or welfare requires immediate suspension. |
| 32 33 34 35 | | or failure to obtain a permit. The Department, upon notice and an or a hearing, may fine a person who should have secured, but did not mit. |
| 36 37 | 8.8.8 Penalti | ies for violation. Upon finding a violation the Department may: |
| 37 38 39 40 41 42 43 | 8.8.8.2 longer than tv 8.8.8.3 | impose a civil fine of up to five hundred dollars (\$500.00) per day; and/or suspend the permit for periods of not less than seven (7) days and no venty-eight (28) days. Provided that, for violations of 2 CMC §§ 4133-36 (cutting and trenching nalties shall as be provided in the Code. |
| 44 45 | 8.9 Affirma alleged violati | ative defenses. A person may affirmatively prove as a defense to an on that: |

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- 8.9.1 S/he did not know, or through the exercise of due diligence could not have known, of a user's acts or omissions; or
- 4 8.9.2 If the permitee knew or should have known that a user was violating a permit,

5 s/he was powerless to prevent the violation and has taken adequate steps to correct the 6 violation.

8.9.3 Affirmative defense. The permitee may affirmatively prove as a defense to an
alleged violation of a permit that the permitee did not know, or through the exercise of
due diligence could not have known, that his/her acts or a permit user's acts would
violate the permit or that the permitee was powerless to prevent a continuing unsafe or
violative condition.

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8.10 Finality. A determination shall become final if not appealed within thirty (30) days.

15 8.11 Stays of determination. The fact that the Department's determination or a trial 16 court's judgment relating to the Department's determination is being appealed shall not 17 automatically stay or have other effect, and the determination shall stand until such time 18 as the judgment of the trial court is reversed. The Department, the Secretary or a court 19 may, upon application, stay a determination of the Department. 20

9 Complaints

9.1 Any person may complain to the Department about or against an encroachment or obstruction of a public right-of-way. Provided that the Department shall not make the filling out of a form by a member of the public a necessary condition for making a complaint.

9.2 Any person aggrieved by the Department's action under these regulations may complain to the Department and shall be given the opportunity for a hearing.

9.3 The Department shall provide forms and record-keeping for complaints.

9.4 The Department shall entertain the complaint against an encroachment or obstruction without regard to whether the complainant has suffered a special injury.

9.5 A complainant shall have the right to participate as a party in a hearing on the
 complaint.

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10 **Removal of an encroachment or obstruction.**

43 10.1 In order to remove an encroachment or obstruction to a public right-of-way the
44 Department shall use the standard removal procedure described below, section <u>12</u>,
45 except as provided otherwise.

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| | 10.2 Except, if the Secretary finds that exigent circumstances require expedited |
| J | removal of an encroachment or obstruction to a public right-of-way the Department may |
| 4 | utilize the expedited procedure described below, section <u>12</u> . In order to find exigent |
| 5 | circumstances the Secretary must certify that expedited removal is required to: |
| 6 | chounistances the occidity must certify that expedited removal is required to. |
| 7 | 10.2.1 respond to a health or safety emergency; |
| 8 | 10.2.2 eliminate a condition creating substantial immediate risk of harm; |
| 9 | 10.2.3 protect the surface, bed or structure of the right-of-way and that delay |
| 10 | would allow the material degradation thereof; |
| 10 | 10.2.4 provide for works designed to protect the public health or safety; or |
| | |
| 12 | 10.2.5 advance a public works project designed to benefit the public safety, |
| 13 | health or welfare and that, on balance, the public benefits in proceeding on an expedited |
| 14 | basis outweigh the costs of following the standard removal procedure. |
| 15 | |
| 16 | |
| 17 | 11 Remedies and procedure for remedies |
| 18 | |
| 19 | 11.1 Removal |
| 20 | |
| 21 | 11.1.1 An unauthorized encroachment or obstruction shall be removed and |
| 22 | remediated, and, upon the Department's determination, at the owner's expense. |
| 23 | |
| · · | 11.1.2 An unauthorized encroachment or obstruction which provides a serious |
| 6- - | and immediate interference or impairment shall be removed immediately and, upon the |
| 26 | Department's determination, at the owner's expense. |
| 27 | |
| 28 | 11.1.3 The Department may order the encroaching or obstructing person to |
| 29 | remove and remediate, or it may remove and remediate the encroachment or |
| 30 | obstruction itself, through: its staff; by agreement for the use of the staff of another |
| 31 | instrumentality of the Commonwealth government; and/or through a contractor. |
| 32 | |
| 33 | 11.2 Costs, expenses and fees |
| 34 | |
| 35 | 11.3 The Department may recover the costs of remediation from the person who |
| 36 | caused the obstruction or encroachment, and/or may secure a lien against the offending |
| 37 | real estate, if any, in the amount thereof. |
| 38 | |
| 39 | 11.4 For injury to a person's property proximately caused by negligent, reckless, or |
| 40 | excessive removal or remediation which the Department has caused, the Department |
| 40 | may compensate: |
| 42 | may compensate. |
| 42 43 | 11.4.1 by paying money; |
| | |
| 44 | 11.4.2 by repairing the injury and/or replacing the injured property; |
| 45 | 11.4.3 by replacing the injured property with property of substantially similar value |
| | Page 17 of 23 |

- 1 and use; and/or
 - 11.4.4 by providing a formal apology.

11.5 Entry upon adjoining private land. If the Secretary finds exigent circumstances,
 as provided in these regulations, paragraph <u>10.2</u>, and notice is given thereafter pursuant
 to these regulations, paragraph <u>12.1.2</u>, the Department, or other responsible public
 agency, may enter upon lands adjoining a public right-of-way:

9 11.5.1 for the purpose of opening any existing drain, or for digging a new drain, 10 for the free passage of water for the drainage of a public or private right-of-way; 11

12 11.5.2 to drive piles, throw up embankments, or to perform any other work 13 necessary to keep a drain within the proper channel, and to prevent the flow of drain 14 water, or related erosion, upon public or private rights of way, or upon other private 15 property; 16

17 11.5.3 or enter upon lands adjoining a private right-of-way, which during the time 18 of high water flow is subject to overflow from a drain, to remove or change the position 19 of a fence or other obstruction which is preventing the free flow of water to or through a 20 drain or other public right-of-way; and/or 21

- 11.5.4 or enter upon lands adjoining a private right-of-way to remove, close, cap
 or otherwise terminate an outflow of sewage or other wastewater which may harm the
 public.
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12 Procedures for removal of obstructions and/or encroachments, and for suspensions, revocations and fines

12.1 Standard procedure for removal

12.1.1 Except as otherwise provided in these regulations, the Department shall provide a person with notice and the opportunity for a hearing prior to action to remove an obstruction and/or encroachment. Such hearing shall be conducted in order to provide a speedy, final and effective determination of the limited matters governed by these regulations.

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12.1.2 Notice. Ordinarily reasonable advance notice shall be mailed to the last
 known address of the owner of, or other person responsible for, the obstruction and/or
 encroachment and shall be posted on or near the obstruction and/or encroachment in a
 conspicuous place.

43 12.1.3 Hearing. Except as otherwise provided in these Regulations, the
44 Department shall provide a person with the opportunity for a contested case hearing that
45 comports with the requirements of the Administrative Procedure Act, 1 CMC §§ 9108 -

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1 13; and

12.1.4 The Department shall determine with respect to the action, and any
 hearing requested shall address:

6 12.1.4.1 The location of the encroachment or obstruction which gives rise to the 7 proposed action;

8 12.1.4.2 A short summary of the action and the reasons for it;

- 9 12.1.4.3 whether the location is in a public right-of-way, or whether Department has 10 an other, superior right to the interest in real property on which the obstruction or 11 encroachment is present;
- 12 12.1.4.4 the nature of the person's property interest,
- 13 12.1.4.5 the public need for removal of the obstruction or encroachment;
- 14 12.1.4.6 the Department's related proposed works, if any;
- 15 12.1.4.7 the schedule for the Department's related proposed works, if any;
- 16 12.1.4.8 the respective costs to the parties of government action and/or inaction;
- 17 12.1.4.9 the effect of removal on the person's property;
- 18 12.1.4.10 the public interest for and/or against the proposed works, if any;
- 19 12.1.4.11 the damages and/or other injuries to the parties, if any; and
- 20 12.1.4.12 whether the Department shall take the proposed action.
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12.1.5 A Department or other government employee having personal knowledge
 of the relevant circumstances shall attest by signature that the determination is true and
 correct to the best of his/her knowledge, information and/or belief.

- 26 12.2 Summary pre-removal hearing
- 27
 28 12.2.1 Upon the Secretary's determination that expedited removal is required, but
 29 that the time allows and the public safety, health and welfare will not be adversely
 30 affected, the Department may hold a summary pre-removal hearing, the issues of which
 31 shall be limited to:
- 12.2.1.1 The location of the encroachment or obstruction which gives rise to the
 proposed action;
- 35 12.2.1.2 A short summary of the action and the reasons for it;
- 36 12.2.1.3 whether the location is in a public right-of-way, or whether Department has
- an other, superior right to the interest in real property on which the obstruction or
 encroachment is present;
- 39 12.2.1.4 the public need for removal of the obstruction or encroachment;
- 40 12.2.1.5 the schedule for the Department's related proposed works, if any;
- 41 12.2.1.6 the effect of removal on the person's property; and
- 42 12.2.1.7 whether the Department shall take the proposed action.

44 12.2.2 The Department shall give the best notice which it determines feasible in
 45 the circumstances;

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1 12.2.3 The Department shall provide the opportunity for a full, contested case hearing after an action for removal is taken.

4 12.3 Expedited procedure for removal before a hearing

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5 6 12.3.1 Upon the Secretary's determination that exigent circumstances require an 7 expedited proceeding, the Department may immediately, without a pre-hearing, remove 8 the obstruction and/or encroachment if: 9

10 12.3.1.1 It gives the best notice which it determines feasible in the circumstances; 11 and

12 12.3.1.2 It provides as soon as convenient to the owner of, or other person 13 responsible for, the obstruction and/or encroachment, and/or other claimant, the 14 opportunity for a post-removal hearing that otherwise follows the standard procedure of 15 these regulations for removal. 16

17 12.4 Procedures for suspensions, revocations and fines.

19 12.4.1 With respect to revoking or suspending a permit or imposing a fine or
20 other penalty, the Department shall provide a person with notice and the opportunity for
21 a hearing.
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- 12.4.2 Except as otherwise provided in these regulations, the Department shall
 provide a person with the opportunity for a contested case hearing prior to its action, a
 hearing which comports with the requirements of the Administrative Procedure Act, 1
 CMC §§ 9108 13. Except that, if the Department finds exigent circumstances, it may
 make a prehearing determination to suspend, providing the permitee with immediate
 notice of the determination and an expedited opportunity to respond after the action is
 carried out, and the opportunity for a contested case hearing.
- 12.5 Waiver. Failure to appear at the contested case hearing, or timely effort to
 secure an excused absence and rescheduled hearing, shall waive the right to contest
 the action.

12.6 Immediate effect. A determination and/or order of the Department shall take
 immediate effect unless stayed by the Department, the Secretary or the reviewing court.

12.7 Notice of effect and appellate procedures. The Department shall, in its final order
 or other final determination, give notice to the affected party of the party's right to
 appeal, the place/address of the appeal and the time within which the appeal must be
 filed.

12.8 If no internal administrative appeal to the Secretary is timely filed, and no good
cause is shown to excuse the failure to appeal timely, the determination of the
Department shall become final.

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12.9 Enforcement of penalties.

12.9.1 The Department may enforce its penalties to the extent provided by law.

12.9.2 The Department shall secure the assistance of the Attorney General to implement its penalties through any action in the Superior Court.

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13 Notices and service, in general

12 13.1 Unless otherwise specifically stated in these regulations, service can be made on 13 the person, the person's resident agent, or, if neither can be determined, upon the 14 property. Service may be accomplished by first class mail, return receipt, personal 15 delivery followed by a sworn certificate of service, or by a commercial mailing service 16 that generates a return receipt. A party may waive service, or agree to service by fax or 17 electronic mail.

19 13.2 Notice. Ordinarily notice shall be given at least 14 days prior to the hearing or 20 action date. Such notice may be served to the address provided on a person's permit 21 application, or, if one is not available, to the last known address of the permitee, and, if a 22 fax or email address was provided on the application, by either a fax or email copy with 23 a report of receipt generated. If mail or personal service is not feasible, the Department 24 may post the notice on or near the permitted property in a conspicuous place.

13.3 Notice for expedited or summary proceeding. Notice for an expedited or summary proceeding may be accomplished by the best method available at the time to give actual notice of proceedings or an action within the time required. This may include personal oral or written notice, telephone notice, fax or email. The person giving notice shall swear to it thereafter in a written certificate of service. Service by fax or email shall be evidenced by an electronic return receipt or the recipient's acknowledgment.

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14 Claims against the Department or the Secretary affecting personalty or real property

14.1 These regulations shall not change the statutory or common law scope of the
sovereign or other immunity, or waivers of limitations thereof, applicable to the
Commonwealth, its departments, agencies, political subdivisions and/or other
instrumentalities.

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42 14.2 Claims arising out of actions contemplated by or governed through these

- 43 Regulations shall be filed against the "Department of Public Works" or the other
- 44 Commonwealth instrumentality which the Department has designated to carry out the

1 action.

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15 4 Appeals to the Secretary of Department determinations and other actions. 5 6 A person who is aggrieved by a determination of the Department or other action 15.1 7 made pursuant to these Regulations shall file an appeal to the Secretary within 14 days of the issuance of the order or other action complained of. The person shall serve a 8 9 copy on each party to the matter within seven (7) days of the filing. The time in which to 10 file the appeal is jurisdictional. 11 15.2 No particular form of pleading or letter is required, provided that the appeal shall 12 13 include: 14 Name, address, telephone, email if available, and/or other contact 15 15.2.1 information for the appellant or his/her representative: 16 15.2.2 The docket number and caption or title of the matter appealed from, 17 including the other parties; 18 19 15.2.3 The location of the incident which gave rise to the complaint to the 20 Department; 15.2.4 21 A short summary of the controversy and the Department's decision: The reasons for the appeal and relief requested; 22 15.2.5 23 15.2.6 A statement signed "under the penalty of perjury" that the matters stated in ~ • the appeal are true and correct to the appellant's knowledge and belief, and that a copy is being timely served upon other parties to the matter; and 15.2.7 A request that the Secretary rule on the appeal. 26 27 28 15.3 The Secretary may provide an appeal form, specify the number of copies of 29 appeal materials to be filed, identify the required supporting information, and provide for 30 the details of the appeal proceedings, including conferences and hearings. Unless 31 otherwise granted by the Secretary, there shall be no evidentiary hearing or oral argument in the appeal proceedings. The Secretary shall provide the opportunity for 32 briefs, memoranda or other written comments, replies thereto, and may provide for 33 34 rebuttal, to the end that all parties may be heard. 35 36 15.4 The Secretary shall affirm, deny, modify, or remand. 37 38 15.5 Notice of effect and appellate procedure. The Secretary shall, in his/her order or 39 other final determination, give notice of the party's right to appeal to the courts, the 40 place/address of the appeal and the time within which the appeal must be filed. 41 42 43 16 Other remedies 44 45 16.1 Nonexclusive remedy and exhaustion. A remedy under these regulations shall Page 22 of 23

- not be the exclusive remedy of a person or of the Department aggrieved by an encroachment or obstruction. Provided that a party seeking either a remedy against an encroachment or an obstruction governed by these regulations, or against a party
 availing itself of a remedy under these regulations, shall first exhaust their remedies hereunder.
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9 10 17 Construction of these regulations. In construing these regulations, the singular shall mean the plural, and the plural the singular, the male shall indicate the female and the female the male, and either shall also apply to a non-natural person.

11 18 Severability. If any provision of these Regulations or any application thereof to 12 any person or circumstances is held invalid by a court of competent jurisdiction, such 13 invalidity shall not affect other provisions or application of these Regulations which can 14 be given effect without the invalid provision or application; and to this end the provisions 15 of these Regulations are declared to be severable.

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0 Text of DPW Regs 6 Obstructions.wpd

Page 23 of 23

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS SECTIONS 703E AND 703G

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General hereby notifies the general public of proposed amendments to Sections 703E and 703G of the Immigration Rules and Regulations, published as proposed regulations in the Commonwealth Register, Vol. 25, No. 6, July 15, 2003 and adopted in the Commonwealth Register, Vol. 25, No. 10, November 17, 2003. These regulations establish the procedures and substantive requirements for a "Visitor Entry Permit", or "VEP", which is a pre-requisite of entry for certain alien tourists traveling to the Commonwealth. Beginning December 1, 2003, the VEP replaced the "Authorization to Board" system with the aim of making the procedure more clear and efficient. However, the regulations, as enacted, lack specific guidelines for submitting and approving applications. This has caused a glut of last minute applications, which, in turn, has led to cursory reviews and inadequate background investigations. Moreover, effective review of each VEP application is a time-consuming process that has strained Division of Immigration resources, thus warranting the imposition of processing fees. Finally, the amendment to Section 703G clarifies that each VEP application must be approved by the Attorney General or his or her designee and applicant names must be checked against current Commonwealth labor and immigration records.

The Office of Attorney General urges the general public to submit written comments and recommendations regarding these amendments to the Immigration Rules and Regulations, Sections 703E and 703G within thirty (30) days after publication of this notice in the Commonwealth Register. Written comments on these amendments should be sent to Pamela Brown, 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:

PAMELA BRO Attorner General

Received by:

THOMAS A/ TEBUTEB Special Assistant for Administration

Filed and Recorded by:

BEPNADITA B. DE LA CRUZ Corvorate Register

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.

day of January 2004. Dated this

PAMELA BROWN Attorney General

COMMONWEALTH REGISTER

VOLUME 26 NUMBER 01

January 22, 2004 PAGE 021561

123/04 Date

1-13.04

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS SECTION 703E AND 703G

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. 25, No. 6, July 15, 2003.

| 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 amendments to the Immigration Rules and Regulations will improve the effectiveness of the VEP screening process and will relieve the financial costs of implementing the VEP program. |
| Brief Summary of the Proposed Amendments: | The amendments to the Immigration Rules and Regulations are promulgated to: |
| | Require that an applicant pay a fee of \$20 to process an application for a Visitor Entry Permit filed with the Commonwealth Division of Immigration at least seven (7) days prior to the expected date of arrival in the Commonwealth. |
| | (2) Require that an applicant pay a fee of \$40 to process an application that arrives less than seven (7) days prior to the expected date of arrival in the Commonwealth but more than three (3) days prior to the expected date of arrival in the Commonwealth. |
| | (3) Require that an applicant pay a fee of \$100 and provide satisfactory evidence of a criminal background check from a person, agency or entity approved under 3 CMC § 4802 to process an application three (3) days or less prior to the expected date of arrival in the Commonwealth. |
| | (4) Clarify that the examining official responsible for conducting substantive reviews and approving each VEP application shall be the Attorney General or his or her duly appointed designee. |
| | (5) Require a check of the applicant's name in the LIIDS and BMS databases prior to issuance of a VEP. |

VOLUME 26 NUMBER 01

For Further Information Contact:

Eric S. O'Malley, Assistant Attorney General for Immigration, Office of the Attorney General, telephone (670) 664-2426 or facsimile (670) 234-7016.

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

The amendments affect the Immigration Rules and Regulations, Sections 703E and 703G.

Dated this 134 day of January 2004.

Submitted by: x

PAMELA BROWN Attorney General

AMENDMENTS TO SECTIONS 703 OF IMMIGRATION RULES AND REGULATIONS

Immigration Regulation 703E is hereby repealed and re-enacted to read as follows:

E. Application

- a. In order to obtain a Visitor Entry Permit, the applicant must submit an application via fax, e-mail or posted mail to the CNMI Division of Immigration, Office of the Attorney General. The Visitor Entry Permit Application shall include the following information.
 - 1. Name:
 - 2. Certified copy of valid passport;
 - 3. Home address, telephone number, fax number, place of birth;
 - 4. Length of time at home address;
 - 5. Expected date and time of arrival;
 - 6. Expected date and time of departure;
 - 7. Name and address of sponsor/reference/hotel in the CNMI;
 - 8. Declaration of financial responsibility;
 - 9. Copy of round trip ticket or e-ticket or verified itinerary;
 - 10. Indication whether applicant has visited NMI previously; and
 - 11. Indication whether applicant has ever applied and been denied entry or an entry permit to the Commonwealth.

Additional information may be requested as needed.

b. The applicant must submit a non-returnable processing fee of twenty dollars (\$20) if the application is received at least seven (7) days prior to the expected date of arrival in the Commonwealth. If the application is received less than seven (7) days but more than three (3) days prior to the expected date of arrival, the applicant must submit a non-returnable processing fee of forty dollars (\$40). If the application is received less than three (3) days prior to the expected date of arrival, the application is received less than three (3) days prior to the expected date of arrival, the application is received less than three (3) days prior to the expected date of arrival, the applicant must submit a non-returnable processing fee of one hundred dollars (\$100), as well as satisfactory evidence of a criminal background check from a person, agency or entity approved under 3 CMC § 4802. Processing fees must be received prior to issuance of a VEP.

AMENDMENTS TO SECTIONS 703 OF IMMIGRATION RULES AND REGULATIONS

Immigration Regulation 703G is hereby repealed and re-enacted to read as follows:

- G. Standards for Review
 - a. Once a Visitor Entry Permit application is determined to be complete, within three working days it will be reviewed for substantive compliance and approved by the Attorney General or by his or her duly appointed designee based on the following standards:
 - 1. valid passport for at least sixty (60) days after expected time of departure from the CNMI;
 - 2. roundtrip ticket or verified electronic itinerary (*i.e.*, e-ticket);
 - 3. finding that person resides permanently in place of residence and is reliably expected to return there;
 - 4. finding that there is no reasonable cause to believe the visit is for purposes other than tourism;
 - 5. either (a) acceptable sponsorship and affidavit of support from a party who has not been found in violation of prior sponsorships; or (b) acceptable proof of means sufficient to support a stay for the duration of the trip (which shall be no less than \$100 per day), or proof of a valid credit card with an equivalent available credit; and
 - 6. determination and finding of accuracy in application.
 - b. Prior to issuance of a VEP, the Division of Immigration shall conduct, at a minimum, a search of the applicant's records in the Labor and Immigration Identification System (LIIDS) and the Border Management System (BMS) to determine compliance with Commonwealth laws and regulations.
 - c. A Visitor Entry Permit may be denied if the examining official has reasonable cause to believe that the individual is excludable pursuant to 3 CMC § 4322, or reasonable cause to believe that the individual's entry is not in the best interest of the Commonwealth.

NOTISIAN PUPBLIKU PUT I MAN MA PREOPONE NA AMENDASIÓN SIHA PARA I AREKLAMENTO YAN REGULASIÓN IMMIGRATION SEKSIONA 703 E YAN 703 G

I Commonwealth i Sankattan Siha Na Islas Marianas, i Ofisinan i Abugado Henerat este na momento a notififika i pupbliku heneråt put i Man Ma Propone Na Amendasión Siha para Seksiona 703 E yan G gi Areklamento yan Regulasión Immigration siha, ma pupblisa gi Rehistran i Commonwealth, Baluma 25, Numiru 6, gi Julio kinse, dos mit tres na såkkan (July 15, 2003). Este na regulasión siha a establesi areklamento yan nisisidat siha para i "Petmisun Entrådan Bisita", pat "VEP", ni impotånte gi entråda para i pumalu siha na turistan taotao hivong ni man paseseho para i Commonwealth. Gi Disiembre uno, dos mit tres, na såkkan (December 1, 2003), i VEP a kuentåve' i "Authorization to Board" na sistema ni para u na klåru van efektibu i areklamento. Lao, i regulasión siha, ni ma otdena, fåtta espesifiku na maneha siha para i me entretrega yan aprueprueba i aplikasón siha. Estague muna meggai (glut) mismo ora na aplikasión siha, ni humuyongña, dinirihe para u pakiao i ma ribisa siha yan ti man dinanche i imbestigasión siha. Adimås, efektibu na rinibisan kada aplikasión VEP tinaka tiempo para u ma chogue ginen enao na tumakpapa i guinahan (resources) i Dibision i Immigration, enao na a garantia i enggañun (imposition) i apas i ma choguen i aplikasión. Los uttimos, i amendasión para Seksiona 703 G a klarififika na kada aplikasión VEP debi di u ma apruba ginen i Abugådo Heneråt pat håye' ma designa yan i na'an i aplikånte debi di u ma chek kontra i prisente na record siha gi Hotnalerun i Commonwealth yan Immigration.

I Ofisinan i Abugådo Heneråt a so'so'yo i pupbliku henerat para u fan na'hålom tinige' opinion siha yan rekomendasión siha ni tineteka este na amendasión siha para i Areklamento yan Regulasión Immigration, Seksiona 703 E yan 703 G gi hålom trenta (30) dihas despues i pupblikasión este na notisia gi Rehistran i Commonwealth. Tinige' opinion siha put este na amendasión debi di u ma hañågue si Pamela Brown, i Abugådo Heneråt, gi Ofisinan i Abugådo Heneråt, gi mina dos na bibienda, gi Juan A. Sablan Memorial Bldg., gi Capitol Hill, Saipan MP 96950 pat fax guatto (670) 664-2349.

Ninahålom:

Pamela Brown Abugådo Heneråt Rinisibe as Thomas A. Tebuteb Espesiåt Na Ayudente Para i Atministrasión

Fecha

1-22-04 Fecha

Pine'lo yan Rinikot as:

:: 'Aulen Cruz Bernadita B. Dela Cruz Rehistran i Koporasión

1.22-04 Fecha

Sigun i Lai 1 CMC Seksiona 2153, ni inamenda ginen i Lai Pupbliku 10-50, i areklamento yan regulasión siha ni man che'che'ton este na momento man ma ribisa yan aprueba put para u fotma yan ligåt sufisiente ginen i Ofisinan i Abugådo Heneråt

Ma fecha gi este mina

na diha gi Ineru dos mit kuåttro (2004) na såkkan.

Pamela Brown Abugådo Heneråt

Trinanslådan: Charlene S. Cruz Transladoran Chamorro, CCLPC

NOTISIAN PUPBLIKU PUT I MAN MA PROPONE NA AMENDASIÓN SIHA PARA I AREKLAMENTO YAN REGULASIÓN IMMIGRATION, SEKSIONA 703 E YAN 703 G

Este na amendasión ma establesi ni kinensiste yan i Akton i Areklamenton Atministradot, i Lai 1 CMC Seksiona 9101, et.seq. I Ofisinan i Abugådo Heneråt a amemenda i Areklamento yan Regulasión Immigration ni man ma pupblisa gi Rehistran i Commonwealth, Baluma 25, Numiru 6, gi Julio kinse, dos mit tres na såkkan (July 15, 2003).

| Sitasión i Aturidåt i Lai: | I Ofisinan i Abugådo Heneråt ma aturisa para u establesi regulasión para i entråda yan dipottasión i taotao hiyong gi Commonwealth I Sankattan Siha Na Islas Marianas sigun i otden Eksekatibu 03-01 yan 3 CMC Seksiona 4312 (d). |
|---|--|
| Kada'da' Na Mensåhe Put i Goals yan Objectives: | I amendasión siha para i Areklamento yan Regulasión siha debi di u ma adulånta i inefektibun i VEP and ma chogue i aplikasión ya u alibiu i åpas i implimentasión i progråman VEP. |
| Kada`da`Na Mensåhe Put I Man Ma Propone Na Amendasión: | I amendasión siha para i Areklamento yan Regulasión Immigration siha man ma establesi para: |
| | (1) Ma nisisita i aplikånte para u åpasi bente pesos (\$20) para u ma chogue i aplikasión para u ma polu i Petmisun Entrådan Bisita gi Dibisión i Immigration gi Commonwealth menos di siette (7) dihas åntes di i ma ekspekta na ha'åne ni para u fåtto gi Commonwealth. |
| | (2) Ma nisisita i aplikånte para u apåsi kuårenta pesos (\$40) para u ma chogue i aplikasión ni para u fåtto menos di siette (7) dihas åntes di i ma ekspekta na ha'åne ni para u fåtto gi Commonwealth lao mås ki tres (3) dihas åntes di i ma ekpsekta na ha'åne ni para u fåtto gi Commonwealth. |
| | (3) Ma nisisita i aplikånte para u apåsi siento pesos (\$100) ya u probeniyi satisfecho na ebidensia put record kriminåt ginen i petsona, ahensia pat grupu ni man ma aprueba papa 3 CMC Seksiona 4802 para u chogue i aplikasión tres (3) dihas pat menos åntes di u ma ekspekta na ha'åne ni |
| | |

para u fåtto gi Commonwealth.

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| | (4) Klarifika na i ofisiåt ni mueksamimina responsåble ni konduduktan i ribisa yan inaprueban kada aplikasión VEP debi di i Abugådo Heneråt pat håye' a designa. |
|---|--|
| | (5) Ma nisisita u ma chek i na'an i aplikånte gi LIIDS yan BMS database åntes di i linaknos i VEP. |
| Para Mås Infotmasión Ågan: | Eric S. O'Malley, Ayudånten i Abugådo Heneråt para Immigration, Ofisinan i Abugådo Heneråt, tilifon (670) 664-2426 pat facsimile (670) 234-7016 |
| Sitasión i man A'chule yan/pat ma Afekta na Lai Siha, Areklamento yan Regulasión Siha, yan Otden Siha: | I imidiamente na amendasión siha a afekta i Areklamento yan Regulasión Immigration, Seksiona 703 E yan 703 G. |

Ma fecha gi este mina

na diha Ineru dos mit kuåttro na såkkan (2004).

Ninahålom:

Pamela Brown Abugådo Heneråt

Trinanslådan: Charlene S. Cruz Transladoran Chamorro, CCLPC

AMENDASIÓN SIHA PARA SEKSIONA 703 GI AREKLAMENTO YAN REGULASIÓN SIHA GI IMMIGRATION

Regulasión Immigration 703 este na momento a talun diroga yan otdena para u taitai gi sigente:

E. Aplikasión

a. An para un hentan i Petmisun Entrådan Bisita, i aplikånte debi di u na'hålom i aplikasión ginen fax, e-mail pat hañågue (mail) guatto i Dibisión i Immigration CNMI, Ofisinan i Abugådo Heneråt. I Aplikasión Petmisun Entrådan Bisita debi di u enklusu i sigente siha na infotmasión:

1. Na'an;

- 2. Kopian paspotte ni ma setifika;
- 3. Address i gima, numirun tilifon, numirun fax, lugåt anai mafañågu;
- 4. Durasión i tiempo i lugåt i gima anai sumåsaga;
- 5. I ma ekspekta na ora yan ha'åne ni para u fåtto gi;
- 6. I ma ekspekta na ora yan ha'åne ni para u hånao;
- 7. Na'an yan address i sponsor / refiriensia / hotel gi CNMI;
- 8. Deklarasión i responsiblidåt fengkas (financial);
- 9. Kopian i round trip ticket pat e-ticket pat i ma aprueba na itinerary;
- 10. Indikasión kao i aplikante ginen matto gi CNMI man bisita gi mapus; yan
- 11. Indikasión kao i aplikante ginen man aplika ya ti ma aprueba i entrada pat i petmisun entrada gi Commonwealth.

Siña ma rikuesta mås infotmasión an ma nisisita.

(b) I aplikånte debi di u na'hålom i åpas bente pesos ni ti manana'na'lu put para u ma chogue i aplikasión ya u ma risibe menos di siette (7) dihas åntes di i ma ekspekta na ha'åne ni para u fåtto gi Commonwealth. An ma risibe i aplikasión åntes di siette (7) dihas lao mas ki tres (3) dihas åntes di i ma ekspekta na ha'åne ni para u fåtto, i aplikånte debi di u na'hålom åpas kuårenta (\$40) pesos ni ti manana'na'lo put para u ma chogue i aplikasión. An ma risibe i aplikasión menos di tres (3) dihas åntes di i ma ekspekta na

ha'åne ni para u fåtto, i aplikånte debi di u na'hålom i åpas siento (\$100) pesos ni ti

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AMENDASIÓN SIHA PARA SEKSIONA 703 GI AREKLAMENTO YAN REGULASIÓN SIHA GI IMMIGRATION

Regulasión Immigration 703 este na momento a talun diroga yan otdena para u taitai gi sigente:

G. Minanera para ma risibe

a. An i aplikasión Petmisun Entrådan Bisita ma ditemina na kumplidu, gi hålom tres (3) dihas na ha'ånen cho'chu siempre ma ribisa para u kumple yan aprueba ginen i Abugådo Heneråt pat håye' a designa sigun i sigente siha na minanera:

1. Paspotte ni ti måmåtai tiempoña para menos di sisienta (60) dihas despues di i ma ekspekta na ha'åne ni para u dingo' i CNMI;

2. Round trip ticket pat electronic itinerary (i.e., e-ticket);

3. Ma sodda na eyu na petsona sumåsaga petmanente gi lugåt i residensia ya a angokko para u bira gue;

4. Ma sodda na tåya resonåble na rason para u ma hongge na i bisita i rason fuerra di turista.

5. Kao (a) i ma aksepta na sponsorship yan affidavit of support ginen i petsona ni ti ma sodda na umisao gi åntes di sponsorship; pat (b) i ma aksepta ebidensia para u supotta i sumagåñapara i durasión i hinanao (ni ti debi di menos di siento pesos gi diha), pat ebidensia na guaha credit card ni ti måmåtai tiempoña ni gai minaolek kredituña; yan

6. Ditetminasión yan sineddan i dinancheña i aplikasión.

b. Åntes di i linaknos i VEP, i Dibisión i Immigrationdebi di u kondukta, gi menos di, i inaligaon i records i aplikasión siha gi Hotnaleru yan Immigration Identification System (LIIDS) yan i Border Management System (BMS) para u ditetmina i kinumplen i Lain i Commonwealth siha yan Regulasión siha.

c. I Petmisun Entrådan Bisita siña ti ma aprueba an i ofisiåt ni mueksamimina i aplikasióngumuaha resonable na rason para u hongge na i indibiduåtma na sangge sigun i 3 CMC Seksiona 4322, pat resonable na rason para u hongge na i indibiduat ni para u hålom ti maolek para i interes i Commonwealth.

manana'na'lo put para u ma chogue i aplikasión, kontodu satisfecho na record kriminåt ginen i petsona, ahensia pat grupu ni ma aprueba papa 3 CMC Seksiona 4802. I åpas i machoguen i aplikasión debi di u ma risibe åntes di i linaknos i VEP.

ARONGOL TOULAP REEL POMWOL LIWELIL ALLÉGH ME ALÚGHÚLÚGHÚL IMMIGRATION TALIL 703E ME 703G

Commonwealth, mellol Teel Faluw Kka Efang, Bwulasiyool Sow Bwungul Allegh Lapalap ekke arongaar aramas toulap reel pomwol lliwel kkaal ngáli Tálil 703E me 703G reel Allegh me Alughulughul Immigration, ive as toowow mellol Commonwealth Register Vol. 25, No. 6, wool Wuun 15, 2003. Allegh kkaal e avoora lemelemil me llapal mwoghútúl aweewe kkaal ngáli " Visitor Entry Permit, " me ngare "VEP," ikka rebwe attabweey (pre-requisite) ngali tolongoor akkaamweit waasela (alien tourists) kka re uruto Commonwealth. E bweleta Tumwur 1, 2003, VEP aa siweliiló " Authorization to Board " lemelemil bwelle ebwe ghi ffat me fil. Nge, allegh kkaal igha aa allegheld, ese ghow ammatafal reel isisilongol me filldol application kkaal. Iveel mille aa toowow tchongota application kkaal ikka raa ghitipwotchuuw ammwelil me ese fischiló aweweel allet kkaal. Llól welewelil, nge fischil alughulugh ngáli alongal application-ul VEP nge emmway aweweel, nge aa aweiresi Bwulasiyool Immigration, iwe aa tittingor akkateel abwossul mwoghut veel. Mwutchulóól Iliwel ngáli Tálil ye 703G aa affatawow bwe alongal VEP application ebwe allegh sangi Sów Bwungul Allegh Lapalap me ngare ii me ngare iyo ye re akkúlééw (designee) me ital applicant ebwe ghommwal mwir sángi mwo tilighiyal (records) Commonwealth Labor me Immigration.

Bwulasiyool Sów Bwungúl Allégh Lapalap e tingór ngáliir aramas toulap bwe rebwe isisilong yaar aghiyágh me tingór reel lliwel kkaal ngáli alléghúl me alúghúlúghúl Immigration reel Talil 703E me 703G llól eliigh (30) ral mwiril towoowul arong yeel mellol Commonwealth Register. Ischil yaami mwaliili reel aghiyaghil lliwel kkaal ebwe akkafang ngali Pamela Brown, Sów Bwungúl Allégh Lapalap Aruwowal Pwo, Juan A. Sablan Memrial Bldg, Capitol Hill, Seipél MP 96950 me ngáre fax ngáli (670) 664-2349.

| Isaliiyállong | |
|---------------|--|
| | PAMELA BROWN |
| Sów | PAMELA BROWN Bwungui Allegh Lapalap |
| Mwir sangi | HOMAS A/TEBUTEB |

Aisis sangi BERNADITA DELA CRUZ Corporate Register Rál

1/21/04 Rål

R⁄al

Sángi allégh ye 1CMC tálil 2153, ye aa lliwel mereel Alléghul Toulap 10-50, allégh kka e appasch nge raa takkal amweri me allégheló mereel CNMI Bwulasiyool Sów Bwungul Allégh Lapalap.

Ráálil ye llól Schoow 2004.

PAMELA BROWN Sow Bwungul Allégh Lapalap ÷.

ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGH ME ALÚGHÚLÚGHÚL IMMIGRATION TÁLIL 703E ME 703G

Lliwel yeel nge aa ffilld sángi aweweel Alleghúl Lemelemil Administrative ye 1CMC 9101, et seq. Bwulasiyool Sów Allegh ekke liweli Alleghul Immigration kkewe aa akkatéewow mellól Commonwealth Register Vol. 25, No. 6, wóól Wuun 15, 2003.

| Akkatéél Bwángil Allégh: | Bwulasiyool Sów Bwugul Allegh re mweiti ngali bwe ebwe akkaté reel alleghúl atotoolong me atotoowowul schóóy lughúl (aliens) kka llól Commonwealth, Teél faluw kka Efang sángi Akkuleewal Sów Lemelem ye E. O. 03-01 me 3CMC 4312 (d). |
|--------------------------|---|
| Aweweel kkepasal Allegh: | Lliwel kka Alléghúl Immigration ebwe fischiló kkemalúl mwóghutúl VEP screening me ebwe bwal schiyeli meel ammwóghutul progromaa VEP. |
| Aweweel Pomwol Lliwel: | Lliwelil Alléghul Immigration kkaal aa akkatééló bwe ebwe: |
| | Alúghúlúgh reel applicant ebwe abwóssuuw ruweigh dóóla (\$ 20.) igha ebwe tféér application-ul Visitor Entry |

 Alúghúlúgh reel applicant ebwe abwóssuuw faigh dóóla (\$ 40.) igha ebwe fféér application ye e tooto, nge eghit sangi fisiral (7) mmwal ráálil ye ebwe tooto llól Commonwealth nge e lap sángi elerál (3) ráálil ebwe tooto llól Commonwealth.

ebwe tooto Ilol Commonwealth.

Permit reel Commonwealth, Bwulasiyool Immigration Ilól fisiral (7) mmwal ráálil ye

3. Alúghúlúgh reel applicant ebwe abwossuuw ebwughuw dóóla (\$ 100) me ayoora appelúghúlúgh fisch reel aweweel criminal background sángi aramas me ngáre Bwulasiyo ye e allégh faal 3CMC 4802 igha ebwe fféér application llól eleral (3) me ngáre ghititiw mmwal ráálil yaal tooto llól Commonwealth.

- 4. Affata bwe schóól examining official e lugheey reel yaal amweri aghiyagh kkaal me Sów Bwungúl Allegh me ngáre iyo ye re fili ebwe alleghuuw alongal application-ul VEP.
- 5. Alúghúlúgh reel rebwe ipily fischily ital applicant mellól LIIDS me BMS databases mmwal isisiwowul VEP.
- Reel Ammataf Faingi: Sówmwar ye Eric S. O' Malley, Sow Alillisil Sów Bwungúl Allégh ngáli Immigration, Bwulasiyool Sów Bwungúl Allégh reel tilifoon ye (670) 664-2426 me ngáre Facimile ye (670) 234-7016.
- Akkatéél Bwángil akkáaw Allégh: Lliwel kkewe faal ghitipwotch e fil ngáli alléghúl Immigration Tálil kka 703E me 703G.

Llól Ral ye

Schoow 2004.

Isáliiyallong:

PAMELA BROWN Sów Bwungúl Allégh Lapalap

LLIWEL KKA REEL TÁLIL 703 REEL ALLÉGHÚL IMMIGRATION KKAAL

Alléghúl Immigration ye 703E nge aa akkayúwúló me aa allégh sefál bwe ebwe iyeel aragharaghil igha e talewow:

E. Application

- a. Ngáre ebwe bweibwogh Visitor Entry Permit, applicant ebwe isisilong application sángi fax, e-mail me ngáre posted mail ngali CNMI Bwulasiyool Immigration, Bwulasiyool Sów Bwungúl Allégh. Application-ul Visitor Entry Permit ye e toolong ammataf kka e táletiw:
 - 1. lit;
 - 2. Kkopial pasapotti ye fisch me appelughulugh, (certified valid);
 - 3. Addressil iimw, numorool tilifoon, numorool fax, bwuleyil ubwutiwel;
 - 4. Lalaayil ótol addressil iimw;
 - 5. Pomwol ral me otol tooto;
 - 6. Pomwol ral me ótol toowow;
 - 7. lit me addressil sponsor/ reference/ hotel mellól CNMI;
 - 8. Affatal alúghúlúghúl salaapi;
 - 9. Kkopial round ticket me ngare e-ticket me ngare verified itinerary;
 - 10. Akkabwaal ngare applicant aa yoor igha e tooto NMI ighiwe; me
 - 11. Akkabwaal ngáre applicant aa apply mwo nge rese mweiti ngáli entry permit ngáli Commonwealth.

Akkááw ammataf emmwel rebwe tingór ngare e welepakk.

b. Applicant ebwe óbwóssuuw ruweigh (\$20) dóðla nge essóbw assefál óbwós yeel ngáre application re bwughil llól fisiral (7) mmwal rállil tooto llól Commonwealth. Ngare application e toolong mmwal fisiral (7) nge e lap eleral (3) mmwal rállil tooto, applicant ebwe óbwós faigh (\$40.) dóóla nge essóbw assefáal. Ngáre application e toolong, nge eghit sangi eleral (3) mmwal rállil tooto, iwe ebwe óbwós ebwúghúw doola (\$100.) nge essóbw assefáal, eweewe schagh me ebwe ayoora appelúghúlúgh fisch reel aweweel criminal background sángi aramas me ngáre bwulasiyo ye e allégh faal 3CMC 4802. Obwos ebwe toolong mmwal isisiwowul VEP.

LLIWEL KKA REEL TÁLIL 703 REEL ALLÉGHÚL IMMIGRATION KKAAL

Alléghúl Immigration ye 703G nge aa akkayúwúló me aa allégh sefaal bwe ebwe iyeel aragháraghil igha e táletiw:

- G. Standards reel Review
 - a. Ngáre schagh application-ul Visitor Entry Permit aa allégh bwe aa takk, llól eleral rállil angaang ebwe amwer fisch reel aweweel compliance me ebwe allégh sángi Sów Bwungúl Allégh me ngáre iyo ye re fili, sangi standards kka e táletiw:
 - 1. Pasapotti ye fisch ngáli llól oleigh (60) ral mwiril ótol yaal mweiti sángi CNMI;
 - 2. roundtrip ticket me ngáre verified electronic itinerary (sibwe ira, e-ticket);
 - 3. schuungi aramas we elo ffósch llól bwuley ye e lollo iye me alúghúlúgh bwe ebwe sefáliti iye;
 - 4. Schuungi bwe ese yoor faal lughulugh reel fárághil ur bwe tourism schagh;
 - 5. eweewe schagh (a) bwungúl sponsorship affidavit reel ebwe schiyeli mereel schó ye re schuungi bwe ese yoor fféér nngowal mmwal sponsershipme ngáre (b) bwungúl apelughúlúgh fisch ye schiyeli yaal lo ótol faragh (iye essobw ghit sangi ebwughuw (\$ 100.) dóóla , me ngáre apelughúlúghul credit card fisch nge e fischfisch llapal credit; me

- 6. fillóól me schuschuul bwungufischil llól application.
- b. Mmwal isisiwowul VEP, Bwulasiyool Immigration ebwe ayoora eghus ghut sángi recordul applicant mellol Labor and Immigration Identification System (LIID) me Border Management System (BMS) abwáári compliance ngáli alléghúl Commonwealth.
- c. Visitor Entry Permit emmwel ebwe akkayuwulo ngare school examining official eyoor faal ebwe lughuuw bwe aramas e akkaschewow sangi 3CMC 4322, me ngare eyoor lughulugh bwe akkateelongol aramas yeel nge ese fisch ngali ghatchul Commonwealth..

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS, SECTION 706C

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General hereby notifies the general public of proposed amendments to the Immigration Rules and Regulations, Section 706C first published in the Commonwealth Register, Vol. 7, No. 7, July 22, 1985. This regulation establishes the requirements for issuance of Long-Term Visitor Entry Permits. Currently the regulation is ambiguous as to whether it temporarily precludes issuance of only Long-Term Visitor Entry Permits or whether the preclusion applies to any tourist permit. The revised language clarifies this ambiguity. The amendment also clarifies when Long-Term Visitor Entry Permits may be issued and authorizes the imposition of a fee.

The Office of the Attorney General urges the general public to submit written comments and recommendations regarding the aforementioned amended rule and regulation within thirty (30) days after the publication of this notice in the Commonwealth Register. Written comments on the proposed amendment may be sent to Pamela Brown, 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:

M. PAMELA FROWN Attorney General

Received by:

THOMAS A. TEBUTEB Special Assistant for Administration

Filed and Recorded by:

BERNADITA B. DE LACRUZ

1.13.04 Date

Date

1-13-04 Date

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

Dated this 3π day of January 2004.

PAMELA BROWN Attorney General

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS, SECTION 706C

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 and adopted in the Commonwealth Register, Vol. 7, No. 7, July 22, 1985, at pages 3774-95.

| Citation of Statutory Authority: | The Office of the Attorney General is authorized to promulgate regulations for entry of aliens in the Commonwealth of the Northern Marianas pursuant to Executive Order 03-01 and 3 CMC \S 4312(d). |
|---|---|
| Short Statement of Goals and Objectives: | The goals and objectives are to clarify ambiguities in the text of existing Immigration Regulation 706C. |
| Brief Summary of The Rule: | Amends the existing ambiguous language in the second sentence, which reads "A permit", to specify that the waiting period applies to <i>every</i> "Tourist Entry Permit". Provides authority for the imposition of a fee and substitutes the phrase "Long-Term Visitor Entry Permit" in place of "Extension" in the final sentence to clarify that no further extensions beyond the term of the Long- Term Visitor Entry Permit are available |
| For Further Information Contact: | Eric S. O'Malley, Assistant Attorney General for Immigration, |
| | Office of the Attorney General, telephone (670) 664-2426 or facsimile (670) 234-7016. |
| Citation of Related and/or | |

Affected Statutes, Rules and Regulations, and Others:

Immigration Regulation 706C.

Dated this day of January 2004.

abmitted by: PAMELA BROWN

Attorney General

PROPOSED AMENDMENTS TO IMMIGRATION RULES AND REGULATIONS, SECTION 706C

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

* * *

C. Long-Term Tourist Entry Permit – permits alien to remain in the CNMI for sixty (60) days. No tourist entry permit shall be granted within thirty (30) days of the expiration of any previous tourist entry permit, except that one Long-Term Tourist Entry Permit may be issued as an extension to a Short-Term Tourist Entry Permit. Alien shall not conduct business or perform services during stay. The Division of Immigration may impose a reasonable fee for processing and/or issuing a Long-Term Tourist Entry Permit. A Long-Term Tourist Entry Permit will be granted only upon a determination that it is in the best interests of the Commonwealth.

NOTISIAN PUPBLIKU PUT I MAN MA PROPONE NA AMENDASIÓN SIHA PARA I AREKLAMENTO YAN REGULASIÓN IMMIGRATION, SEKSIONA 706 C

I Commonwealth I Sankattan Siha Na Islas Mariånas, i Ofisinan i Abugådo Heneråt este na momento a notitisia i pupbliku heneråt put i Man Ma Propone na Amendasión Para I Areklamento yan Regulasión Immigration, Seksiona 706 C finenina ni ma pupblisa gi Rehistran i Commonwealth, Baluma 7, Numiru 7, gi Julio bente dos, mit nuebe siento ochientai singko (July 22, 1985). Este na regulasión a establiblisi i nisisidat siha para i linaknos i Petmisun Entrådan Bisita Ni Anåkko Tiempoña. Gi presente i regulasión gai dinudda kao temporårio i inatåhan i linaknos i solamente na Petmisun Entrådan Bisita Ni Anåkko Tiempoña pat kao i inatåha a apliplika maseha i petmisun turista. I ma ribisa na lengguåhe a klarifika este na inatåha. I amendasión lokkue a klarififika nai'an i Petmisun Entrådan Bisita Ni Anåkko Tiempoña siña ma laknos yan aturirisa i enggåñun i åpas.

I Ofisinan i Abugådo Heneråt a so'so'yo i pupbliku heneråt para u fan na'hålom opinion tinige' yan rekomendasión siha ni tineteka i håfa ma mensióna ni man ma amenda na areklamento yan regulasión gi hålom trenta (30) dihas despues i pupblikasión este na notisia gi Rehistran i Commonwealth. I tinige' opinion siha put i man ma propone na amendasión siña ma hanågue si Pamela Brown, i Abugådo Heneråt, gi Ofisinan i Abugådo Heneråt, gi segundo na bibienda, gi Juan A. Sablan Bldg., giya Capitol Hill, Saipan MP 96950 pat fax guatto (670) 664-2349.

Ninahålom: Pamela Brown Abugado Hénerat Ma Risibe as.

Thomas A. Tebuteb Espesiát Na Ayudánte Para i Atministrasión

Pine'lo yan Rinikot as:

Bernadita B. Dela C Rehistran i Kopordsić

Fecha

1.21.04

Fecha

1-21.04 Fecha

Sigun i Lai 1 CMC Sek. 2153, ni inamenda ginen i Lai Pupbliku 10-50, i man che'che'ton na amendasión man ma ribisa yan aprueba put para u fotma yan ligắt sufisiente ginen i Ofisinan i Abugådo Heneråt gi CNMI.

Ma fecha este mina

na diha gi Ineru dos mit kuåttro (2004) na såkkan.

Pamela Brown Abugådo Heneråt

Trinanslådan: Charlene S. Cruz Transladoran Chamorro, CCLPC

NOTISIAN PUPBLIKU PUT I MAN MA PROPONE NA AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION IMMIGRATION, SEKSIONA 706 C

Este na amendasión ma establisi ni kinensiste i Akton i Areklamenton Atministrasión, 1 CMC Seksiona 9101., et. seq.. I Ofisinan i Abugådo Heneråt man ma amemenda i Areklamento yan Regulasión Immigration siha ni man ma pupblisa yan adopta gi Rehistran i Commonwealth, Baluma 7, Numiru 7, gi Julio bente dos, mit nuebe siento ochientai singko (July 22, 1985), gi pahinan 3774-95.

Sitasión i Aturidåt i Lai:

| | Abugådo Heneråt ma aturisa para u establisi |
|------------|--|
| regulasión | siha para i entrådan i taotao hiyong gi |
| Commonwe | ealth I Sankattan Siha Na Islas Marianas sigun i |
| | ekatibu 03-01 yan 3 CMC Seksiona 4312 (d). |

Kada'da Na Mensåhe PutiGoals van

Objectives: I <u>goals</u> yan objectives para u klarifika i inatåha gi mensåhen i man eksiste na Regulasión Immigration 706 C.

Kada'da' Na Mensåhe

Put i Areklamento: A amenda i eksisiste na inatåhan lengguåhe gi segundo na sentensia, ni a taitai "I petmisu.....", para u spesifika na i tiempon ninangga a apliplika para todu "Petmisun Entrådan Turista". Probeniyi aturidåt para i enggåñun (imposition) i åpas yan a kuentåye' i sinangan "Petmisun Entrådan Bisita Ni Anåkko Tiempoña" tinague ni "ekstension" gi uttimo na sentensia para u klarifika na tåya mås ekstensión siha mås ki i tiempon i Petmisun Entrådan Bisita Ni AnåkkoTiempoña ma mutero.

Para Mắs Infotmasión Ågan:

Eric S. O'Malley, Ayudånten i Abugådo Heneråt para i Immigration, Ofisinan i Abugådo Heneråt, tilifon (670) 664-2426 pat facsimile (670) 234-7016.

Sitasión ni man Achule' yan/pat ma Afekta na Lai siha, Areklamento yan Regulasión siha, yan Palu siha: Regulasión Immigration 706 C. Ma fecha este mina

na diha gi Ineru dos mit kuắttro (2004) na sắkkan.

Ninahålom:

Pamela Brown Abugado Henerat

Trinanslådan: Charlene S. Cruz Transladoran Chamorro, CCLPC

MA PROPONE NA AMENDASIÓN SIHA PARA I AREKLAMENTO YAN REGULASIÓN IMMIGRATION, SEKSIONA 706 C

Regulasión Immigration 706 C este na momento ma otdena yan diroga para u taitai gi sigente:

* * * *

C. Petmisun Entrådan Bisita Ni Anåkko Tiempoña - U sedde' i taotao hiyong para u såga gi CNMI para sisienta (60) dihas. Tåya siña ma entrega petmisun entråda para bisita gi hålom trenta (30) dihas ginen i ha'ånen i expiration i maseha håfa manmallofan na Petmisun Entrådan Turista, fuerra di eyu i Petmisun Entrådan Turista Ni Anåkko Tiempoña siña ma malaknos gi ekstensión para i Petmisun Entrådan Turista Ni Kada'da' Tiempoña. I taotao hiyong ti debi di u kondukta bisnes (business) pat u chogue setbisiu siha durånten i sinågan-niha. I Dibisión i Immigration siña ma na guaha inåpas para i machogue yan/pat i linaknos i Petmisun Entrådan Turista Ni Anåkko Tiempoña. I Petmisun Entrådan Turista Ni Anåkko Tiempoña. I Petmisun Entrådan Turista Ni Anåkko Tiempoña. I Petmisun Entrådan Turista Ni Anåkko Tiempoña siempre u ma laknos solamente gi interes i Commonwealth.

ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGALI ALLÉGHÚL IMMIGRATION, TÁLIL 706C

Commonwealth Falúwasch Marianas, Bwulasiyool Sów Bwungúl Allegh Lapalap ekke arongaar Toulap reel pomwol lliwel ngáli alleghúl Immigration Tálil 706C mmwal akkatééwow mellól Commonwealth Register, Vol. 7, No. 7, Wuun 22, 1985. Allegh yeel e akkatééwow yáayál long-term reel lisensial schóól toolong faley. Alleghúl ighila ye ese ffat me ngare e tempororiyo ammwelal lisensial long-term reel schóól tooto faley me ngáre ammwel yeel ebwe fil ngáli lisensial inaamo iyo. Lliwelil mwálili yeel e affata aghiliwel yeel, ebwal affata long-term reel lisensial schóól toolong faley igha ebwe isisiwow me mweiti ngali alleghul óbwós.

Bwulasiyool Sów Bwungúl Allégh, ekke titingor ngáliir Toulap bwe rebwe isisilong yaar aghiyagh reel allégh kka fasúl llól eliigh (30) ráálil mwiril yaal arongowow ammataf yeel mellól Commonwealth Register. Ischil pomwol lliwel yeel nge emmwel ebwe akkafangelo reel Pamela Brown, Sow Bwungul Allegh Bwulasiyool Sów Bwungúl Allégh, Second floor, Juan A. Sablan Memorial, Bldg, Capitol Hill, Seipél MP 96960 me ngare fax ngáli 670-664-2349.

Isaliivallona: PAME Rál Sow Bwungti トフリーカリ Mwir sangi: Rál **K. TEBUTEB** Sow alillisil Sow Lemelem 1-21-04 Aisis sángi: Rá BERNADITA B. DE CRUZ Corporate Register

Sángi 1CMC tálil 2153, ye aa lliwel mereel Alléghúl Toulap 10-50, lliwel kka e nge raa takkal amweri fischiiy me allégheló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Ral ye

Ilól maramal Schoow 2004.

PAMELA BROWN Sow Bwungul Allegh Lapalap

ARONGOL TOULAP REEL POMWOL LLIWEL KKA IMMIGRATION NGALI ALLEGHUL, TALIL 706C

Lliwel yeel nge e akkatééló bwelle alléghúl Administrative Procedure, 1CMC tálil 9101, et. seq. Bwulasiyool Sów Bwungúl Allégh ekke liweli alléghúl Immigration ye e arongowow me ffillóól mellól Commonwealth Register, Vol. 7, No. 7, Wuun 22, 1985, reel peigh 3774-95.

Akkatéél bwángil: Sów Bwungúl Allegh e mweiti ngáli alleghúl akkatéelong llól Commonwealth Falúwasch Marianas reel aramasal lúghúl kkaal sángi Sów Lemelem 03-01 me 3CMC talil 4312 (d).

Aweweel kapasal Allégh: Yaal goals me objectives nge ebwe affata outol tiliighi ye e aghiliwel reel Alléghúl Immigration 706C.

Aweweel pomwol lliwel: Lliweli kepas kka ese ffat ngáre aghiliwel llól aruwowal sentence, ye e árághi ngáli " lisensia...", igha ebwe affataaló ótol wwet ye e ghil ngáli alongal " lisensial atotoolongol aramasal uur tetál ". Ayoora bwángil reel alléghúl óbwós me siweli kkepas ye " Long-Term Visitor Entry Permit " ye ebwe yaáya ngáli " Extension " llol scheescheel sentence igha ebwe ffat bwe

Entry Permit bwe evoor

Reel ammataf faingi:

Eric S. O' Malley, Sow alillisil Sow Bwungul Allegh mereel Immigration, Bwulasiyool Sow Bwungul Allegh Lapalap, tilifoon (670) 664-2426 me ngare facsimile (670) 234-7016.

essóbw sóbwey kepas ve Long-Term Visitor

Akkatéél bwángil akkááw allégh:

Alléghúl Immigration 706C.

Raalil ye

Ilól Schoow 2004.

Isáliiyallong :

PAMELA BROWN Sówl Bwungul Allegh Lapalap

POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL IMMIGRATION, TÁLIL 706C

ALLÉGHÚL IMMIGRATION 706C ekke akkayuwuló me allégh sefál reel arághárágh ye faal:

Llisensial Long-Term reel aramasal uur fetál - nge e alisiir aramasal lúghúl igha rebwe lootiw CNMI Ilól oleigh (60) ráálil. Ese mmwel bwe lisensial atotoolong reer aramasal uur fetal rebwe alisiir Ilól eliigh (30) ráálil sángi akkayuulóól fasúl lisensial aramasal uur fetál, bwelle igha one Long-Term Tourist Entry Permit ye emmwel ebwe isisiwow bwe extension ngáli Short-Term Tourist Entry Permit.Ese mmwel bwe aramasal lúghúl rebwe ayoora business me fféér mwóghut ótol yaar lollo. Bwulasiyool Immigration nge emmwel ebwe alleghuw kepasal selaapi reel mwoghutul me isisiwowul Long-Term Tourist Entry Permit. Long-Term Tourist Entry Permit ebwe mweiti ngáli ngáre schagh e fisch ngáli Commonwealth.

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

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General hereby notifies the general public of proposed amendments to Section 706H of the Immigration Rules and Regulations, first published in the Commonwealth Register, Vol. 3, No. 1, February 23, 1981, adopted in the Commonwealth Register, Vol. 3, No. 7, July 22, 1985, and amended by Emergency Regulation in the Commonwealth Register, Vol. 25, No. 7, August 22, 2003, which will be adopted as permanent in this volume of the Commonwealth Register. These regulations establish the procedural and substantive requirements governing the ability of Commonwealth educational institutions to accept alien students for study.

The Office of Attorney General urges the general public to submit written comments and recommendations regarding these amendments to the Immigration Rules and Regulations, Section 706H within thirty (30) days after publication of this notice in the Commonwealth Register. Written comments on these amendments should be sent to Pamela Brown, 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:

Received by:

PA A BRO ey Genera Attor

THOMAS A. TEBUTEB Special Assistant for Administration

Filed and Recorded by:

BERNADITA B. DE LA CRUZ Corporate Register

|- |5 .0 ¥ Date

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 day of January 2004.

PAMELA BROWN Attorney General

PUBLIC NOTICE OF PROPOSED 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. 25, No. 7, August 22, 2003, as amended, and which will be adopted as permanent in this volume of the Commonwealth Register

| 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 Mariana pursuant to Executive Order 03-01 and 3 CMC § 4312(d). | |
| Short Statement of Goals and Objectives: | The amendments to the Immigration Rules and Regulations will ensure the integrity and reputation of the Commonwealth as an international center of education while balancing the need to protect the Commonwealth's borders. The amendments will also protect alien students against deceptive practices. | |
| Brief Summary of the Proposed Amendments: | The amendments to the Immigration Rules and Regulations are promulgated to: | |
| | Establish which schools are eligible to apply to become a "bona fide school" (capable of accepting foreign students) and to provide the procedural and substantive requirements that eligible schools must meet to obtain status as a bona fide school, as well as the requirements for a bona fide school to receive final approval to accept alien students; | |
| | (2) Establish the continuing requirements for schools to maintain their approved status; and | |
| | (3) Determine the procedures and conditions under which approved status may be revoked and what steps the school may take to appeal such revocation. | |
| For Further Information Contact: | Eric S. O'Malley, Assistant Attorney General for Immigration, Office of the Attorney General, telephone (670) 664-2426 or facsimile (670) 234-7016. | |

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

The amendments affect the Immigration Rules and Regulations, Section 706H.

Dated this _____ day of January 2004.

Submitted by:)))/->->_(`?.c

PAMELA BROWN Attorney General

Notisian Pupbliku Put I Man Ma Propone Na Amendasión Siha Para I Areklamento Yan Regulasión Siha Gi Immigration Seksióna 706 H

I Commonwealth I Sankattan Siha Na Islas Marianas, Ofisinan I Abugådo Heneråt este na momento ma notitisia I pupbliku heneråt put I man ma propone na amendasión siha para Seksióna 706 H gi Areklamento yan Regulasión Immigration siha, finenina ma pupblisa gi Rehistran I Commonwealth, Baluma 3, Numiru 1, gi Febreru bente tres, mit nuebe siento ochientai uno, ma adopta gi Rehistran I Commonwealth , Baluma 3, Numiru 7, gi Julio bente dos, mit nuebe siento ochientai singko, yan ma amenda ginen I Regulasión Imidiamente gi Rehistran I Commonwealth, Baluma 25, Numiru 7, gi Agosto bente dos , dos mit tres na såkkan, ni siempre ma adopta pot para u petmanente gi este na baluma gi Rehistran I Commonwealth. Este na Regulasión siha a establisi I manera yan fotmåt na nisisidåt ni ginibebietna I abilidåt I Institusión Edukasión I Commonwealth para u fan aksepta estudiånten estrangheru siha para u fan manestudio.

I Ofisinan I Abugådo Heneråt a so'so'yo I pupbliku heneråt para u fan na'halom opinion tinige' yan rekomendasión siha ni tineteka este na amendasión siha para I Areklamento yan Regulasión Immigration siha, Seksióna 706 H hi halom trenta (30) dihas despues di I pupblikasión este na Notisia gi Rehistran I Commonwealth. Tinige' opinion pot este na amendasión siha debi di u ma hañågue si Pamela Brown, I Abugådo Heneråt, gi Ofisinan I Abugådo Heneråt, gi mina dos na bibienda, gi Juan . Sablan Memorial Bldg., giya Capitol Hill, Saipan MP 96950 pat <u>fax</u> guatto gi (670) 664-2349.

Ninahålom:

Pine'lo yan Rinikot as:

Pamela Brown Abagådo Herveråt Ma Risibe as. Thomas A. Tebuteb

Espesiåt Na Ayudante Para I Atministrasión

Eernie B. Dela Cruz Resistran I Koporasión

Fecha

1.22.04

Fecha

1-22.04

Sigun I Lai 1 CMC Seksióna2153, ni inamenda ginen I Lai Pupbliku 10-50, I areklamento yan regulasión ni che'che'ton esta man ma ribisa yan aprueba ni pot para u fotma yan ligåt sufisiente ginen Ofisinan I Abugådo Heneråt gi Commonwealth I Sankattan Siha Na Islas Marianas.

Ma fecha este mina ______ na diha gi Ineru, dos mit kuåttro na såkkan.

Pamela Brown Abugådo Heneråt

.

Trinanslådan: Charlene S. Cruz Transladoran Chamorro, CCLPC

NOTISIAN PUPBLIKU PUT I MAN MA PROPONE NA AMENDASIÓN SIHA PARA I AREKLAMENTO YAN REGULASIÓN SEKSIONA 706 H

Este na amendasión siha ma establisi put para u konsiste yan i Akton i Areklamenton Atministrasión, Lai 1 CMC Seksiona 9101, et.seq. I Ofisinan i Abugådo Heneråt a amenda i Areklamento yan Regulasión Immigration ni ma pupblisa gi Rehistran i Commonwealth, Baluma 25, Numiru 7, gi Agostu bente dos, dos mit tres na såkkan, anai ma amenda, ya u ma adopta petmanente gi este na baluma gi Rehistran i Commonwealth.

| Sitasión i Aturidåt i Lai: | I Ofisinan i Abugådo Heneråt ma aturisa para u establisi regulasión siha para i entråda yan dipotasión i estrangheru siha gi Commonwealth I Sankattan Siha Na Islas Marianas sigun i Otden Eksekatibu 03-01 YAN 3 cmc Seksiona 4312 (d). |
|--|---|
| Kada'da' Na Mensåhen i Goals yan Ojectives: | I Amendasión siha para i Areklamento yan Regulasión Immigration siha siempre a ensura i honestu yan aturidåt i Commonwealth na senton i International i edukasón mientras balålånsia i nisisidåt para u protehi i rinderun i Commonwealth siha. |
| Kada'da' Na Mensåhe Put I Man Ma Propone Na Amendasión: | I Amendasión siha para i Areklamento yan Regulasión Immigration man ma establisi para: |
| | (1) Establisi håfa na eskuela siha man inilihe' para u "bonafide school"(sina ma aksepta estudiånten estrangheru) yan u establisi manera yan fotmåt na nisisidåt ni para u inilihe i eskuela siha pot para u guaha estao na bonafide school, parehu ha yan i nisisidåt siha para i bonafide school para u risibe i uttimo na inaprueba para u aksepta estudiånten estrangheru. |
| | (2) Establisi i nisisidåt siha ni ma kontinunua para i eskuela siha; yan |
| | (3) Ditetmina i areklamento yan kondisión papa i ma aprueba na estao siha siña ma diroga yan håfa na påsu siña ma tatiye' para u otdena i diniroga. |
| Para Mås Infotmasión Ågan: | Eric S. O'Malley, Ayudanten i Abugådo Heneråt para i Immigration, Ofisinan i Abugådo Heneråt, tilifon (670) 664-2426 pat facsimile (670) 234-7016. |

Sitasión i Man Achule' yan / pat Ma Afekta Na Lai Areklamento yan Regulasion yan Otden: I Amendasión siha a afekta i Areklamento yan Regulasión Immigration siha, Seksiona 706 H.

Ma fecha gi este mina _____ na diha gi Ineru, dos mit kuåttro (2004) na såkkan.

Ninahålom:

Pamela Brown Abugådo Heneråt

ARONGORONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL IMMIGRATION TÁLIL 706H

Commonwealth falúw kka falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap ekke arongaar aramas toulap reel pomwol lliwel kkaal ngáli Tálil 706H reel alléghúl Immigration, mmwal akkatééwow mellól Commonwealth Register, Vol. 3, No. 7, July 22, 1985, ye e lliweló mereel alléghúl ghitipwotch mellól Commonwealth Register, Vol. 25, No. 7, August 22, 2003, igha ebwe schééschéel fillóóy llól Commonwealth Register. Allégh kkaal ye ebwe akkaté mwóghútúl me schééschéél yaáyá ngáli lemelemil bwangil Commonwealth educational institutions igha ebwe acceptaay atel lúghúl ebwe akkabwung.

Bwulasiyool Sów Bwungúl Allégh e mwuschel bwe toulap rebwe ischilong aghiyagh me mafiyeer reel lliwel kkaal ngali Alléghúl Immigration Tálil 706 llól eliigh (30) raálil mwiril toowow arong yeel mellól Commonwealth Register. Ischil mangemang reel lliwel kkaal ebwe akkafangelo reel Pamela Brown, Bwulasiyool Sów Bwungúl Allégh Lapalap, Aruwowal pwo, Juan A. Sablan Memorial Bldg, Capitol Hill, Seipel MP 96950 me ngare fax ngali (670) 664-2349.

| Isaliiyállong PAMELA B. OWN Sów Bwungul A. egh Lapalap | Rái – |
|--|-----------------|
| Mwir sangi THOMAS A. TEBUTEB Sow alillisil Sow Lemelem | 1 2 2 04 Rái |
| Aisis sangi Register | /-22.04 Rái |

Sangi 1CMC talil 2153, ye e liweli Alléghúl Toulap 10-50, allégh kkaal kka e appasch nge raa takkal amweri me allégheló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Ráálil ye

llól Schóów 2004.

PAMELA BROWN Sów Bwugul Allégh Lapalap

ARONGOL TOULAP REEL POMWOL LLIWEL NGÁLI ALLÉGHÚL IMMIGRATION TÁLIL 706H

Lliwel kkaal ye e akkatééwow bwelle alléghúl Administrative Procedure Act, 1CMC talil 9101, et seq. Bwulsiyool Sów Bwungúl Allégh Lapalap ekke liweli alléghúl Immigration kka e akkatééwow mellól Commonwealth Register, Vol. 25, No. 7, Elúwel 22s, 2003s, ye aa lliwel, me ebwe schééschéél ffillóóy llól Commonwealth Register.

| Akkatéél bwángil Allégh: | Bwulasiyool Sów Bwungúl Allégh Lapalap e mweiti ngali akkatéél atotoolong me assefaálil aramasal lúghúl mellól Commonealth Falúwasch Marianas sángi akkúlééyal Sów Lemelem 03-01 me 3 CMC tálil 4312 (d). |
|--------------------------|---|
| Aweweel Kkapasal Allégh: | Lliwel kkaal ngáli Alléghúl Immigration ebwe alúghúlúghuw ghatchul me kkapasal Commonwealth igha ebwe international center reel imwal rágefisch igha rebwe aweweey ammwelil Commonwealth borders. Lliwel kkaal ebwal ammwela atel meleitey kka schoól lughul sángi feffeer nngów. |
| Aweweel Pomwol Lliwel: | Lliwel kkaal ngáli Alléghúl Immigration ikka aa akkatééló reel: |

- 1. Toolong llól imwal rághefisch ye e fil reel ubwe apply bwe e " bona fide school " (e fil reel atotoolong atel meleitey) me ayoora mwoghutul me yaáyá kka eligible schools ebwe tabweey me bwughil kkapasal bona fide school , me bwal yááyá kka bona fide school igha rebwe bwughil scheéschéél alúghulugh igha rebwe atiwa atel meleitey;
- Akkatéél igha ebwe sóbwósóbwóló yaayal reel imwal raghefisch igha ebwe isiis alúghúlúgh; me

- Alúghúlúghúl mwóghútúl me kapasal igha e allégheló kkapasal ye emmwel rebwe ayúúwúló me meeta mwóghút ye rebe feérú reel akkayúúló.
- Reel ammataf faingi: Eric S. O' Malley, Sów alillişil Sów Bwungúl Allégh reel Immigration, Bwulasiyool Sów Bwungul Allégh, tilifoon (670) 664-2426 me faxcsimile (670) 234-7016.

Akkatéél Bwangil Akkaaw Allégh:

Lliwel kka e fil reel Alleghúl Immigration Talil 706H.

Raálil ye

Ilól Schoow 2004.

Isaliiyallong:

PAMELA BROWN Sów Bwungúl Allégh Lapalap

AMENDMENTS TO SECTION 706H OF IMMIGRATION RULES AND REGULATIONS

Immigration Regulation 706H is hereby amended to add the following:

5. Approval of Institutions-

Prior to issuance of any Student Authorization to Board or Foreign Student Entry Permit, the DOI must approve in writing the school in which a foreign student intends to enroll.

- a. Eligibility-
 - Eligible schools include, but are not limited to, post-secondary institutions, such as colleges, universities, community colleges or junior colleges, offering recognized associate, bachelor's, master's, doctor's or professional degrees, as well as "transitional schools" (as that term is defined in paragraph (2) of this Section), language schools, religious schools, vocational schools, sports schools and professional training programs. Home schools and traditional primary and secondary schools are not eligible.
 - (2) A "transitional school", meaning a school which specializes in preparing for entry into post-secondary institutions in the Commonwealth or the United States those foreign students who: (i) have successfully completed the full course of publicly-offered secondary education in their home country; and (ii) are at least fifteen years of age as of the date of enrollment but who may not have reached the age of eighteen, shall be eligible provided that it shall have satisfied any additional requirements under this Section 706H and shall have assumed legal guardianship for each foreign student who has not achieved the age of eighteen while they are in the Commonwealth.
- b. Petition-

An eligible school seeking approval as a bona fide school eligible for attendance by foreign students, shall file a petition with the DOI. Such petition shall include:

 A letter of intent and request for certification from an authorized representative of the school that describes the basic program, including curriculum, for which certification is requested. The letter shall also include: (i) the number of years the school has existed and operated; (ii) any established affiliation (including

COMMONWEALTH REGISTER VOLUME 26 NUMBER of January 22, 2004 inside er

outside the CNMI; (iii) current number of students; (iv) number of foreign students requested and anticipated in the first two years after approval; (v) number of current faculty members (administrators and those holding teaching positions); (vi) number of faculty members anticipated in the first two years after approval (administrators and those to hold teaching positions); and (vii) anticipated or estimated sum total of tuition to be charged to each foreign student for the complete course of study, including any potential scholarships, or tuition waiver programs.

- (2) For a school or training program licensed by the Board of Regents of the CNMI under 2 CMC §1316(k), a certification to that effect signed by a member of the Board of Regents who shall also certify that he or she is authorized to do so. The school shall attach as an exhibit to the certification a copy of its submission to, and any findings of, the Board of Regents.
- (3) For any other petitioning school or training program: (i) a certification that the school is licensed, approved, or accredited by a recognized authority, signed by an official of such authority who shall also certify that he or she is authorized to do so; (ii) evidence that it confers upon its graduates recognized associate, bachelor, master, doctor, professional, or divinity degrees, or evidence that its credits have been and are accepted by at least three institutions that do confer such degrees; and (iii) a school catalogue, if one is issued, including a printout of any web pages operated by the school that advertise or explain its program. If a catalogue is not issued, or if not included in the catalogue, the school shall furnish a blank application for student admission, in addition to a written statement describing the size of its physical plant, nature of its facilities for study and training, qualifications and salaries of the faculty (administrators and those holding teaching positions), attendance and scholastic grading policy, and finances (including a certified copy of the accountant's last statement of school's net worth, income, and expenses). A charter, authorization to do business, or instrument of incorporation shall not be considered a license, approval, or accreditation.
- (4) Transitional schools shall submit an additional certificate, signed by a designated official, as that term is defined in paragraph 5.k. of this Section, stating that prior to the foreign student's arrival in the Commonwealth, the school: (1) has assumed (or will have assumed) legal guardianship for each foreign student who has not achieved the age of eighteen while they reside in the CNMI; (2)

can provide adequate room and board, and full-time adult supervision.

c. Interview of petitioner-

An authorized representative of the petitioner may be required to appear in person, under oath, before the DOI prior to the adjudication of the petition concerning the eligibility of the school for approval.

d. Approval of petition-

To be eligible for approval, the petitioner must establish that: (i) it is a bona fide school; (ii) it possesses the necessary facilities. personnel. and finances to conduct instruction in recognized courses and to provide such other services as are described in the petition; and (iii) it is, in fact, engaged in instruction in those courses and providing such amenities. Upon approval, the DOI shall notify the petitioner in writing. Initial approval for a six-month period may, at the discretion of the Attorney General, be granted on a conditional basis and is renewable for an additional six-month period provided that the Attorney General is satisfied that the school has complied with the terms of this Section. An approved school must report immediately to the DOI any material modification to its name, address, or curriculum for a determination of continued eligibility for approval. The approval is valid only for the type of program and students specified in the approval notice. The approval may be revoked in accordance with the provisions of paragraph 5.1. of this Section, and is subject to annual review.

e. Denial of petition and appeal-

If the petition is denied, the petitioner shall be notified of the reasons therefor and of the right to appeal. Any appeal shall be taken within fifteen (15) days after service of the written denial. The reasons for the appeal shall be stated in the notice of appeal, and supported by a statement setting forth the grounds for contesting the revocation of the approval.

f. Recordkeeping requirements-

An approved school must keep records containing certain information and documents relating to each foreign student while the student is attending the school. Such records shall be readily available to the DOI and shall be retained by the school for a period of two years following the departure of the student. The information and documents that the school must keep on each student are as follows:

- (1) Name.
- (2) Date and place of birth.
- (3) Country of citizenship.
- (4) Current address, or an accurate description of where the student and his or her dependents physically reside, and their mailing address.
- (5) The student's current academic status.
- (6) Date of commencement of studies.
- (7) Degree program and field of study.
- (8) Termination date and reason, if known.
- (9) The number of credits completed each semester.
- (10) A photocopy of the student's Passport and Foreign Student Entry Permit.
- (11) For a transitional school, an original or certified copy of the document whereby the school has assumed legal guardianship for each student who has not achieved the age of eighteen.
- g. Reporting requirements-

Once every term or session, the DOI shall send each approved school a list of all foreign students who are attending that school. A designated official must certify whether or not each student on the list is a full time student, and give the names and current addresses of all foreign students attending the school that are not listed and other information specified by the DOI. The designated official must comply with the request, sign and return the list to the DOI within thirty days of the date of the request.

h. Additional Reporting requirements-

Schools are required to report to the DOI, within 14 days of occurrence, the following events:

- (1) A foreign student fails to enroll or register for classes following the respective deadlines for enrollment or registration;
- (2) A foreign student fails to complete his or her program in the time typically required to complete such program;
- (3) A change of the student's or dependent's legal name, mailing address or location of residence;
- (4) A student graduates prior to the program end date;
- (5) Any disciplinary action taken by the school against a student as a result of the student being convicted of a crime;
- (6) Any other request made by the DOI with respect to the academic, legal or immigration status of the student; and

- (7) For a transitional school, a student who turns eighteen years of age and for whom the school no longer serves legal guardian.
- i. Advertising-

In any advertisement, catalogue, brochure, pamphlet, literature, or other material hereafter printed or reprinted by or for an approved school, any statement which may appear in such material concerning approval for attendance by foreign students be must approved by the DOI.

j. Issuance of Foreign Student Entry Permit-

A designated official of a school approved under this Section must sign any completed Foreign Student Entry Permit application issued for either a prospective or continuing student. The designated official shall sign the Foreign Student Entry Permit application only if the following conditions are met:

- (1) The prospective student has made a written application to the school.
- (2) The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student and dependents, and other supporting documents have been received, evaluated and deemed satisfactory by the school.
- (3) The appropriate school authority has determined that the prospective student has satisfied the requirements set forth in paragraphs 3 and 4 of this Section.
- (4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.
- k. Designated official-

"Designated official" means a member of the school administration designated by the president, owner, or head of the school and approved by the DOI, who does not receive commissions for recruitment of foreign students. A designated official may not delegate this designation to any other person. Each school may designate up to three designated officials. Each designated official must sign a certificate stating that the official is familiar with the regulations relating to the requirements for admission and maintenance of status of foreign students and to school approval under this Section, and affirming the official's intent to comply with these regulations.

l. Revocation of approved status-

(1) Revocation on notice-

If a school's approval is revoked on notice pursuant to this paragraph, the school is not eligible to file another petition for approval until one year after the effective date of the revocation. The approval of a petition by a school for the attendance of foreign students will be revoked on notice by the DOI in its discretion for any valid and substantive reason including, but not limited to, the following:

- i) Failure to immediately notify the DOI if a student falls below full-time status or has more than three consecutive days of unexcused absences.
- ii) Failure to comply with the reporting requirements set forth in paragraphs 5.d., 5.g. and 5.h. of this Section.
- iii) Failure to comply with the recordkeeping requirements set forth in paragraph 5.f. of this Section.
- iv) Willful issuance by a designated official of a false statement or certification in connection with an application for approval or other document related to the acceptance for enrollment of a foreign student.
- A designated official does not meet or comply with the requirements set forth is paragraph 5.k. of this Section.
- vi) Signing of a Foreign Student Entry Permit application for a foreign student without receipt of proof that the student has met the requirements set forth in paragraphs 1.a., 1.c., and 1.e., or 2.a., 2.c., and 2.e., as appropriate, as well as paragraphs 3 and 4 of this Section.
- vii) Failure to employ qualified professional personnel, to maintain proper facilities and curriculum, or to maintain such accreditation or licensing as represented in the petition.
- viii) Failure to obtain approval for advertising as prescribed in paragraph 5.i. of this Section.
- ix) For transitional schools, failure to assume legal guardianship for foreign students under the age of eighteen or failure to provide adequate facilities and supervision appropriate to such students' age level.
- x) Any conduct on the part of a school or designated official that does not comply with the regulations set forth herein.

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(2) Automatic revocation-

If an approved school terminates its operations, approval will be automatically revoked as of the date of termination of the operations. If an approved school experiences a change in ownership that results in a change of control of the school, approval will be automatically revoked thirty days from the date of change of ownership unless the school files a new petition for school approval. If, upon completion of the review, the DOI finds that the approval should not be continued, the DOI shall institute revocation proceedings in accordance with paragraph 5.1(3) of this Section.

- (3) Revocation proceeding-
 - Should the DOI believe that an approved school is no longer entitled to approval, a proceeding shall be commenced by service upon the school's designated official a notice of intent to revoke the approval. Such notice shall describe the grounds upon which the withdrawal is based and shall also inform the school that it may, within 30 days of the date of service of the notice, submit a written answer setting forth reasons why the approval should not be revoked and that the school may, at the time of filing the answer, request an interview before the DOI in support of the written answer.
 - ii) If the school admits all of the allegations, or if the school fails to file an answer within the 30-day period, the DOI shall revoke the approval and shall notify the designated official. If the school admits to the allegations or fails to file an answer within the 30-day period, it shall have waived its right to appeal.
 - iii) If the school denies the allegations, then the school shall, in its answer, provide all information, including all documentary evidence, which shall be included in the record, on which the answer is based.
 - iv) Should the school request an interview; the school shall be given notice of the date set for the interview. In the discretion of the DOI, the interview may be recorded.
 - v) The DOI shall promptly issue a written decision either revoking approval or granting continued approval, including a discussion of the evidence and findings. The

written decision shall be served upon the school or school system, together with the notice of the right to appeal.

- vi) Any appeal of a revocation by the DOI shall be taken within fifteen 15 days after the service of the written decision. The reasons for the appeal shall be stated in the notice of appeal, and supported by a statement setting forth the grounds for contesting the revocation of the approval.
- (4) Institutional Certification Appeals-

Whenever a school is authorized to appeal a decision denying of revoking approved status; such appeal shall be taken by filing the required notice of appeal with the Office of the Attorney General. The Attorney General at his discretion may rely solely on the record, or may supplement the record with new evidence. The Attorney General shall confirm or modify the DOI decision in writing within 30 days. The decision of the Attorney General shall constitute a final agency decision for purposes of judicial review.



³ Commonwealth of the Northern Mariana Islands Coastal Resources Management

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



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

PUBLIC NOTICE

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

AUTHORITY

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

PUBLIC COMMENT

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

CONTENTS

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These amendments correct typographical and grammatical errors, revise the format, eliminate duplicate definitions, alphabetize definitions, add and revise definitions, rephrase the fee category and remove the example, revise the requirement for a final construction plan, add an exemption for contacting adjacent landowners, add a provision requiring unanimous agreement from CRM agency officials on permit issuance, allow additional uses of wetland and mangrove APCs, allow transfer of interest in a permit when an interest in the land is transferred, require notice of the proposed amount of fines, cite the Administrative Procedure Act, and add language regarding civil fines and restore language that was inadvertently left out in the last amendment of these regulations. Modifications of the regulations are consistent with the coastal resources management policies in 2 CMC § 1511. Except for simple formatting changes (alphabetizing, renumbering, etc.), deletions are indicated with strikeout and additions are shown with bold and italics.

COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE 02 ± 609

Issued By CRM Agency Officials:

Lorraine A. Babauta Executive Director

Commonwealth Utilities Corporation

inf 1 Fermin M. Atalig Secretary

Date: 12/1/03

Date 1/1/25

Date: 12/16/13

Date: 1-/16/03

Date:

DEC 1 7 2003

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

Epiphanio Cabrera, Jr.

Historic Preservation Officer

Date: 12-16-03

Department of Commerce

homas B. Pangelinan

Secretary Department of Lands & Natural Resources

YOSEPH Pusa Juan S. Reyes Secretary

Department of Public Works

COMMONWEALTH REGISTER

January 22, 2004

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Concurred by:

Joaquin D. Salas CRMO Director

Date: 12/18/03

Attorney General Review:

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

Pam Brown Attorney General

Date: 12/3//03

Date:

Filed By:

Bernadita B. Dela Cruz Commonwealth Register

Received at the Governor's Office by:

Thoma

Special Assistant for Administration

Date: 1-8-04

12.31.03

PROPOSED AMENDMENTS TO THE COASTAL RESOURCES MANAGEMENT RULES AND REGULATIONS

| Authority | The CNMI Coastal Resources Management Agency Officials propose amendments to the Coastal resources Management Rules and Regulations pursuant to the Coastal Resources Management Act, 2 CMC § 1531(d). |
|--|---|
| Statement of Goals and Objectives | The amendments are intended to improve readability, correct typographical and grammatical errors, to add and modify definitions, and to restore language that was left out in the last amendment of these regulations. Modifications of the regulations are consistent with the coastal resources management policies in 2 CMC § 1511. |
| Brief Summary of Proposed Amendments | Correct typographical and grammatical errors, revise the format, eliminate duplicate definitions, alphabetize definitions, add and revise definitions, rephrase the fee category and remove the example, revise the requirement for a final construction plan, add an exemption for contacting adjacent landowners, add a provision requiring unanimous agreement from CRM agency officials on permit issuance, allow additional uses of wetland and mangrove APCs, allow transfer of interest in a permit when an interest in the land is transferred, require notice of the proposed amount of fines, cite the Administrative Procedure Act, and add |
| Contact For Further Information Related and Affected Statutes, Regulations, and Orders | language regarding civil fines. Becky Lizama, CRMO Permit Manager, phone: 664- 8300, fax: 664-8315 CNMI Coastal Resources Management Act (2 CMC § 1501 et seq.), Coastal Resources Management Rules and Regulations |

NOTISIAN PUPBLIKU NOTISIA PUT I MAN MA PROPONI NA AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION SIHA GI COASTAL RESOURCE MANAGEMENT

ATURIDAT

I Ofisinan I Coastal Resource Management ma notisia I Pupbliku put I Man Ma Proponi Na Amendasion Siha Para I Areklamento Yan Regulasion Siha gi Coastal Resource Management. I Ofisiales I Ahensian I Coastal Resource Management gi CNMI ma indika na man ma aturisa gi papa I Lai 2 CMC Sek. 1531 (d) para u ma ribisa regulatmente I man ma adopta na regulasion siha ya u ma adopta nuebu na regulasion siha an nisisariu u tattiye' I Akton I Areklamenton I Atministrasion [1CMC Sek. 9101 et.seq.].

SINANGAN PUPBLIKU

U kinensiste yan I 1 CMC Sek. 9104 (a), I pupbliku guaha opotunidat para u gai opinion gi man ma proponi na amendasion siha. I man enteresao na petsona siha sina u ma chule' I kopian I man ma proponi na amendasion ginen I Ofisinan I Coastal Resource Management gi mina dos na bibienda gi Morgan Building, giya San Jose, Saipan. I tinige' opinion siha put asunton I man ma proponi na amendasion siha u fan ma submiti gi halom trenta (30) dihas an ma pupblisa este na notisia gi Rehistran I Commonwealth ya debi di u ma dirihi guatto I Direktot gi Ofisinan I Coastal Resource Management gi P.O. Box 10007, Saipan, M.P. 96950. Sina lokkue u ma submiti I opinion siha gi <u>fax</u> numiru 664-8315.

SINAGUAN

Este na amendasion para u kurihi I man ma taip yan I gramatika siha ni man lache', para u ma ribisa I fotmasion, laknos I difinision siha ni man ma sangan dos biahe, I difinision u ma alphabetize, u ma omentayi yan ribisa I difinision siha, rephrase I katigorian apas yan na suha I example, ribisa I ginagagao para I final construction plan, omentayi I probension ni manisisita gi konfitmasion ginen I Ofisiales gi Ahensian I Coastal Resource Management put inentregan petmisu siha, sinedin I ma usana I susonyan yan I mangrove APC siha, sineden I trinansferan I interes gi petmisu an I interes I tano' ma transfera, manisisita I notisia put I man ma proponi na tutat I pena siha, ma sita I Akton I Areklamenton I Atministradot, u ma omentayi I lengguahe put asunton I penan sibet siha yan u ma atmayi I lengguahe ni ti ma na fan danna gi mapus na amendasion put este na regulasion siha sa put deskuido. Tinilaikan I regulasion siha man konsiste yan I areklamenton I Coastal Resource Management gi 2 CMC Sek. 1511. Fuera di para I tinilaikan I ti man mappot na fotmasion (man ma afabetiku, talun ma numiru, etc.), man ma indika siha I linaknos an ma strikeout yanggen ma omentayi pues man ma fan la'attelong I palabra siha (bold) yan ma tulaika I <u>style</u> I tinige'(italics).

.

Linaknos I Ofisiales siha gi Ahensian I Coastal Resource Management:

Lorraine A. Babauta Direktot Eksekatibu Commonwealth Utilities Corporation

Fermin M. Atalig

.

Fermin M Atalig Sekritario Dipattamenton I Commerce

) Thomas B. Pangelinan Sekritario Dipattamenton I Lands and Natural

Juan S. Reyes

Juan S. Reyes Sekritario Dipattamenton I Public Works

Juari I. Castro, Jr. Divektot Dibision I Environmental Qualities

Epiphanio Cabrera, Jr. Historic Preservation Officer

12/5/07

Fecha

12/16/03

Fecha

DEC 1 7 2003 Fecha

12-16-03 Fecha

Kinonfotme as:

Joaquin D. Salas Direktot Ofisinan I Coastal Resource Management

Ribisan I Abugado Henerat:

Sigun I 1 CMC Sek. 2153, ni ma amenda ginen I Lai Pupbliku 10-50, I regulasion Siha ni man checheton man ma ribisa yan aprueba put para u fotma yan ligat sufisiente ginen I Ofisian I abugado Henerat.

Pam Brown Abugado Henerat

Pine'lo as:

Bernacita B. Dela Cruz Rehistran I Commonwealth

Fecha

12-31-03

Ma risibi gi Ofisinay I Gopietho as:

Thomas A. Tebu.eb Espesiat Na Ayudante Para I Atministrasion

Date:

18/84

Fecha

Date:

Date:

Date:

Fecha

12/18/03

Fecha

Man Ma Proponi Na Amendasion Siha Para I Areklamento Yan Regulasion Siha Gi Coastal Resource Management

Aturidat I Ofisiales I Ahensian I Coastal Resource Management Ma Proponi I Amendasion Siha Para I Arekalmento Yan Regulasion Siha gi Coastal Resource Management sigun I Akton I Coastal Resource Management, 2 CMC Sek. 1531 (d). I Amendasion siha Man Ma intensiona para Mensahe Put I Goals van Objectives u na maolek I tinaitai, u ma na dinanche I tinaip yan I gramatika siha ni man lache', para u ma omentayi yan tulaika I difinision siha, ya u ma atmayi I lengguahe ni ti ma na fandanna gi mapus na amendasion put este na regualsion siha. Tinialaikan I regulasion siha man konsiste van I areklamenton I Coastal Resource Management gi 2 CMC Sek. 1511. Kada'da' Na Mensahe Put I Man Ma Kurihi I man ma taip yan I gramatika siha ni man lache', para u ma ribisa I fotmasion, Proponi Na Amendasion Siha laknos I difinision siha ni man ma sangan dos biahe, I difinision u ma alphabetize, ļ omentayi yan ribisa I difinision, rephrase 1 katigorian apas yan na suha I example, u ma ribisa I ginagagao para I Final Construction Plan, u ma omentavi I pribilehu para I inagang I duenun I propiadat siha gi bisinu, omentavi I probension ni ma nisisita gi konfitmmasion ginen I Ofisiales gi Ahensian I Coastal Resource Management pat I inentregan I petmisu siha, sineden I ma usana I susonyan yan I mangrove APC siha, sineden I trinansferan I interes I tano' ni man ma transfera, ma nisisita I notisia put I man ma proponi na tutat I pena siha, ma sita I Akton I Areklamenton I Atministradot, ya u ma omentayi I lengguahe put I asunton I penan I sibet siha. Becky Lizama, Manehanten I Petmisu siha Para Mas Infotmasion Agang gi Ofisinan I Coastal Resource Management, tilifon numiru 664-8300, fax

Man Achule' yan Inafekta Na Lai Siha, Regulasion Siha, yan Otden Siha

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gi 664-8315 Akton I Coastal Resource management gi CNMI (2 CMC Sek. 1501 et.seq.), Areklamento yan Regulasion Siha gi Coastal Resource Management

ARONGORONGOL TOULAP

ARONGOL TOULAP REEL LLIWEL KKAAL NGÁLI ALLÉGHÚL COASTAL RESOURCE MANAGEMENT

BWÁNGIL

Bwulasiyool Coastal Resource Management ekke arongaar toulap reel pomwol lliwel kkaal ngáli alléghúl Coastal Resource Management. CNMI Coastal Resource Manegement assamwolul Agency (CRMA) re schuungi bwe faal bwángil 2 CMC tálil 5131 (d) bwe rebwe amweri fischiy ffillóól allégh kkaal me fillóóy allégh kka e welepakk ngáli Administrative Procedure Act (1CMC tálil 9101 et seq.).

AGHIYÁGHIIR TOULAP

Sángi allégh ye 1CMC talil 9104 (a) nge emmwel bwe toulap rebwe aghiyághiiy pomwol Iliwel kkaal. Emmwel bwe aramas rebwe bweibwogh tilighiyal pomwol Iliwel kkaal mereel Bwulasiyool CRM aruwowal bibenda Morgan Building, Oleai, Seipél. Aghiyágh reel pomwol Iliwel kaal nge rebwe ischilong ótol eliigh (30) raalil yaal arongowow mellól Commonwealth Register me ebwe akkafangeló reel Samwolul Coastal Resource Manegement, P. O. Box 10007, Seipél MP 96950. Ayégh nge emmwel ebwe akkafang sangi via fax, 664-8315.

δυτοι

Lliwel kkaal nge ebwe awelaalo typographical me grammatical kka ese wel, liweli format, akkaschewow aweewe (definitions) kka e duplicate, alphabetize aweewe kkaal, isisilong me liweli weewe kka. ischi sefali tapelal óbwós (fee) me atoowowu tapelal aweewe (example), siweli lemelemil pomwol construction ye aa bwunguló, aschuwulong exemption reel arong ngáliir aramas kka e ppasch (adjecent) falaweer, aschuwulong alúghúlúgh ye ebwe schuppagh aghiyagh sangi assamwoolul agency ye CRM, reel isisiwowul lisensia, saleti ngáli akkaaw yaayal meschor (wetland) me mangrove APC's, sáleti ngáli ebwe transfer interees mellól lisensiya, ngáre interees mellol falúw aa transfer, ayoora pomwol llapal mwutta sángi Alléghúl Administrative Procedure me aschuwulong tapelal kkepas ye ghil ngáli mwuttaal civil me isisilong tapelal kkepas kka ese toolong sangi lliwelil allégh kkaal. Ssiwelil allégh kkaal nge e fil ngáli alléghúl coastal resources management mellól 2CMC tálil 1511. Ese bwal toolong mwdghútúl simple formating (alphabetizing, renumbering, etc), akkaschewow nge e bwaari igha e strikeout me isisilong nge e bwaari igha e bold me italics.

Isaliiyalewow assamwoluur CRM Agency: Lorraine A. Babauta

Commonwealth Utilies Corporation

Rái (2/5/6)

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12/16/03 Rái

1-/11/03 Rál

12-17-03

Rái

12/16/03 Rál

Fermin M. Atalig Samwool Bwulasiyool Commerce June John Commerce MThomas B. Pangelinan Samwool Land & Natural Resources

Samwool

Russa rio

Juan S. Reyes Vesepre Samwool Bwult siyool Public Works

stre Jr. Assamwool Division of Environmental Quality

Epiphanio Cabrera, Jr.
 Historic Preservation Officer

Alughulugh sangi::

Joaquin D. S. Samwoolul CRMO

12/18/03 Date: Ral

Mwir sangi Sow Bwungul Allegh:

Sangi allegh ye 1CMC talil 2153, ye aa lliwel mereel Alleghul Toulap 10-50, allegh kka e appasch nge raa takkal amweri me alleghelo mereel Bwulasiyool Sow Bwungul Allegh.

M

Pam Brown Sow Bwungul Allegh

Date:

Ral

Aisis sangi. Bernadita B. Dela Cruz Commonwealth Register

12.31.03. Date: Ral

Mwir sangi Bv plasiyoq Sow Lemelem:

Thomas A. Tebutef Sow alillisil Sow Lemelem

1/8/04 Date:

ARAMAS YE UBWE FAINGI

Becky Lizama, CRMO Samwolul lisensia, tilifoon: 664-8300, fax : 664-8315

AKKATEEL AKKAAW ALLEGH

CNMI Coastal Resources Management Act (2 CMC talil 1501 et seq.) alleghul Coastal Resources Management

Awelaalo typographical me grammatical kka ese wel, liweli format, akkaschewow aweewe (definition) kka e duplicate, alphabetize-li awewee, aschuwulong me liweli awewee, ischi sefali tapelal obwos (fee) me atoowowu tapelal awewee (example), siweli lemelemil pomwol construction ye aa final, aschuwulong exemption reel arong ngaliir aramas kka e ppasch (adjacent) faluweer, aschuwulong alughulugh ye ebwe schuppagh aghiyagh sangi assamwoolul agency ve CRM, reel isisiwowul lisensia, saleti ngali akkaaw yaayal meschor (wetland) me mangrove APC's, ngare interees mellol faluw aa transfer, ayoora pomwol llapal mwutta sangi Alleghul Administrative Procedure, me aschuwulong tapelal kkepas ye ghi ngali mwuttal civil.

> Translated by : Manny N. Kaniki CCLPC Language Policy Commission

PUBLIC NOTICE OF INTENT TO ADOPT PAWNBROKER BUSINESS LICENSE REGULATIONS, pursuant to 4 CMC § 5651

CONTENTS: PROPOSED PAWNBROKER BUSINESS LICENSE REGULATIONS

PAWNBROKER BUSINESS LICENSE REGULATIONS

(see attached proposed regulation)

COPIES OF REGULATIONS: The proposed Pawnbroker Business License Regulations are published in the Commonwealth Register. Copies of the proposed regulation may be obtained from the Department of Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950.

PUBLIC COMMENTS: All interested persons may submit written data, views, or arguments about the proposed regulation to the Secretary, Department of Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950, not later than thirty (30) days from the date of this publication in the Commonwealth Register.

AUTHORITY: The Department of Commerce is authorized to promulgate regulations pursuant to 1 CMC §§ 2454, 9104, 4 CMC § 5651.

Issued by rmin M. Atal Ia, Sec'y of Commerce

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

M2003. Dated

Pamela S. Brówn Attorney Gereral

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Thomas A. Tebuteb SAA

Recorded by:

Bernadita Delagruz E Commonwealth Register PROPOSED PAWNBROKER BUSINESS LICENSE REGULATIONS, pursuant to 4 CMC § 5651

- Citation of Statutory Authority: 1 CMC § 2454 modified by Exec. Order 94-3 (effective 8/23/94) authorizes the Secretary of the Department of Commerce to promulgate regulations over matters which the Department has jurisdiction.
- Statement of Goals/Objectives: The purpose of the new proposed regulation is to provide for the regulation of Pawnbroker Business Licenses which is specifically provided for in 4 CMC § 5651.
- Brief Summary of the Regulation: The regulation provides for the regulating of the requirements to obtain a Pawnbroker Business License; to include, but not limited to, license fees, police clearances, threshold financial assets requirements, etc.

Contact Person(s):

Lillian M. Pangelinan; Banking Administrator; (670) 664-3008.

4 CMC §§ 5641, et seq.

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

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Date: Dec. 15

, 2003.

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NUTISIAN PUPBLIKU PUT I INTENSION PARA U MA ADOPTA I REGULASION SIHA PUT PAWNBROKER BUSINESS LICENSES, pursuant to 4 CMC § 5651

SUHETU: PAWNBROKER BUSINESS LICENSE REGULATIONS

PAWNBROKER BUSINESS LICENSE REGULATIONS

(atat i manche'che'tpn ni man ma proponi na regulasion)

KOPIAN I REGULASION SIHA: I man ma proponi na regulasion put i Lain Pawnbroker Business Licenses ma pupblisa gi Rehistran i Commonwealth. Sina ma chule i kopian i regulasion siha ni man ma proponi gi Dipattamenton i Commerce giya Capitol Hill, pat tugi'e i Ofisina ya un rikuesta gi Caller Box 10007, Donni Hill Complex, capitol Hill, Saipan, MP 96950.

KOMENTUN PUBLIKU: I man enterasau na petsona put i man ma proponi na regulasion, sina ma tugi'e i Dipattamenton i Commerce giya Capitol Hill, menos di trenta (30) dihas despues di munhayun ma pupblisa i fine'nena na Noticia gi Rehistran i Commonwealth.

ATURIDAT: I Dipattamenton i Commerce ma aturisa para u establisi Regulasion sigun i 1 CMC §§ 2454, 9104, 4 CMC § 5651.

min M. Ataly, Sec'y of Commerce Linaknos:

Sigun i 1 CMC § 2193, i areklamento yan regulasion siha ni man checheton man ma ribisa put para u fotma yan sufisiente yan man ma aprueba ginen i Ofisinan Abugado Henerat i CNMI.

Ma fecha este mina na diha gi , 2003.

Pamela Brow Abugado Henera Thomas Abuteb

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Rin**r**kot as:

Bernadita DelaCruz Da Commonwealth Register

ARONGORONGOL TOULAP IGHA E MANGI EBWE FILLOOY ALLEGH KKAAL NGALI AMMWELIL, ALLEGHUL TAXICAB REGULATIONS NO. 1500

OUTOL: POMWEL LLIWEL NGALI AMMWELIL ALLEGHUL TAXICAB REGULATIONS NO. 1500

AMENDMENTS TO TAXICAB REGULATIONS NO. 1500 (amweri pomwel allegh yeel iye e appasch)

COPIAL ALLEGH KKAAL: Pomwol kkaal ngali alleghul Taxicab Regulations No. 1500 iye e arongowow mellol Commonwealth Register. Copial allegh nge emmwel ubwe bwughil mereel Bwulasiyool Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, WP 96950.

TIPEER ME MANGEMANGIR TOWLAP: Aramas ye e tipali emmwel schagh bwe ebwe ischiitiw meta tipal me mangemangil reel lliiwel kkaal nge raa afanga ngali Dipatamentool Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950, esoobw luulo atol iligh (30) ral sangi al la e ffeer arongorong llol Commonwealth Register.

BWANG: Dipatamentool Commerce eyoor bwangil bwe ebwe ffeer Aleghul sangi bwangil me aileewal mille 1 CMC §§ 2454, 9104, 4 CMC § 5651.

Isaliiyoy Atalia Sec'y of Commerce

Ral 12/15/03

Sangi 1 CMC § 2454, allegh kaal ikka e apasch iye ra takkal amwuri me alegheleghelo mereel CNMI Bwuyasiyool Attorney General.

Raalil ye

llol maramal

, 2003.

Pamela S. Brown Attorney Gener Mwir as/A. **'eb**uteb SAA

Aisis sangi:

Bernadita DelaCruz Dat Commonwealth Register

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PAWNBROKER BUSINESS LICENSE REGULATIONS

Section 1. Definitions.

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For purposes of this Section:

"Applicant" means the individual or business entity applying to the Secretary of Commerce for a license.

"License" means the authority to operate a pawnshop as issued by the Secretary.

"Licensee" means the individual or business entity who has been issued a license by the Secretary.

"Pawnbroker" shall have the same meaning ascribed to that term in Section 5941 of the Pawnbrokers Act of 1998.

"Pledger" means any person who has pledged tangible personal property as collateral for a pawn loan.

"Principal party" means any officer or director of a pawnshop or a corporation that owns or seeks to own a pawnshop; any shareholder or member owning 10% or more of the outstanding stock or membership interests of a pawnshop or a business entity that owns or seeks to own a pawnshop; or any partner that is a pawnshop or that owns or seeks to own a pawnshop.

"Secretary" means the Secretary of Commerce or his designee.

Section 2. Application for License.

a) Requirement, where to file. Section 5642 of the Pawnbrokers Act of 1998 provides that it is unlawful to operate as a pawnbroker without first obtaining a license from the Secretary of Commerce. All requests for an application package must be directed to the Banking Section. Department of Commerce, Caller Box 10007 PMB, Saipan, MP 96950. A separate license is required for each pawnshop location.

b) Instructions, contents. An application for a license must be submitted on the form prescribed in Section 6 of these regulations. An application for a license shall be made under oath and state the full name and address of the applicant together with any other relevant information the Secretary may require. The application shall also include a Disclosure Statement as to the Principal Parties to the License Application, to include the full name and place of residence of each person involved in the ownership interests of the pawnshop, and police clearances for each employee and prospective employee (prior to employment) showing no record of crimes of false statements, dishonesty, or theft offenses.

Section 3. Standards for Licensing.

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Unless otherwise authorized by the Secretary, in order to be eligible to operate a pawnshop, each applicant and principal party must:

a) If an individual, be eighteen years of age or older; and,

b) not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop; and,

c) possess the character and general fitness necessary to warrant belief that the business will be operated in a lawful and fair manner.

Section 4. Change in Control or Form of Ownership, Change in Location, Change in Name of Pawnshop, Voluntary Surrender of License; Fees.

a) Change in Control or Form of Ownership. An License Application must be filed, by the acquiring party, not less than 30 days prior to the anticipated change in control or change in the form of ownership of a pawnshop. As used in this Section, "control" means a change involving the sale of a pawnshop; the addition or elimination of any general or limited partner; or a 10 percent or more change in ownership of the outstanding stock, or membership interest, of a corporation that owns a pawnshop. A change in the form of ownership is considered to be a change from one type of business entity to another type of business entity (e.g., sole proprietorship to a corporation, partnership to sole proprietorship, etc.). The License Application must be submitted on the form prescribed in Section 6 of this Part. No change in control or form of ownership shall occur until approved by the Secretary. The Secretary may prohibit a change in control or form of ownership from occurring if the licensee does not meet the license standards set forth in Section 3 of these regulations.

b) Gift, Bequest, Inheritance, or Foreclosure. Any person who, by gift, bequest, inheritance. or foreclosure, acquires ownership rights to an existing pawnshop or ownership rights in a company that controls an existing pawnshop such that these ownership rights would constitute "control" of the pawnshop, is considered a change in control or form of ownership and requires the filing of a New License Application.

c) Change in Location. An application to change the location of a pawnshop must be filed not less than 30 days prior to the anticipated date of relocation. The application form shall be the New License Application form prescribed by the Secretary, at Section 6. If the only change to the pawnshop is its location, the New Application need only include: the present name and address of the licensed pawnshop, the address and phone number of the proposed new location, the anticipated date of relocation, a list of the addresses of all pledgers with open pawn loans, and a sample copy of the written notice that shall be provided to the pledgers of open pawn loans. No relocation of a pawnshop may occur until approved by the Secretary. d) Change in Name of Pawnshop. Prior to the change in the name of a pawnshop, the licensee shall provide written notice to the Secretary, not less than 30 days prior to the anticipated change, and pay the applicable fee, as established by the Pawnbrokers Act of 1998. Upon receipt of the written notice and applicable fee, the Secretary shall issue a new license. At such time, the licensee must surrender its former license to the Secretary. The Change In Name Fee is \$50.

e) Voluntary Surrender of License. Prior to the voluntary surrender of a license, the licensee shall provide not less than 60 days written notice to the Secretary. The licensee shall also provide the Secretary names and addresses of all pledgers with open pawn loans and their last known mailing addresses, along with providing notice to the pledgers with open pawn loans in two consecutive weekly issues of a local newspaper of general circulation.

Section 5. Display of License.

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The license must be conspicuously displayed for public view at the place of business provided on the license.

Section 6. Monthly Reports; Request for Information.

a) The Licensee shall, as a condition of obtaining and renewing the Pawnbroker License, file a monthly report on or before the last day of each month for the month preceding the report. If the last day of the month falls on a Non-CNMI Government workday (weekends, holidays, typhoon days, etc.), the report shall be due on the next CNMI Government workday. In the event the report is filed after the fifth day of the month. for the month preceding the report, the Licensee shall pay a late fee of \$5.00 dollars daily starting on the sixth day of the month for each day of the month which the report is late for the preceding month. The monthly report shall include the following:

- (i) Printed Name and signature of the person to whom the loan is made;
- (ii) Complete Description of the property pledged;
- (iii) The amount loaned; and,
- (iv) any other necessary information prescribed by form by the Secretary.

b) Upon request, a licensee shall furnish or mail within 24 hours to the department, on such forms as are provided by the department full, true, and correct copies of the Licensee's records of all requested transactions, required under 4 CMC § 5643.

Section 7. License Application Forms.

The Secretary or his designee shall provide for the New License Application Forms at no cost to all interested applicants, and current licenseholders.

PUBLIC NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE TAXICAB REGULATIONS NO. 1500, pursuant to 1 CMC § 2596

CONTENTS: PROPOSED AMENDMENTS TO THE TAXICAB REGULATIONS NO. 1500

AMENDMENTS TO THE TAXICAB REGULATIONS NO. 1500 (see attached proposed regulation)

COPIES OF REGULATIONS: The Proposed Amendments to the Taxicab Regulations No. 1500 are published in the Commonwealth Register. Copies of the proposed regulations may be obtained from the Department of Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950.

PUBLIC COMMENTS: All interested persons may submit written data, views, or arguments about the proposed regulations to the Secretary, Department of Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950, not later than thirty (30) days from the date of this publication in the Commonwealth Register.

AUTHORITY: The Department of Commerce is authorized to promulgate regulations pursuant to 1 CMC §§ 2454, 2596.

Issued b Ig, Sec'y of Commerce

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

Pamela S Attorney Senera

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Thomas A Tebuteb SAA

Reconded by:

Berradita DelaCroz Date Commonwealth Register V

| COMMONWEALTH REGISTER | VOLUME 26 NUMBER 01 | January 22, 2004 | page 0.21631 |
|-----------------------|---------------------|--|--------------|
| Date: Als-15 , | 6, at No. 2, | 15921 (6/15/98); at 17049 (2/15/0 M. Acalig ary of Commerce | Vol. 22, |
| and Orders: | 14, Nc | b. 2, at 8916 ts Comm. Reg. Vo. | (2/15/92); |

PROPOSED AMENDMENT TO THE TAXICAB REGULATIONS 1500, Comm. Reg. Vol. 14, No. 2, at 8916 (2/15/92); amended Comm. Reg. Vol. 20, No. 6, at 15918, 15921 (6/15/98), Comm. Reg. Vol. 22, No. 2, at 17047, 17049 (2/15/00).

Citation of Statutory Authority:

Statement of Goals/Objectives:

Brief Summary of the Regulation:

:

1 CMC § 2454 modified by Exec. Order 94-3 (effective 8/23/94) authorizes the Secretary of the Department of Commerce to promulgate regulations over matters which the Department has jurisdiction.

The purpose of the proposed amended regulation is to refine qualifications for a Taxicab Operator's License; provide for administrative expenses, and to provide for a monitoring regimen for maintenance of insurance policies, vehicle registration, and major vehicle repairs.

The amended regulation provides for a refinement of some of the qualifications for a Taxicab Operator's License; for the assessment of fees to cover costs of producing Taxicab Operator's Identification Cards; provides for proof of insurance, required vehicle letters and numbering, restrict registration of vehicles over ten years old, and requires submission of documentation of major vehicle repairs to the Taxicab Bureau.

David S. Palacios; Director of Enforcement & Compliance; (670) 664-3093.

1 CMC §§ 2594, et seq., 9 CMC §§ 2301 et sea : Comm Rea Vol

Contact Person(s):

Citation of Related and/or Affected Statutes Regulations

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NUTISIAN PUPBLIKU PUT I INTENSION PARA U MA ADOPTA I AMENDASION I TAXICAB REGULASION NO. 1500, pursuant to 1 CMC § 2596

SUHETU: PROPOSED AMENDMENTS TO THE TAXICAB REGULATIONS NO. 1500

PPOPOSED REGULATIONS TO THE TAXICAB REGULATIONS NO. 1500

(atat i manche'che'tpn ni man ma proponi na regulasion)

KOPIAN I REGULASION SIHA: I man ma proponi na regulasion put i Lain Taxicab Regulations No. 1500 ma pupblisa gi Rehistran i Commonwealth. Sina ma chule i kopian i regulasion siha ni man ma proponi gi Dipattamenton i Commerce giya Capitol Hill, pat tugi'e i Ofisina ya un rikuesta gi Caller Box 10007, Donni Hill Complex, capitol Hill, Saipan, MP 96950.

KOMENTUN PUBLIKU: I man enterasau na petsona put i man ma proponi na regulasion, sina ma tugi'e i Dipattamenton i Commerce giya Capitol Hill, menos di trenta (30) dihas despues di munhayun ma pupblisa i fine'nena na Noticia gi Rehistran i Commonwealth.

ATURIDAT: I Dipattamenton i Commerce ma aturisa para u establisi Regulasion sigun i 1 CMC §§ 2454, 2596.

M. Atalig, Sec'y of Commerce Linaknos

Sigun i 1 CMC § 2153, i areklamento yan regulasion siha ni man checheton man ma ribisa put para u fotma yan sufisiente yan man ma aprueba ginen i Ofisinan Abugado Henerat i CNMI.

Ma fecha este mina na diha gi

Tebuteb

, 2004.

Pamala S. Brown Attorney General

Thomas A

SAA

Rinikot as:

Bernadita DelaGruz Commonwealth Register

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ARONGORONGOL TOULAP IGHA E MANGI EBWE FILLOOY ALLEGH KKAAL NGALI AMMWELIL, ALLEGHUL TAXICAB REGULATIONS NO. 1500

OUTOL : POMWEL LLIWEL NGALI AMMWELIL ALLEGHUL TAXICAB **REGULATIONS NO. 1500**

AMENDMENTS TO TAXICAB REGULATIONS NO. 1500 (amweri pomwel allegh yeel iye e appasch)

COPIAL ALLEGH KKAAL: Pomwol kkaal ngali alleghul Taxicab Regulations No. 1500 iye e arongowow mellol Commonwealth Register. Copial allegh nge emmwel ubwe bwughil mereel Bwulasiyool Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950.

TIPEER ME MANGEMANGIR TOWLAP: Aramas ye e tipali emmwel schagh bwe ebwe ischiitiw meta tipal me mangemangil reel lliiwel kkaal nge raa afanga ngali Dipatamentool Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950, esoobw luulo atol iligh (30) ral sangi al la e ffeer arongorong llol Commonwealth Register.

BWANG: Dipatamentool Commerce eyoor bwangil bwe ebwe ffeer Aleghul sangi bwangil me aileewal mille 1 CMC §§ 2454, 9104, 4 CMC § 5651.

Isaliiyow Sec'y of Commerce

Ral 12/15/03

Sangi 1 CMC § 2454, allegh kkaal ikka e apasch iye ra takkal amwuri me alegheleghelo mereel CNMI Bwuyasiyool Attorney General.

Raalil ye

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llol maramal

, 2004.

Pamela S. Brown Attorney General Mwir ano lebuteb Thor

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Aisis sangi:

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January 22, 2004 PAGE (21633

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PROPOSED AMENDMENT TO THE TAXICAB REGULATIONS 1500, Comm. Reg. Vol. 14, No. 2, at 8916 (2/15/92); amended Comm. Reg. Vol. 20, No. 6, at 15918, 15921 (6/15/98), Comm. Reg. Vol. 22, No. 2, at 17047, 17049 (2/15/00).

Part A. General Provisions

Section 1501.1. Definitions.

Unless the context otherwise requires, the definitions set forth below govern the construction of terms as used in the Taxicab Rules and Regulations.

"Chief" means the Chief of the Bureau of Taxicabs, "Director" means the Director of Enforcement & Compliance, unless otherwise stated.

"Director" means the Director of Finance, "Secretary" means the Secretary of Commerce.

Part B. Taxicab Operator

Section 1502.1. Certification of Fitness.

In order to receive a taxicab operator's license, an applicant driver shall apply for a Certification of Fitness from the Bureau of Taxicabs. If the Certification of Fitness is granted by the Chief of the Bureau of Taxicabs Director of Enforcement & Compliance, or his designee, then the applicant shall apply for a Taxicab Operator's License with the Bureau of Motor Vehicles in such a manner as the Chief of the Bureau of Motor Vehicles provides.

Section 1502.2. Certification of Fitness Requirements.

The following requirements for the receipt of a Certification of Fitness for the Bureau of Taxicabs are in addition to the qualifications set forth in 9 CMC, Division 2, Chapter 2. The following requirements are necessary and must be satisfied for the issuance of a Certificate of Fitness. The applicant:

a. Must provide three passport size photographs. Two photos are for the Taxicab Operator's Identification Card, and the other photo is for the Bureau of Taxicab's file copy of the Taxicab Operator's Identification Card; and, b. A new Applicant (one who does not, or has not in the past, obtained a Taxicab Operator's Identification Card) must show proof of three (3) years driving experience (Operator's License).

Section 1502.5. <u>Fee</u>.

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Upon receiving a Certificate of Fitness from the Director of Enforcement and Compliance, the applicant shall pav twenty-five dollars (\$25.00) processing fee to the CNMI Treasurer. Upon receiving approval of an application for a Taxicab Operator's License from the Bureau of Motor Vehicles, the applicant shall pay fifteen dollars (\$15.00) to the CNMI Treasurer. There is a fee of five dollars (\$5.00) for each duplicate or substitute license issued. Such fee must also be paid to the CNMI Treasurer. Prior to renewal of a taxicab operator's license, there shall be assessed a fee of five dollars (\$5.00) per day for each day following the expiration of a taxicab operator's license, not to exceed one hundred fifty dollars (\$150.00).

* * *

Part C. Taxicab Driver's Identification

Section 1503.1. Alteration, Removal or Destruction of Taxicab Operator's Identification; Taxi Fare Card; Tampering Prohibited.

No person shall alter, destroy, or remove from a taxicab any approved Driver's I.D. card or taxicab fare card. In the event, such alteration, removal, or alteration occurs, following an administrative hearing and a finding of such conduct, the affected Driver's I.D. card or taxicab fare card shall be surrendered to the Director.

Section 1503.3. Renewal Denied.

a. A Taxicab Operator's Identification Card shall not be renewed if the Chief Director or his representative finds the Taxicab operator in substantial noncompliance with the Act or the regulations thereunder. However, a Taxicab Operator shall be given notice, and a hearing before the Bureau, prior to such denial as described herein below, provided a timely application for renewal was made. b. If a Taxicab Operator makes a timely application for renewal, then the Taxicab Operator's Identification Card is valid until the Bureau of Taxicabs makes a final determination. Should the renewal be denied, the previous Taxicab Operator's Identification Card shall expire 30 days after the Bureau's final decision. See 4 <u>1</u> CMC 9111(a). Following 30 days after the Bureau's final decision, the Taxicab Operator's Identification Card shall be surrendered to the Director or his designee, absent a Court Order to the contrary.

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Part D. Taxicab Owners

Section 1504. Requirement for Insurance.

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All taxicab owners must be insured under a general or public liability policy by a qualified insurance company licensed to do business in the Commonwealth, as follows:

- a. Minimum coverage of fifty thousand dollars (\$50,000) for bodily injury or death of any one person in any one accident; and
- b. Minimum coverage of one hundred thousand dollars (\$100,000) for bodily injury or death of more than one person in any one accident; and
- c. Minimum coverage of thirty thousand dollars (\$30,000) for injury or destruction of property in any one accident; and
- d. Uninsured motorist coverage in the above amounts; and,
- e. Prior to renewal of the taxi vehicle registration, the taxicab owner shall provide proof of full payment for an annual insurance policy for no less than the amounts referred to above in Section 1504 (a-d).

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Part E. Sign Requirements

Section 1505.3. Required Letters and Numbering Size.

Letters and Numbers painted or to be painted on any vehicle licensed or to be licensed as a taxicab shall be centered on the front doors of the vehicle with the Letters "TAXI" in 3 ½" inch sizes and the Registration Number centered below the word "TAXI" and in 2" inch sizes.

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Part H. Vehicles Section

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Section 1508.3. Unsafe Taxicab-Operation prohibited.

No taxicab owner or operator shall permit or require a operator to operate, nor shall any operator operate, a taxicab which a reasonable inspection would reveal, or the report of the last operator revealed, to be hazardous or likely to result in mechanical condition which is hazardous to operate or is more likely than a safe vehicle to cause an accident while in operation. No vehicle in excess of 10 (ten) years old may be registered as a taxi vehicle, regardless of its condition.

Section 1508.6. Damaged Vehicle-Prohibited for Sale Operation.

No taxicab company or owner shall permit or require a taxi operator to operate a taxicab which has been damaged in an accident, or other causes, nor shall any taxicab operator so operate a taxicab, unless the taxicab has been safety inspected by a person qualified to ascertain the nature and extent of the damage and the relationship of such damage to the safe operation of the taxicab. No taxicab shall be operated after damage by accident or otherwise unless an authorized vehicle inspection station has determined it to be safe for operation, and issued a new Safety Decal, even if it is not the usual time for renewal. Following the repair of a taxicab, and its new safety inspection, the records of the repairs of the taxicab shall be provided to the Director, or his designee, for his review and a reinspection of the taxicab, if necessary.

PUBLIC NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE WEIGHTS AND MEASURES LICENSE FEE REGULATIONS

CONTENTS: PROPOSED WEIGHTS AND MEASURES LICENSE FEE REGULATIONS

WEIGHTS AND MEASURES LICENSE FEE REGULATIONS

(see attached proposed regulation)

COPIES OF REGULATIONS: The proposed Weights and Measures License Fee Regulations are published in the Commonwealth Register. Copies of the proposed regulation may be obtained from the Department of Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950.

PUBLIC COMMENTS: All interested persons may submit written data, views, or arguments about the proposed regulation to the Secretary, Department of Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950, not later than thirty (30) days from the date of this publication in the Commonwealth Register.

AUTHORITY: The Department of Commerce is authorized to promulgate regulations pursuant to 1 CMC §§ 2454, 9104, 4 CMC § 5429.

Issued Atal Sec'y of Commerce

Pursuant to 1 CMC § 2153 λ the rules and regulations attached hereto have been reviewed as to form and sufficiency and approved by the CNMI Attorney General's Office.

Dated this 2004.

Pamela S. Brown Attorney General Received Av Thomas A. Tebuteb

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Recorded by:

Bernadita Delagruz Date Commonwealth Begister

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PROPOSED WEIGHTS AND MEASURES LICENSE FEE REGULATIONS

Citation of Statutory Authority: 1 CMC § 2454 modified by Exec. Order 94-3 (effective 8/23/94) authorizes the Secretary of the Department of Commerce to promulgate regulations over matters which the Department has jurisdiction.

> The purpose of the new proposed regulation is to provide for a fee schedule for the payment of late fees regarding annually registered instruments for measuring weights and measures and provides for a sanction of license short agency revocation, injunction, and seizure of the affected instruments which are invariably in good working order, but technically out of order due to late registration.

> > The regulation provides for a fee schedule for payment of late fees for annually registered instruments with the Division of Enforcement and Compliance of the Department of Commerce.

David S. Palacios; Director, Division of Enforcement & Compliance; (670) 664-3017.

1 CMC §§ 2454, 9104, 4 CMC § 5429, Comm. Reg. Vol. 17, No. 6, at 13552 (effective 7/15/95).

, 2004. C**#**mmerce

Statement of Goals/Objectives:

Brief Summary of the Regulation:

and Orders:

Contact Person(s):

Date: 1/7/04

Citation of Related and/or Affected Statutes, Regulations

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COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004

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NUTISIAN PUPBLIKU PUT I INTENSION PARA U MA ADOPTA I REGULASION SIHA PUT WEIGHTS AND MEASURES LICENSE FEES

SUHETU: PROPOSED WEIGHTS AND MEASURES LICENSE FEES

WEIGHTS AND MEASURES LICENSE FEES

(atat i manche'che'tpn ni man ma proponi na regulasion)

KOPIAN I REGULASION SIHA: I man ma proponi na regulasion put i Lain Weights and Measures License Fees ma pupblisa gi Rehistran i Commonwealth. Sina ma chule i kopian i regulasion siha ni man ma proponi gi Dipattamenton i Commerce giya Capitol Hill, pat tugi'e i Ofisina ya un rikuesta gi Caller Box 10007, Donni Hill Complex, capitol Hill, Saipan, MP 96950.

KOMENTUN PUBLIKU: I man enterasau na petsona put i man ma proponi na regulasion, sina ma tugi'e i Dipattamenton i Commerce giya Capitol Hill, menos di trenta (30) dihas despues di munhayun ma pupblisa i fine'nena na Noticia gi Rehistran i Commonwealth.

ATURIDAT: I Dipattamenton i Commerce ma aturisa para u establisi Regulasion sigun i 1 CMC §§ 2454, 9104, 4 CMC § 5429.

Linaknos:

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rmin M. Atalig, Sec'y of Commerce

Sigun i 1 CMC § 2153, i areklamento yan regulasion siha ni man checheton man ma ribisa put para u fotma yan sufisiente yan man ma aprueba ginen i Ofisinan Abugado Henerat i CNMI.

Ma fecha este mina

na diha gi

, 2004.

Pame<u>la</u> S. Brown Abugado Henerat la Ris: febuteb

Thomas A. Teb SAA

Rinkot as:

Bernadita DelaCruz Date Commonwealth Register

ARONGORONGOL TOULAP IGHA E MANGI EBWE FILLOOY ALLEGH KKAAL NGALI AMMWELIL, ALLEGHUL WEIGHTS AND MEASURES LICENSE FEES

OUTOL: POMWEL LLIWEL NGALI AMMWELIL ALLEGHUL WEIGHTS AND MEASURES LICENSE FEES

WEIGHTS AND MEASURES LICENSE FEES (anweri pomwel allegh yeel iye e appasch)

COPIAL ALLEGH KKAAL: Pomwol kkaal ngali alleghul Weight and Measures License Fees iye e arongowow mellol Commonwealth Register. Copial allegh nge emmwel ubwe bwughil mereel Bwulasiyool Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950.

TIPEER ME MANGEMANGIR TOWLAP: Aramas ye e tipali emmwel schagh bwe ebwe ischiitiw meta tipal me mangemangil reel lliiwel kkaal nge raa afanga ngali Dipatamentool Commerce, Caller Box 10007, Donni Hill Complex, Capitol Hill, Saipan, MP 96950, esoobw luulo atol iligh (30) ral sangi al la e ffeer arongorong llol Commonwealth Register.

BWANG: Dipatamentool Commerce eyoor bwangil bwe ebwe ffeer Aleghul sangi bwangil me aileewal mille 1 CMC §§ 2454, 9104, 4 CMC §§ 7105, 7111(b).

M. Atalij, Sec'y of Commerce Isaliivow.7

Ral 1/7/04

Sangi 1 CMC § 2454, allegh kkaal ikka e apasch iye ra takkal amwuri me alegheleghelo mereel CNMI Bwuyasiyool Attorney General.

Raalil ye

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llol maramal

, 2004.

Pamela S. Brown Attorney General Mwir sa Tebuteb Thoma SAA

Aisis sangi:

Bernadita Del**á**druz Da Commonwealth Register

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C. Late fee (if applicable):

C1. Weighing and Measuring Scales:

| a. | Weigh Scales: | 1-30lbs | \$25.00 |
|----|---------------|-----------------|----------|
| b. | Weigh Scales: | 31-100lbs | \$35.00 |
| c. | Weigh Scales: | 101-500lbs | \$45.00 |
| d. | Weigh Scales: | 501-1,000lbs | \$50.00 |
| e. | Weigh Scales: | 1,001-5,000lbs | \$55.00 |
| f. | Weigh Scales: | 5.001-10,000lbs | \$100.00 |
| g. | Weigh Scales: | over 10,000lbs | \$200.00 |

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PUBLIC NOTICE

PROPOSED REGULATIONS REGARDING THE ISSUANCE OF SPECIAL CIRCUMSTANCE TEMPORARY WORK AUTHORIZATIONS

The Secretary of Labor notifies the general public of his intention to adopt new regulations regarding the issuance of special circumstance Temporary Work Authorizations. The regulations are attached and are promulgated pursuant to the Secretary's authority as set forth in 3 CMC 4424(a)(1).

All interested persons may examine the proposed regulations and submit written comments, positions, or statements for or against the regulations to the Secretary of Labor, 2nd Floor Afetna Square Building, San Antonio, Saipan, MP 96950 or by facsimile to 236-0992 within 30 calendar days following publication of this notice in the Commonwealth Register.

Dated this 12th day of January 2004 at Saipan, Northern Mariana Islands.

DEPARTMENT OF LABOR Dr/Joaquin A. Tenorio Secretary of Labor

Pursuant to 1 CMC §2153, as amended, the proposed regulations regarding the issuance of special circumstances Temporary Work Authorizations, a copy of which is attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

Βv K Pamela Brown Attorney General

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Filed by: Bernacita Dela (Registrar of C porations Rec'd by: Thomas Tebuteb

Special Assistant for Administration

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PUBLIC NOTICE

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PROPOSED REGULATIONS REGARDING THE ISSUANCE OF SPECIAL CIRCUMSTANCE TEMPORARY WORK AUTHORIZATIONS

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Department of Labor is adopting rules and regulations regarding the issuance of Temporary Work Authorizations upon request of various government agencies and private counsel.

| Citation of Statutory Authority: | The Secretary of Labor is authorized to promulgate regulations pertaining to the employment of nonresident workers pursuant to 3 CMC 4424(a)(1). | |
|--|---|--|
| Short Statement of Goals and Objectives: | The regulations establish a mechanism for the issuance of Temporary Work Authorizations under circumstances that are not presently covered by the existing regulations. | |
| Brief Summary of the Proposed Regulations: | These regulations are promulgated to: | |
| | Formalize the process for the issuance of Temporary Work Authorizations (TWA) to persons whom are lawfully in the Commonwealth but do not have a pending case at the Department of Labor; | |
| | (2) Allow certain Federal and Commonwealth agencies or private attorneys to request that a TWA be issued to a person who has a legitimate reason for remaining in the Commonwealth but does not fall strictly within the definition of nonresident worker; | |
| | (3) Provide a mechanism to account for the persons issued TWAs, for the periodic renewal of the TWAs, and for the justification for issuing TWAs; | |
| | (4) Clarify the responsibility of the employer who hires a person under a TWA issued pursuant to these regulations. | |
| Citation of Related and/or Affected Statutes, Rules and Regulations: | None. | |

COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE 021644

For Further Information Contact:

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Kevin A. Lynch, Assistant Attorney General, Chief Legal Counsel, CNMI Department of Labor, telephone (670) 236-0910 or facsimile (670) 236-0992.

Dated this 12th day of January 2004.

Submitted by:

DR. JUAQUIN A. TENORIO Secretary of Labor

ISSUANCE OF SPECIAL CIRCUMSTANCE TEMPORARY WORK AUTHORIZATIONS

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In addition to other circumstances described by statute or regulation, the Director of Labor or his designee may issue a memorandum authorizing a nonresident who is within the Commonwealth to seek temporary employment under the following circumstances:

- 1. Upon a request by any Federal enforcement agency including but not limited to the National Labor Relations Board, Equal Employment Opportunity Commission, U.S. Department of Labor and U.S. Department of Justice.
- 2. Upon a request by any Commonwealth enforcement agency including but not limited to the Department of Public Safety, Office of the Attorney General, the Division of Immigration, or the Office of the Governor.
- 3. A memorandum may be issued to a nonresident worker seeking relief through private lawsuits involving labor claims upon presentation of a letter from the attorney of record identifying the worker as a party in a pending law suit and identifying the court in which the case is pending and the case number of the court action.
- 4. The memorandum shall permit the person to seek temporary employment while within the Commonwealth. Upon securing employment the person must present him- or herself to the Department of Labor for issuance of a Temporary Work Authorization (TWA). The TWA shall be valid for a period not to exceed 90 days and shall be renewable every 90 days until the justification for the request has been accomplished... The Department of Labor may require that the applicant meet the usual application requirements set forth by statute, regulation or Department policy for a TWA (such as the appropriate health certificate, etc.) before approving the application. The Director of Labor or his designee may waive any application requirements deemed to be inappropriate under the circumstances of the application or that would defeat the purpose for the person's continued presence in the Commonwealth.
- 5. At the time of renewal of a TWA issued under this regulation the requesting agency or attorney shall certify to the Department of Labor that the need continues to exist for the person to remain in the Commonwealth.
- 6. The request for a memorandum shall be in writing and shall contain the following information:
 - a. The name, date of birth, nationality and entry permit and passport number of the person for whom the memorandum is requested;
 - b. The purpose for the person's continuing presence in the Commonwealth;
 - c. The name and business address of the requesting agency or attorney;
 - d. A statement of the anticipated length of time the nonresident will remain in the Commonwealth or of the anticipated date when the person's presence will no longer be necessary;
 - e. An acknowledgement that the requesting agency or attorney is required to notify the Department of Labor and Division of Immigration Services within 7 (seven) days following the conclusion of the proceedings or other reason justifying the nonresident's presence in the Commonwealth.

7. Information received by the Department of Labor in connection with the request for memorandum and any subsequently received documents shall be confidential and shall be subject to release only to the Director of Labor or his designee, the person or agency requesting the memorandum or TWA, a law enforcement officer including an officer of the CNMI Immigration Service, or upon court order.

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- 8. The employer shall assume all responsibilities concerning the temporary worker as if the employer had initially hired the person as a full-time nonresident worker from within the Commonwealth except that the TWA employer shall not be liable for the purchase of a repatriation airline ticket. Nothing in these regulations shall exempt an employer from the other requirements of the Nonresident Workers Act or the Alien Labor Rules and Regulations.
- 9. A person receiving relief under these regulations does not acquire any vested right to continued employment in the Commonwealth or the right to remain within the Commonwealth or to transfer to another employer when the justification for the issuance of the TWA has ended. An employer seeking to hire a worker previously employed under a TWA pursuant to this regulation may do so only after complying in full with the laws and regulations regarding the initial hiring of nonresident workers.
- 10. Temporary Work Authorization allowed pursuant to this regulation does not modify the person's entry permit nor shall the TWA be deemed to be a "nonresident worker certificate" as that term is used in the Commonwealth Entry and Deportation Act, 3 CMC § 4301 *et seq.* or the Nonresident Workers Act. 3 CMC § 4411 *et seq.* or any other statutes, or regulations promulgated by the Secretary of Labor pursuant to 3 CMC § 4424(a)(1).

NOTISIAN PUPBLIKU MAN MA PROPONE NA REGULASIÓN SIHA PUT LINAKNOS ATURIDÅT I ESPESIÅT NA MANERA GI CHE'CHO' TEMPORÅRIO

I Sekritårion i Hotnaleru (Labor) ha infotma i pupbliku heneråt put i intensióna ni para ma adopta nuebu na regulasión siha put asunton man laknos aturidåt i espesiåt na manera gi båndan che'cho' temporario. I regulasión siha man che'che'ton yan man ma establisi sigun i aturidåt i Sekritårio ni ma pega gi hålom 3 CMC 4424 (a) (1).

Todu i man enteresao na petsona siha siña ma eksamina i man ma propone na regulasión siha yan u fan na halom opinion tinige', pusisión, pat sinangan siha para pat kumokontra i regulasión siha guatto gi Sekritårion i Hotnaleru, gi mina dos na bibienda gi hålom i Afetna Square Building, SanAntonio Saipan MP 96950 osino fax guatto gi 236-0992 gi hålom trenta (30) dihas despues di ma pupblisa este na notisia gi Rehistran i Commonwealth.

Ma fecha gi mina dosse na diha gi Ineru dos mit kuåttro na såkkan (Jan. 12th, 2004), giya Saipan I Sankattan Siha Na Islas Marianas.

DIPÅTTAMENTON I HOTNALERU

Ginen as: Dr. Joaquin A. Tenorio Sekritarion i Hotnaleru

Sigun i Lai 1 CMC Seksiona 2153, ni inamenda, i man ma propone na regulasión siha put linaknos aturidåt i espesiåt na manera gi asunton che'cho' temporario ni che'che'ton ma ribisa yan aprueba gi fotmåt yan ligåt sufisiente gi Ofisinan i Abugådo Heneråt.

Ginen as:

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Pamela Brown Abugådo Heneråt

Pine'lo as:

Bern Rehis an i Koporasión

Rinisibe as:

Thomas A. Tébuteb Espesiåt Na Ayudånte Para i Atministrasión Fecha

1-21-04 Fecha

NOTISIAN PUPBLIKU MAN MA PROPONE NA REGULASIÓN SIHA PUT LINAKNOS ATURIDÅT I ESPESIÅT NA MANERA GI BÅNDAN CHE'CHO' TEMPORÅRIO

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Este na amendasión ma establisi sigun i Akton i Areklamenton Atministradot, Lai 1 CMC Seksiona 9101, et.seq.. I Dipåttamenton i Hotnaleru ha adodopta i areklamento yan regulasión siha ni tineteka put i Linaknos Aturidåt I Espesiåt Na Manera Gi Båndan Che'cho'Temporårio sigun ginagao i sigente gi Ahensian Gobietno yan i Konsilion i Private.

| Sitasion Aturidåt i Lai: | I Sekritårion i Hotnaleru ma aturisa para u establisi regulasión siha put båndan man empleha taotao hiyong (non-residents) na taotao chocho sigun i Lai 3 CMC 4424 (a) (1). |
|--|--|
| Kada'da' Na Mensåhe pot Goals yan Objectives: | I regulasión siha ha establisi un sistema para i linaknos Aturidåt Temporårio na Cho'cho' papa i manera siha ni ti kinibri gi presente na regulasión siha. |
| Kada'da' Na | ł |
| Mensåhe put Man Ma Propone Na | |
| Regulasión Siha: | Este siha na regulasion man ma establisi para: |
| | (1) Ma fotma sistema put i linaknos Aturidåt Che'cho' Temporårio, Temporary Work Authorization (TWA) para i petsona siha ni man ligåt gi hålom Commonwealth ya taya kaosan niha gi Dipåttamenton i Hotnaleru. (2) U sedde' sigente siha na ahensian Feduråt yan Commonwealth put i Private siha na abugao para u fan rikuesta put TWA para i petsona siha ni man lihitimu rason niha ni para u fan gaige gi hålom Commonwealth lao ti |
| | man hålom gi papa i areklon taotao hiyong na taotao cho'cho'. |
| | (3) Ma na guaha sistema put petsona siha ni man lalaknos TWA siha, para rinueban TWA siha yan para sentensian esplikasión linaknos TWA siha. |
| | (4) Ma klarifika responsiblidåt i man emplepleha petsona gi papa TWA sigun este siha na regulasión. |
| Sitasión i Man Ach yan/pat Man Afekt | |
| Lai, Areklamento y | |
| Regulasión Siha: | Tåya |

Para Mas Infotmasión

Ågan:

Si Kevin A. Lynch, Ayudånten i Abugådo Heneråt, Mågas Konsiheron Ligåt gi CNMI, Dipåttamenton i Hotnaleru, tilifon (670) 236-0910 pat facsimile (670) 236-0992.

Ma fecha este gi mina dosse na diha gi Ineru dos mit kuåttro na såkkan (Jan. 12th, 2004)

Ninahålom:

Dr. Joaquin A. Tenorio Sekritårion i Hotnaleru

LINAKNOS ESPESIÅT NA MANERA GI BÅNDAN ATURISASIÓN CHE'CHO' TEMPORÅRIO

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Gi omentasión para palu siha na manera ni ma esplikåye' ginen I Lai pat regulasión, I Direktot I Hotnaleru pat I ma designa siña man laknos memorandum ni aturirisa I taotao hiyong ni man gaige gi hålom I Commonwealth para u fan aligao cho'cho' temporårio papa I sigente siha:

- Sigun ginagagaon I maseha håfa na Ahensian implimentasion Feduråt enkluklusu lao ti ma midi para I kuetpon National Labor Relations, Kumision Equal Employment Opportunity, Dipåttamenton I Hotnalerun Estådos Unidos yan Dipåttamenton I Hustisian Estådos Unidos.
- Sigun ginagagao I maseha håfa na Ahensian Implimentasión I Commonwealth enkluklusu lao ti ma midi para I Dipåttamenton I Sinåfun Pupbliku (Public Safety), Ofisinan I Abugådo Heneråt, I Dibisión I Immigration, pat I Ofisinan I Gobietno.
- 3. I memorandum siña ma laknos para I empleaon taotao hiyong aliligao alibiu ginen kaosan <u>private</u> siha ni afefekta ikleman Hotnaleru siha (labor claims) sigun I prisentasión I kåtta ginen I abugådo I rikot aidentifika I empleao na påtte gi kaosa ni ti ma kukumple yan aidentififika I kotte' na I kaosa ti ma kukumple yan I numirun I kaosa gi Aksion I kotte'.
- 4. I memorandum debi di u sedde I petsona para u fan aligao cho'chu' temporårio mientras gaigaige gi Commonwealth. Sigun I asiguran I empléao I petsona debi di u prisentan maisa siha guatto gi Dipåttamenton I Hotnaleru para I linaknos I Aturisasión Cho'chu'Temporårio (TWA). I TWA debi di u båle para I tiempo ni para u upos nobienta (90) dihas ya debi di u ma rinueba kada nobienta (90) dihas esta ki I esplikasion (justification) para I rikuesta ma na funåyan. I Dipåttamenton I Hotnaleru siña ma rekomenda na I man apliplika u kumple I nisisidåt I aplikasión ni ma na guahaye' ginen I Lai, regulasión pat I areklamenton I Dipåttamenton I TWA (tat kumo I propiu na setifikun hinemlo', etc.) antes di ma aprueba I aplikasión. I Direktot I Hotnaleru pat I ma designa siña a suheta maseha håfa nisisidåt I aplikasión siha ni para ti u propiu papa I maneran I aplikasión osino u taibale I rason para u kontinua sumåga I petsona gi Commonwealth.
- 5. Gi tiempon I rinueban I TWA malaknos papa este na regulasión I Ahensia ni murikuekuesta pat abugådo debi di u setifika guatto I Dipåttamenton I Hotnaleru na I nisisidåt ni para u kontinua sumåga I petsona gi Commonwealth.

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- 6. I rikuesta para I memorandum debi di u ma tuge' ya u guaha I sigente siha na infotmasión:
 - a. I na'an, fechan I mafanaguña, nasionatña yan I petmisun entråda yan I numirun paspotten I petsona ni murikuekuesta I memorandum;
 - b. I rason para u kontinua sumága gi Commonwealth.
 - c. I na'an yan address I bisnes (business) ni man rikuekuesta na Ahensia yan abugado;
 - d. Sinangan put los kuántos tiempo dinira I taotao hiyong ni para u saga gi Commonwealth pat I diha ni para u dinira i petsona ni ti nisisário para u gaige;
 - e. Rekognisasión na I Ahensia pat abugådo ni murikuekuesta ma rekomenda para u notifika I Dipåttamenton I Hotnaleru yan I Dibisióni Setbisiun Immigration gi hålom siette (7) dihas tinatitiye' I ditetminasión I aksión siha pat palu siha na rason ni ekspliplika I taotao hiyong gaigen niha gi Commonwealth.
- 7. Infotmasión ni ma risibe' ginen I Dipåttamenton I Hotnaleru kinensisiste yan I rikuesta para I memorandum yan maseha håfa despues di ma risibe' na dokumento siha debi di u sikretu ya debi di u malaknos solamente guatto I Direktot I Hotnaleru pat I ma designa, na petsona pat I ahensian I murikuekuesta I memorandum pat TWA, I enfuetsamenten Ofisiåt I Lai a enkluklusu I Ofisiåt I Setbisiun Immigration gi CNMI, pat sigun I otden I kotte'.

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- 8. I man emplepleha debi di u hasso' todu I responsibilidat ni tineteka I macho'cho'chu temporario na I man emplepleha gi tituhon empleha I petsonat Full-time na empleaon taotao hiyong ginen halom I Commonwealth fuerra di man emplepleha TWA ti debi di u responable para I finahan I ticket batkonaire an para u ma dipotta I empleao. Taya gi este na regulasion na u ma dispensa I man emplepleha ginen I palu siha na nisisidat gi Akton I Epleaon Taotao hiyong, pat I Areklamento yan Regulasión Hotnaleru Taotao hiyong.
- 9. I petsona ni man risibe suheta papa este na regulasión ti konkista maseha håfa na direcho' para u kontinua ma empleha gi Commonwealth pat para u transfera guatto para ottro na man emplepleha ni man aliligao para u fangonne' empleao despues ma empleha papa I TWA sigun para este na regulasión siña ha solamente

despues a tatitiyi todu I Lai siha yan regulasión ni kinensisiste anai ma empleha gi tutuhon gi empleaon taotao hiyong.

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10. Aturisasión Cho'chu' Temporårio (TWA) ma sedde sigun para este na Regulasion ti atulaika I petmisun entrada pat debi di I TWA u konsidera para u "setifikun empleaon taotao hiyong" na enao na palåbra ma na setbe gi entrådan Commonwealth yan Akton Dipottasión, 3 CMC Seksiona 4301 et.seq. pat I Akton Empleaon Taotao Hiyong 3 CMC Seksiona 4411 et.seq. pat maseha håfa ottro na Lai siha, pat regulasión ni ma establisi ginen I Sekritårion I Hotnaleru sigun I 3 CMC Seksiona 4424 (a) (1).

:

ARONGOL TOULAP POMWOL ALLEGH KKAAL REEL ISISIWOWUL ALÚGHÚLÚGH REEL **BWÁNGIL ANGAANG YE E TEMPORORIYO**

Samwoolul Labor ekke arongaar toulap reel mángemángil igha ebwe ffillóby allégh kka ffé bwelle alúghúlúghúl bwángil angaang ve temporórivo. Allegh kkaal ve e appasch me akkateewow sángi bwángil Samwool ve ighila II6I 3CMC tálil 4424 (a) (1).

Schóókka eyoor mángemángiir nge emmwel rebwe emmweri fischiiy pomwol allegh kkaal me ischilong aghivagh, aweewe, reel allegh kkaal ngali Samwoolul Labor, 2nd Floor Afetna Square Building, San Antonio, Seipel, MP 96950 me ngáre facsimile ngali 236-0992 llól eliigh (30) ráálil sángi arongowowul ammataf veel mellol Commonwealth Register.

Rádil ve seigh me ruuwural (12th) Schoow 2004 me Seipel, Faluwasch Marianas.

Depattamentool Labor

Sángi:

Joaquin A. Tenorio Samwoolul Labor

Sángi 1CMC talil 2153, ye aa lliwel, pomwol allégh kkaal reel isisiwowul alúghúlúgh reel bwangil angaang ve temporoiyo, tillighial ve e appasch, nge raa takkal amweri fischily me allegheld mereel Bwulasiyool Sow Bwungul Allegh Lapalap.

Sángi:

Pamela Brown Sów Bwungúl Allégh Lapalap

Rál

Aisis sánai: Bernadita Dela/Cruz

Registrar of Conforations

Mwir sángi: Thomas A/ Tebuteb Sów alillisil Sów Lemelem

1.21.04 Rái 1/21/04 Sái

(a)(1). Aweweel kkapasal Allégh: Allégh kka e akkatééwow mwoghutul reel isisiwowul bwangil angaang ye e tempororiyo ye ese fil reel allegh kka ighila. Aweweel pomwol lliwel: Allegh kkaal kka e akkateewow reel:

- (1) féér mwóghútúl isisiwowul reel bwángil angaang ye e tempororiyo (TWA) ngáli aramas ye e tabweey alleghul Commonwealth me esóór kkapasal mellól Depattamentool Labor;
- (2) Atoolongow akkaáw federdód me Commonwealth agencies me Sów Bwungúl Allegh kka re private ye eyoor bwangil reel ebwe lootiw 1161 Commonwealth, nge ese tabwey kkapasal school angaang kka aramasal Mahûl.
- (3) Ayoora mwoghutul fillong reel aramas kka rekke isisiwow TWAs, mebwal alúghúlúgh reel isisiwowul TWAs:
- (4) Affata meeta kka bwangil employer ye ekke umuumw aramas faal mille TWA ve e isisiwow sangi allegh kkaal.

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ARONGORONGOL TOULAP

POMWOL ALLÉGH KKAAL BWELLE ISISIWOWUL ALÚGHÚLÚGHÚL BWÁNGIL ANGAANG YE E TEMPORORIYO

Lliwel yeel e akkatéélő bwelle reel alléghúl Administrative Procedure, 1CMC tálil 9101, et seg. Depattamentool Labor ebwe filldóy allégh kkaal bwelle isisiwowul bwangil angaang ve e tempororiyo sángi tingór mereel government agencies me private councel.

Akkatéél bwángil Allégh:

Samwoolul Labor e mweiti ngali akkatéel allegh kkaal ve ghil school angaang ve aramasal lúghúľ sángi allégh 3CMC 4424 Akkatéél bwángil akkaáw allégh: Esóbr.

Reel ammataf faingi:

Kevin A. Lynch, Sów alillisil Sów Bwungúl Allégh Lapalap, Samwoolul Mwiichil Allégh, CNMI Depattamentool Labor, tilifoon (670) 236-0910 me facsimile ngáli (670) 236-0992.

Rádiil ye seigh me ruuwurallil (12th) llól Schoow 2004.

Isaliiyallong:

DR. JOAQUIN A. TENORIO Sanwoolul Labor

ISISIWOWUL ALÚGHÚLÚGH REEL BWÁNGIL ANGAANG YE E TEMPORORIYO

Bwal sóbwólóól akkaaw mwóghut ye e toowow mereel allégh, Samwoolul Labor me ngáre aramas ye e elo bwe sów alillis, emmwel ebwe isisiwow memorandum-ul authorization reel schóól lúghúl ye elo llól Commonwealth nge ekke ghut angaang ye e tempororiyo ye elo faal mwóghut kka faal.

- 1. Sángi titingór mereel tafal federcód enforcement agency, ebwal toolong me ese bwal aighúgh ngáli National Labor Related Board, Equal Employment Opportunity Commission, U.S. Department of Labor me U.S. Department of Justice.
- 2. Sángi tingór mereel tafal Commonwealth enforcement agency fiti me yaal ese aighúgh sangi Depattamentool Public Safety, Bwulasiyool Bwungul Allegh, Division of Immigration, me ngare Bwulasiyool Sow Lemelem.
- 3. Emmwel bwe memorandum ebwe isisiwow reer aramasal lúghúl kka rekke angaang me ghut malaw llol private lawsuit ye ghil ngáli labor claims reel kkatta ye e toowow mereel Sów Bwungúl Allégh ye bwáári schóol angaang bwe party ye ese allégh me bwáári imwal aweewe igha case e pending me case number court action.
- 4. Memorandum yeel ebwe atoolongow aramas ye ekke ghut temporary employment igha e lollo llól Commonwealth. Otol alúghúlúghúl angaang aramas yeel ebwe bwááto reel Depattamentool Labor reel isisiwowul Temporary Work Authorization (TWA). TWA yeel ebwe fisch ótol ye essobw luuló tiweigh (90) ráálil me ebwe fféér sefál llól tiweigh (90) ráálil ngáre schagh tingórol alúghúlúgh e fischeló. Depattamentool Labor emmwel ebwe yaáyá ngáli igha schóól tingór ebwe fil llól tittingórol allégh kka eyoor, allégh me Depattamentool TWA (sibwe ira schéeschéel alúghúlúghúl lofisch, etc.) mmwal alúghúlúghúl tittingór (application) me mille ebwe akkayuuló mwóghútúl aramas kkaal igha rebwe sóbwey yaal lollo llól Commonwealth.
- 5. Ótol ebwe fféér setál TWA ye e isisiwow faal allégh ye agency ekke tittingór me Sów Bwungúl Allégh ebwe alúghúlúghúw ngáli Depattamentool Labor igha welepakk yeel e sobwey yaal lollo llól Commonwealth.
- 6. Tingórol memorandum nge ebwe yoor ischil me ebwe toolong tálil ammataf kka faal:

- a. lit, rállil makkil, tafal aramas me lisensial atotoolong me numorol pasapotti reel sángi tingórol memorandum;
- b. Bwulúl aramas we ekke sóbwey yaal lollo llól Commonwealth;
- c. lit me business address sångi tingor mereel agency me Sow Bwungul Allégh;
- d. Aweweel ótol aramasal lughúl ebwe lootiw llól Commonealth me ótol tittingor igha essóbw welepakk;
- e. Ammataf igha agency me Sow Bwungúl Allégh ebwe yááyá ngáli igha ebwe aronga ngáli Depattamentool Labor me Division of Immigration Services Ilól 7 (fisuuw) raalil mwiril mwoghutul me akkáaw kkapasal aramas ye e lollo Ilol Commonwealth.
- 7. Ammataf ye e isiis ngli Bwulasiyool Labor Ilól sóbwósobw ngáli tingórol memorandum me inaamwo tafal schéél aghiyagh ye e isisilong ebwe aisis fisch faal aweweel mwółómwół (confidential) nge ebwe akkaté ngáli schagh Samwoolul Labor me ngare iyo ye re fili, aramas me ngare agency ye e titingor memorandum me ngáre TWA, assamwoolul law enforcement, e bwał toolong assamwólul CNMI Immigration service me ngáre akkúlewal kkotti.
- 8. Sów umwumwul schóól angaang (employer) ebwe bwughi alongal aghiyagh reel school angaang ye e tempororiyo, afaisul schagh igha ngáre ii mille e ghommwal atarabwaaghow aramas llól weweel full-time nonresident worker sángi mellól Commonealth nge TWA employer essóbw toolong reel akkaméél airline ticket igha ebwe sefaal. Essór mellól allégh kkaal e saleti (exempt) mereel akkaáw requirement kkaal reel alléghúl Non-resident worker me ngáre allégh me alúghúlúghúl Alien Labor.
- 9. Aramas ye re sáleti faal alúghúlúgh kkaal ese toor bwaang ye e mwuschel, bwelle ebwe sóbweey yaal angaang llól Commonwealth me ngáre bwángil ebwe lootiw llól Commonwealth me ngáre transfer-lo reel isisiwowul TWA aa mwutch. Employer ye ekke ghut schóól angaang ye e lo mwo faal TWA, sángi alúghúlúgh yeel emmwel ebwe fééri ngáre schagh e attabeey alongal allégh me alúghúlúgh reel mmwal umwuuwal (initial hiring) non-resident workers kkaal.
- 10. Bwángil Angaang ye e Tempororiyo nge emmwel sángi alúghúlúgh yeel ese siwelilo yaal aramas entry permit me bwal ngáre TWA ebwe feérú bwe " non-resident worker certificate " igha kkapas laal e yáaýá llól Commonwealth Entry me Depotation Act, 3CMC 4301 et seg, me ngáre Non-resident Workers Act, 3CMC 4411 et seq. me ngáre akkaaw allégh me ngáre alúghúlúgh kka aa filló sángi Samwoolul Labor ye e fil ngáli 3CMC 4424 (a) (1).



Commonwealth of the Northern Mariana Islands **Department of Public Health**

Office of the Secretary

PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE SCHEDULE OF FEES DEPARTMENT OF PUBLIC HEALTH

Title 1 CMC Division 2, Chapter 12, and in particular 1 CMC §2603(f) and 2605(j), provides that the Secretary of the Department of Public Health (DPH) shall administer all government owned facilities and shall implement rules and regulations for the efficient delivery of health services in the CNMI.

Pursuant to this authority, the Secretary is amending specific fees from the Schedule of Medical and Other Related Fees which was published in its entirety, and adopted, in the Commonwealth Register Volume 17, Number 2, dated February 15, 1995 and Volume 17, Number 4, dated April 15, 1995, respectively. These amendments are necessary to reflect accurately in the Schedule of Medical and Other Related Fees the types of services that are now being provided by the Department. The amendments are attached herewith and will be incorporated into the DPH Schedule of Medical and Other Related Fees upon adoption.

In adopting these Amendments to the Schedule of Fees, it is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedure Act, specifically 1 CMC §9104. Copies of the proposed Amendments to the Schedule of Fees may be obtained from the Office of the Secretary of Public Health located at the ground floor of the Commonwealth Health Center in Saipan. Comments on the proposed Amendments to the Schedule of Fees may be sent to the Office of the Secretary of Public Health, P.O. Box 409 CK, Saipan, MP 96950. All comments must be received within 30 days from the date this notice is published in the Commonwealth Register.

V TOY DATE Submitted By: JAMES U. HOFSCHNEIDER M.D SECRETARY Department of Public Health Filed and Reco N) DIT 4 DELA CRUZ mc nw thaith Register Received By: HOMAS TEBUTEB Special Assistant for Administration Governor's Office

1.8.04 DATE

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

Dated this 14 day of January 2004.

Panela S. Brown Attorney, General /

COMMONWEAL IH REGISIER

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Commonwealth of the Northern Mariana Islands Department of Public Health

Office of the Secretary

PROPOSED AMENDMENTS TO THE SCHEDULE OF FEES DEPARTMENT OF PUBLIC HEALTH

Citation of Statutory Authority:

Short Statement of Goals & Objectives:

Brief Summary of the Proposed Rule:

Contact Person(s):

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

Date: 1 OS 04

1 CMC §2605 states that "the Department of Public Health ... shall adopt rules and regulations regarding those matters over which it has jurisdiction, including but not limited to regulations deemed necessary to the public health and safety respecting: (j) Hospitals, clinics ..." 1 CMC §2603(f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities.

The Department of Public Health must revise its fee schedule from time to time in order to reflect the actual cost of providing health services, or to add fees for services that become available as a result of new acquisitions or the addition of medical services or personnel in a particular specialty area

To establish fees for services provided at the various health care facilities operated by the Department of Public Health, including the Commonwealth Health Center, the Tinian Health Center, the Rota Health Center, the Division of Public Health, the San Antonio Clinic, and the San Roque Clinic.

Lina Villagomez, Technical Analyst, CHC.

Department of Public Health Fee Schedule, published in Vol. 17, No. 2, pages 12752-12948 (February 15, 1995) and adopted in Volume 17, Number 4 (April 15, 1995) of the Commonwealth Register, and amendments thereto.

Submitted James Ø./Hofschneider, M.D of Public Health Secretán

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Commonwealth I Sankattan Siha Na Islas Marianas



Dipattamenton Hinemlo Publiku

Ofisinan I Sikritarion Hinemlo Publiku

Prinuponi siha na Amendasion di Listan Apas **Dipattamenton Hinemlo Publiku**

I Titulu gi Kodikon Commonwealth (CMC) Dibision 2, Kapitulu 12, yan patilulatmente I 1 CMC §2603(f) van 2605(i), ha pribebeni I Sikritarion Dipattamenton Public Health (DPH), osino Dipattamenton Hinemlo Publiku, na para guiya u atministra todu fasilidata gobetno siha yan u enfuetsa todu areglamento yan regulasion siha para minaolek mana'en setbision hinemlo gi halom I Islas Marianas (CNMI).

Sigun gi este na aturidat, I Sikritario ha amemenda espisifiku siha na presiu ginen I lista put mediku van otro siha apas (Schedule of Medical and Other Related Fees) ni ma publika di entieru-na van ma adapta di Rehistran Commonwealth Volume 17, Numero 2, gi Febreru 15, 1995 yan Volume 17, Numero 4, gi Abrit 15, 1995. Prisisu este siha na amendasion gi listan presiu siha put mediku yan otro siha apas put para u riflekta I dinanche siha na klasin setbisio ni ma pribeni gi dipattamento. I amendasion mandadana sigun este na nutisia ya umana patte gi lista put mediku yan otro siha apas (Schedule of Medical and Other Related Fees) gi dipattamento ni ma adapta.

Gi ma adaptanna este siha na amendasion gi listan presiu siha, ha entensiosiona I Dipattamenton Hinemlo Publiku kumumple I kondesion siha ni manma establesi nu I "Administrative Procedure Act" na akto, espesiatmente I 1 CMC §9104. Kopia siha put I manma prupoponi na amendasion gi Listan Apas siha sina manmachuchule gi Ofisinan I Sikritarion Hinemlo Publiku gi primet bibenda, Commonwealth Health Center. giya Saipan. Dokomento siha put I manma prupoponi na amendasion gi Listan Apas sina manafan hahanao guato gi Ofisinan Sikritarion Hinemlo Publiku, P.O. Box 500409, Saipan MP 96950. Todo dokomento siha debidi u fanma risibi gi halom trenta (30) dias despues di I fecha ni ma publika gi Rehistran Commonwealth.

Mas Settefika nu as:



JAMES U. HOFSCHNEIDER, MD Sikritario Dipattamenton Hinemlo Publiku

Ma Riko nu as:

Ma Risibi as:

BERNADITA DELA CRUZ Cormonwealta Registrat

1.8.04 Fecha:

Fecha: 18/04

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

Fecha:

COMMONWEALTH REGISTEP:

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Prinuponi siha na Amendasion gi Listan Apas Dipattamenton Hinemlo Publiku Page 2

Sigun I 1 CMC §2153 ni ma amenda gi Lai Publiku 10-50, I regulasion ni manadana guine esta ma ina yan ma apreba ni I Ofisinan CNMI Abugado para I fotma-na yan ligat-na.

Ma fecha este I mina

dia gi Eneru (January) 2004.

By:

PAMELA BROWN

Date:

Attested by:

Daisy V abol

Attorney General, CNMI

Date:

1-7-4

1.1

January 22, 2004

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Commonwealth Matawal Wool Faluw Kka Faluwasch Marianas



Depattamentol Public Health

Buulasiyol Samwoolul Public Health

Arongorongal Toulap Pomwol Lliwel Kkaal Reel Otol Obwos Sangi Bwulasiyol Public Health

Title 1 CMC Division 2, Chapter 2, mebwal 1 CMC §2603 me 2605(j), sangi milikkaal nge Samwool mellol Bwulasiyol Public Health (DPH) ebwe mwoghutaaghali alongal yaal government facilities me ebwe ayoora allegh bwe ebwe fil mwoghutughutul health services mellol CNMI.

Sangi bwangil Samwool nge ebwe ffat reel lliwelool otol obwos mereel Medical me akkaaw obwos ikka e arongowow mellol aighughul me adopt-lo llol Commonwealth Register Volume 17, Numoro 2, ral ve Maischigh (February) 15, 1995 me Volume 17, Numoro 4, raalil ve Seeta (April) 15, 1995, ikkaal talil. Lliwel kkaal nge e welepakk bwe ebwe ffat reel otol Medical me akkaaw tappal obwos reel services kka depattamento ye e ayoora. Lliwel kkaal nge e appasch ngali nge ebwe isisilong llol otol (DPH) Medical me akkaaw obwos ngare re adoptaay.

Reel rebwe adoptaay Iliwel kkaal sangi otol obwos, mangemangil Bwulasiyol Public Health nge ebwe tabwey lamal Administrative Procedure Act, scheescheel 1 CMC §9104. Copia kkaal reel pomwol lliwel me otol obwos ane emmwell rebwe bweibwogh me Bwulasivol Public Health ve elo ground floor me Commonwealth Health Center wool Seipel. Ngare eyoor yoomw ayegh reel pomwol lliwel kkaal sangi otol obwos, nge ebwe akkafangelo reel Bwulasiyol Samwool mereel Public Health, P.O. Box 500409, Seipel MP 96950. Ayegh kkaal nge ebwe atootolong llol eligh (30) ral sangi raalil ye e arongowow mellol Commonwealth Register.

Isaliivalona:

JAMES U. HOFSCHNEIDER. MD Samwoolul Bwulasiyol Public Health

Aisis Sangi:

BERNADITA DELA CRU

Commonwealth Registrar

Mwiir Sangi:

THOMAS A/ TEBUTEB Special Assistant for Administration Office of the Governor

Ral:

18704

: 1-13.04 1/15/04

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Arongorongal Toulap Pomwol Lliwel Kkaal Reel Otol Obwos Sangi Bwulasiyol Public Health Page 2

Sangi aileewal 1 CMC §2153 iye a lliwel mereel Public Law 10-50, allegh kkaal nge ra amwuri me alleghuyal CNMI Sow Bungul Allegh.

Sangi raalil ye Schoow (January) 2004.

Sangi:

PAMELA BROWN Sow Bungul Allegh

Allegfisch Sangi:

1

Daisy VK Wabol

Ral:

Ral:

1-7-L

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| | | A | mended |
|---|--------------------|------------|--------|
| DESCRIPTION | CPT CODE | | Fees |
| | | • | |
| Proposed Amendment to the Evaluation and | | | |
| Management Fee Schedule | | | |
| Office or Other Outpatient Services-New Patient | | | |
| Office or other outpatient visit-new | 99201 | | 33_ |
| Office or other outpatient visit-new | 99202 | \$ | 66 |
| Office or other outpatient visit-new | 9 9 203 | \$ | 101 |
| Office or other outpatient visit-new | 99204 | \$ | 150 |
| Office or other outpatient visit-new | 99205 | \$ | 199 |
| Office or Other Outpatient Services-Established Pat | lient | | |
| Office/outpatient visit-established | 99211 | \$ | 22 |
| Office/outpatient visit-established | 99212 | \$ | 33 |
| Office/outpatient visit-established | 99213 | \$ | 50 |
| Office/outpatient visit-established | 99214 | \$ | 82 |
| Office/outpatient visit-established | 99215 | | 132 |
| Hospital Observation Services | | • | |
| Observation care discharge | 99217 | \$ | 94 |
| Initial observation care, per day | 99218 | | 94 |
| Initial observation care, per day | 99219 | | 157 |
| Initial observation care, per day | 99220 | • | 220 |
| Hospital Inpatient Services | 00220 | Ŧ | |
| Initial hospital care, per day | 99221 | \$ | 95 |
| Initial hospital care, per day | 99222 | - | 158 |
| Initial hospital care, per day | 99223 | | 220 |
| Subsequent hospital care, per day | 99231 | - | 47 |
| Subsequent hospital care, per day | 99232 | • | 79 |
| Subsequent hospital care, per day | 99233 | | 111 |
| Observation or Inpatient Care Services | 55200 | Ψ | |
| Observation or inpatient hospital care | 99234 | \$ | 189 |
| Observation or inpatient hospital care | 99235 | - | 250 |
| | 99235 | • | 313 |
| Observation or inpatient hospital care | 99230 | Φ | 313 |
| Hospital Discharge Services | 1 00000 | ŕ ~ | 404 |
| Hospital discharge day, 30 minutes or less | 99238 99239 | \$~ r | 101 |
| Hospital discharge day, more than 30 minutes | 99239 | \$ | 136 |
| Office or Other Outpatient Consultations | 00044 | ¢ | 40 |
| Office consultations, new or established patients | 99241 | \$ | 48 |
| Office consultations, new or established patients | 99242 | \$ | 98 |
| Office consultations, new or established patients | 99243 | | 131 |
| Office consultations, new or established patients | 99244 | \$ | 194 |
| Office consultations, new or established patients | 99245 | \$ | 257 |
| Initial Inpatient Consultations | | | |
| Initial inpatient consultations, new or established | 99251 | \$ | 50 |
| Initial inpatient consultations, new or established | 99252 | \$ | 101 |
| Initial inpatient consultations, new or established | 99253 | \$ | 139 |
| Initial inpatient consultations, new or established | 99254 | \$ | 200 |
| Initial inpatient consultations, new or established | 99255 | \$ | 275 |
| | | | |

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| | | Amended |
|---|----------|----------|
| DESCRIPTION | CPT CODE | Fees |
| | | |
| Follow-up Inpatient Consultations | | |
| Follow-up inpatient consultations, established | 99261 | \$32 |
| Follow-up inpatient consultations, established | 99262 | \$63 |
| Follow-up inpatient consultations, established | 99263 | \$94 |
| Confirmatory Consultation | - | |
| Confirmatory Consultation, new or established | 99271 | \$35 |
| Confirmatory Consultation, new or established | 99272 | \$65 |
| Confirmatory Consultation, new or established | 99273 | \$ 91 |
| Confirmatory Consultation, new or established | 99274 | \$ 131 |
| Confirmatory Consultation, new or established | 99275 | \$ 173 |
| Emergency Department Services | | |
| Emergency department visit | 99281 | \$ 35 |
| Emergency department visit | 99282 | \$ 45 |
| Emergency department visit | 99283 | \$86 |
| Emergency department visit | 99284 | \$ 135 |
| Emergency department visit | 99285 | \$ 210 |
| Pediatric Critical Care Patient Transport | | |
| Critical care services by physician, inter facility trans | 99289 | \$ 363 |
| Critical care services by physician, inter facility trans | 99290 | \$ 182 |
| Critical Care Services | | |
| Critical care, first 30-74 minutes | 99291 | \$ 289 |
| Critical care, each additional 30 minutes | 99292 | \$ 144 |
| Pediatric Critical Care | | |
| Initial pediatric critical care | 99293 | \$ 1,157 |
| Subsequent pediatrica critical care | 99294 | \$ 574 |
| Neonatal Critical Care | | |
| Initial neonatal critical care | 99295 | \$ 1,306 |
| Subsequent neonatal critical care | 99296 | \$ 576 |
| Intensive(non-critical) Low Birth Weight Services | | |
| Subsequent intensive care, per day | 99298 | \$ 203 |
| Subsequent intensive care, per day | 99299 | \$ 191 |
| Domiciliary, Rest Home, or Custodial Care Services | | |
| Domciliary or rest home visits, new patient | 99321 | \$64 |
| Domciliary or rest home visits, new patient | 99322 | \$94 |
| Domciliary or rest home visits, new patient | 99323 | \$ 122 |
| Domiciliary or rest home visits, established | 99331 | \$59 |
| Domiciliary or rest home visits, established | 99332 | \$77 |
| Domiciliary or rest home visits, established | 99333 | |
| Home Services | | |
| Home visit, new patient | 99341 | \$ 86 |
| Home visit, new patient | 99342 | · |
| Home visit, new patient | | \$ 186 |
| Home visit, new patient | | \$ 251 |
| Home visit, new patient | | \$ 307 |
| Home visit, established patient | 99347 | - |
| | 00011 | |

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| | | Ar | nended |
|--|----------------|-----------|------------|
| DESCRIPTION | CPT CODE | | Fees |
| | | | |
| Home visit, established patient | 99348 | \$ | 109 |
| Home visit, established patient | 99349 | \$ | 168 |
| Home visit, established patient | 99350 | \$ | 244 |
| Prolonged Services-Direct Face to Face | | | |
| Prolonged services, office, first hour | 99354 | \$ | 130 |
| Prolonged services, office, each addition 30 minutes | 99355 | • | 129 |
| Prolonged services, inpatient, first hour | 99356 | | 126 |
| Prolonged services, inpatient, each additional 30 min | 99357 | <u>\$</u> | 127 |
| Prolonged Services-W/out Direct Face to Face | | | |
| Prolonged services, w/out contact, first hour | 99358 | \$ | 229 |
| Prionged services, w/out contact, each add 30 min | 99359 | \$ | 114 |
| Physician Standby Services | | | |
| Phsyician standby services | 99360 | \$ | 156 |
| Case Management Services | | | |
| Team Conference, approximately 30 minutes | 99361 | \$ | 131 |
| Team Conference, approximately 60 minutes | 99362 | \$ | 229 |
| Telephone Calls, simple or brief | 99371 | \$ | 21 |
| Telephone Calls, intermediate | 99372 | | 52 |
| Telephone Calls, complex or lengthy | 99373 | \$ | 104 |
| Care Plan Oversight Services | | • | |
| Home health care supervision, 15-29 minutes | 99374 | \$ | 84 |
| Home health care supervision, 30 minutes or more | 99375 | \$ | 184 |
| Hospice care supervision, 15-29 minutes | 99377 | \$ | 84 |
| Hospice care supervision, 30 minutes or more | 99378 | \$ | 207 |
| Nursing fac care supervision, 15-29 minutes | 99379 | \$ | 83 |
| Nursing fac care supervision, 30 minutes or more | 99380 | \$ | 131 |
| Preventive Medicine Services | 00004 | ሱ | 00 |
| Preventive visit, new, infant | 99381 | \$ | 90 |
| Preventive visit, new, age 1-4 | 99382 99383 | \$ ¢ | 103 |
| Preventive visit, new, age 5-11 Preventive visit, new, age 12-17 | - | \$ | 103 |
| Preventive visit, new, age 12-17 Preventive visit, new, age 18-39 | | \$ \$ | 116 116 |
| Preventive visit, new, age 40-64 | | φ \$ | 142 |
| Preventive visit, new, age 65 & over | | φ \$ | |
| - | | | 156 |
| Preventive visit, est, infant Preventive visit, est, age 1-4 | | \$ | 77 |
| | | \$ | 90 |
| Preventive visit, est, age 5-11 | | \$ | 90 |
| Preventive visit, est, age 12-17 | | \$ | 103 |
| Preventive visit, est, age 18-39 | | \$ • | 103 |
| Preventive visit, est, age 40-64 | | \$ ¢ | 116 |
| Preventive visit, est, age 65 & over | 99397 | Þ | 130 |
| Counseling and/or Risk Factor Reduction Intervention | | ¢ | 00 |
| Preventive counseling, individual, approx 15 minutes | | \$ | 36 |
| Preventive counseling, individual, approx 30 minutes | | \$ | 74 |
| Preventive counseling, individual, approx 45 minutes | 99403 | Φ | 110 |
| | | | |

| DESCRIPTION | CPT CODE | | ended ^F ees |
|---|--------------------|------------|---------------------------|
| Preventive counseling, individual, approx 60 minutes | 99404 | \$ | 147 |
| Preventive counseling, group, approx 30 minutes | 99411 | | 12 |
| Preventive counseling, group, approx 50 minutes Preventive counseling, group, approx 60 minutes | 99412 | • | 19 |
| New Born Care | 33412 | Ψ | 19 |
| | 99431 | \$ | 85 |
| Initial care, normal newborn , hospital | 99432 | • | 92 |
| Newborn care, not in hospital | 99432 99433 | • | 92 45 |
| Subsequent care, normal newborn, hospital | - 99435 - 99435 | | 45 110 |
| Newborn care, assessed & discharged same day | 99435 99436 | | 108 |
| Attendance, birth | 99430 99440 | | 212 |
| Newborn resuscitation | 99440 | Φ | 212 |
| Medical Nutrition Therapy | 97802 | ¢ | 28 |
| Medical nutrition therapy, initial, each 15 minutes | 97802 | | 28 28 |
| Medical nutrition therapy, re-assess, each 15 minutes | 97803 97804 | | 20 11 |
| Medical nutrition therapy, group, each 30 minutes | G0270 | | |
| Medical nutrition therapy, re-assess, each 15 minutes | | | 28 11 |
| Medical nutrition therapy, group, each 30 minutes | G0271 | Φ | 11 |
| Other Related Services | | * • | ~ ~ ~ |
| Forensic Services, per hour | 1 1 | \$ 20 | 00.00 |
| Daily occupancy rate at the Transitional Living Center ¹ ¹ (This amount does not include medication costs, clothing, per | rsonal | \$ 10 | 00.00 |
| care items, recreational costs, and other items for which the | | | |
| patient remains separately responsible.) | | | |
| DELETED FROM CHC FEE SCHEDULE | | | |
| (These services are not available through CHC Prov | iders) | | |
| Eye Examination | 92002 | | |
| Eye Examination | 92004 | | |
| Eye Examination | 92012 | | |
| Eye Examination | 92014 | | |
| Eye Examination | 92018 | | |
| Special Eye Evaluation | 92020 | | |
| Special Eye Evaluation | 92060 | | |
| Special Eye Evaluation | 92081 | | |
| Visual Field Exam | 92082 | | |
| Visual Field Exam | 92083 | | |
| Serial Tonometry Exam | 92100 | | |
| Galucoma Provocative Test | 92140 | | |
| Eye Exam with photos | 92230 | | |
| Eye Exam with photos | 92235 | | |
| Eye Exam with photos | 92250 | | |
| Color Vision Examination | 92283 | | |
| Eye Photography | 92285 | | |
| Internal Eye Photography | 92286 | | |
| | 92311 | | |
| Contact Lens Fitting | 32J | | |

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| DESCRIPTION | CPT CODE | Amended Fees |
|-------------------------------|----------|-----------------|
| Continuation of Deleted Fees: | | |
| Contact Lens Fitting | 92313 | |
| Prescription of Contact Lens | 92315 | |
| Prescription of Contact Lens | 92317 | |
| Prescription of Contact Lens | 92325 | |
| Prescription of Contact Lens | 92326 | |
| Remove Eyelid Lesion | 67800 | |
| Revise Eyelashes | 67820 | |
| Revise Eyelashes | 67825 | |
| Treat Eyelid Lesion | 67850 | |

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PUBLIC NOTICE

PROPOSED AMENDMENTS TO PUBLIC SCHOOL SYSTEM REGULATIONS FOR CERTIFIED AND NON-CERTIFIED PERSONNEL REGARDING ANNUAL AND SICK LEAVE, TEACHER CERTIFICATION AND EMPLOYEE INTERNET USAGE

The Board of Education for the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its intention to amend current regulations and adopt new regulations regarding the above items. Once finally promulgated, these regulations will replace Public School System (PSS) Regulations for Non-Certified Personnel Sections 6302 and 6303 and PSS Regulations for Certified Personnel Sections 7302, 7303 and Chapter 2, Sections 2101 - 2513. These regulations are attached and are promulgated pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10.

All interested persons may examine the proposed regulations and submit written comments, positions, or statements for or against the proposed amendments to the Chairman, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 or by facsimile to 664-3711 within thirty (30) calendar days following the date of the publication of this Notice in the Commonwealth Register.



day of January 2004, at Saipan, Northern Mariana Islands.

BOARD OF EDUCATION Man V. Kueren By: **HERMAN T. GUERRERO Board of Education Chairperson**

Pursuant to 1 CMC Section 2153, as amended by Public Law 10-50, the proposed Board of Education regulations, copies of which are attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

PAMELA BROWN CNMI Attorney General

Filed By: BERNADITA B. DELA CRUZ

Received By

THOMAS TEBUTEB Special Assistant for Administration COMMONWEALTH REGISTER VOLUME 26 NUMBER 01

Registrar of Corporation

Date:

Date:

1.13.04

Date: 1/13/04

January 22, 2004

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PROPOSED AMENDMENT TO PUBLIC SCHOOL SYSTEM REGULATIONS FOR CERTIFIED AND NON-CERTIFIED PERSONNEL REGARDING ANNUAL AND SICK LEAVE, TEACHER CERTIFICATION AND EMPLOYEE INTERNET USAGE

Statutory Authority: The proposed regulations are promulgated pursuant to the Board of Education's (Board) authority as provided by Article XV of the CNMI Constitution and Public Law 6-10.

Goals and Objectives: The Board is amending the Public School System regulations regarding teacher certification and employee leave to ensure that teachers meet high standards of education and that employees are available during instructional days so that students receive quality educational services from PSS. These amendments are significant and are intended to replace the former regulations regarding the above items. The internet usage regulation is a new regulation intended to ensure that employees are aware of the conditions of internet use at PSS.

Brief Summary of Proposed Regulation: The proposed regulations set forth the requirements for qualified applicants to obtain certification in their specific fields, the hours of sick and annual leave for employees and the conditions for employee internet use.

Citation of Related and/or Affected Board Regulations: Public School System (PSS) Regulations for Non-Certified Personnel Sections 6302 and 6303 and PSS Regulations for Certified Personnel Sections 7302, 7303 and Chapter 2, Sections 2101 - 2513.

Contact Person: All interested persons may examine the proposed regulations and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950, call 664-3727 or fax 664-3711 within thirty (30) calendar days following the date of the publication in the Commonwealth Register of this proposed regulation.

Dated this

day of January 2004, at Saipan, Northern Mariana Islands.

BOARD OF EDUCATION Mulan By:

HERMAN T. GUERRERO Board of Education Chairperson

Notisian Pupbliku

Ma Proponi na Amendasión Siha Para I Regulasión Siha Gi Sisteman i Eskuelan Pupbliku (P.S.S.) Ni Tineteka i Annual yan Sick Leave, Setifikasión Maestra yan i Inisan Internet ni Empleao Siha.

I Kuetpon i Edukasión para i Commonwealth I Sankattan Siha Na Islas Mariåna este na momento a notitisia i pupbliku heneråt put i intensión para u amenda i prisente na regulasión siha yan u adopta nuebu na regulasión siha ni tineteka i ma mentiona gi san hilo'. An esta putfen ma establisi , este na regulasión siha siempre a kuentåyi i Regulasión siha gi Sisteman Eskuelan Pupbliku para i Non-Certified Personnel Seksiona 6302 yan 6303 yan Regulasión Sisteman Eskuelan Pupbliku siha para i Certified Personnel Seksiona 7302, 7303 yan Kapitulu 2, Seksiona 2101 - 2513. Este na Regulasión siha man checheton yan man ma establisi sigun para i Aturidåt ni ma probeniyi ginen i Atikulu XV gi CNMI Constitution yan i Lai Pupbliku 6-10.

Todu i man enteresao na petsona sina ma eksamina i man ma proponi na regulasión siha ya u fan submiti opinion tinige', pusisión, pat deklarasión para i kumokontra i man ma proponi na amendasión siha para i kabiseyo, gi Kuetpon i Edukasión, P.O.Box 1370 C.K., Saipan, M.P. 96950 pat ginen facsimile guatto gi 664-3711 gi hålom trenta (30) dihas gi Kalendario tinatitiye' i fecha anai ma pupblisa este na Notisia gi Rehistran i Commonwealth.

Kuetpon i Edukasión Ginen as: Herman T. Guerrero

Kuetpon i Edukasión, Kabiseyo

Sigun i lai 1 CMC Sek. 2153, ni inamenda ginen i Lai Pupbliku 10-50, i ma proponi na regulasión gi kuetpon i Edukasión, i kopia siha ni man checheton, man ma ribisa yan aprueba pot para u fotma sufisiente ligắt ginen i Ofisinan i Abugådo Heneråt.

Fecha:

Pamela Brown Abugådo Heneråt gi CNMI

COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE 021672

ela Prip Pinelo' as: Bernie Dela Cru chistran i Koporasion Ma Resibi as: Thomas /Tebuteb Espesiåt Na Ayudánte Para i Atministrasión

Fecha: 1-13.04

Fecha: 1/13/04

January 22, 2004 PAGE 021673COMMONWEALTH REGISTER VOLUME 26 NUMBER 01

ARONGORONGOL TOULAP

POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL IMWAL RÁGHEFISCH REEL CERTIFIED ME NON- CERTIFIED PERSONNEL BWELLE ANNUAL ME SICK LEAVE, YAAR CERTIFICATION SOW AFALAFAL ME SCHOOL ANGAANG INTERNET USAGE

Mwischiil imwal rághefisch mellól Commonwealth matawal wódl falúwasch Marianas ekke arongaar toulap igha e mengi bwe ebwe lliwel alléghúl ighila me fillódy allégh ye e ffé bwelle reel kapasal ye weiláng. Ngáre schagh e akkatééló allégh kkaal ye ebwe alusu alléghúl imwal rághefisch (AIR) reel non- Certified tálil Personnel kkaal 6302 me 6303 me alléghúl AIR reel Certified Personnel tálil kkaal 7302, 7303 me Chapter 2, tálil 2101- 2515. Allégh kkaal ye e appasch me akkatééwow sángi bwángil ye mwir sángi Article XV Ilól alléghúl CNMI me alléghúl toulap 6-10.

Aghiyágh reel Pomwol Iliwel nge emmwel rebwe amweri me rebwe ischilong ngáre eyoor aingiing reel pomwol Iliwel kaal ngáli Chairman. Board of Education, P. O. Box 1370 CK, Seipél, MP 96950, me ngáre facsimile ngáli 664-3711 Ilól eliigh (30) raalil sángi ráálil yaal arongowow ammataf yeel mellól Commonwealth Register.

| 8th | llól Schoow 2004, Seipél, Falúwasch Marianas. |
|-----|---|
| | BOARD OF EDUCATION |
| | Sángi : Herman J. Huerren HERMAN T. GUERRERO Board of Education Chairperson |

Ráálil ye

Sángi allégh ye 1 CMC Tálil 2153, ye aa lliwel mereel Alléghúl Toulap 10-50, pomwol allégh kkaal mereel mwischil imwal rághafisch, tilighi kka e appasch, nge raa takkal amweri me allégheló mereel Bwulasiyool Sów Bwungúl Allégh Lapalap.

Rál

PAMELA BROWN CNMI Sów Bwungúl Allégh

Rál_ 1.13.04 Aisis sángi : BERNIE DELA Registrar of Corporation Mwir sángi THOMAS/TEBUTEB Sów alillisil Sów Lemelem

1/17/04 Ral

Translated by : Manny N. Kaniki CCLPC Language Policy Commission

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL CHAPTER 2 - CERTIFICATION

(a) Purpose

The Board of Education (BOE) and Public School System (PSS) recognizes that the delivery of high-quality and equitable educational services to all students in the Public School System, is necessary, therefore, it is imperative to recruit, hire, and retain highly trained and fully certified professional employees. To ensure that its professional employees are well prepared to provide the opportunity to the students to develop into happy, self-respecting, understanding and contributing members of the society, BOE requires that all professional employee meet the certification requirements as set forth in the regulations. This certification is designed to promote excellence and maintain a high standard of professionalism of all full-time professional employees within the school system.

(b) **Definitions**

÷.

- "School" means any public educational institution, Head Start, kindergarten to grade twelve (12) that functions as part of the Commonwealth of the Northern Mariana Islands (CNMI) Public School System in providing educational services as established by the CNMI State Board of Education.
- 2. "Librarian" means any person who is employed by the Public School System and has the primary responsibility to operate the school library services to one or more students, but excludes library aides
- 3. "Teacher" means any person who is employed by the Public School System and has the primary responsibility for the education, instruction or provide related services for one or more students. This definition specifically includes regular classroom teachers, vocational education teachers, special education teachers, related services providers, but excludes specialized instructors, volunteer assistants, guest lecturers, teacher aides, teaching assistants and student teachers as defined herein.
- 4. "Guest Lecturer" means any person who delivers lectures/presentations to students with or without compensation, but who does so in the presence of the assigned teacher for that class of students.
- 5. "Student Teacher" means any person who is engaged in a course of study at a college or university in the field of education and as a part of that

course of study, teaches a class of students under the supervision of a certified teacher.

- 6. "Teacher Aide/Teacher Assistant" means any person who is employed by the Public School System to assist the teacher and shares the responsibility for the care of the students' education under the direct supervision of a teacher, librarian or administrator.
- 7. "Volunteer Assistant" means any person who does not have an employment contract with the Public School System and without compensation assists the teacher and shares the responsibility for the care of the students' education under the direct supervision of a teacher, librarian or administrator.
- 8. "Instructor" means any person who is employed by the Public School System and who does not have a bachelor's degree but has specialized training/experience in a particular field or has met the minimum requirements established by PSS. This individual has the primary responsibility for the education or instruction of one or more students in a specialized area such as the bilingual program, the vocational education program or the Head Start program.
- 9. "Special Education Related Services Provider" means any person who is employed by the Public School System in a position from the following specialized areas: Deaf Education, Assistive Technology, Blind Education, Physical Therapy, Occupational Therapy, Educational Psychology, Audiology, Social Work, Recreational Therapy, Speech /Language Pathology, and any other area needed to comply with the Individual with Disabilities Education Act (IDEA).
- 10. "School Counselor" means any person who is employed by the Public School System and provides guidance and counseling and/or any other related services for one or more students.
- 11. "School Administrator" means school principal or school vice principal employed by the Public School System and has the primary responsibility as an administrator and educational leader, ensuring equitable educational services to all students by implementing policies, procedures, and regulations as set forth by the Board of Education.
- 12. "Non-Education Degree" means any B.A., B.S., Master, or Doctoral Degree that is in any field area other than Education.
- 13. "States" means the 50 states of the United States, Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Territory of U S Virgin Islands: Territory of Guam: Territory of American Samoa; and COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE

Freely Associated States (Federated States of Micronesia; Republic of the Marshall Islands; Republic of Palau).

14. "Equivalent Courses" means courses, workshops, Institutes or Seminars that meet the requirement minimum of 45 contact hours sanctioned by PSS Staff Development/Human Resources Office.

(c) Effect on Employment Contract

- 1. Possession of Valid Certificate: The failure of any instructor, teacher, librarian, school counselor, or school administrator to qualify to hold a valid certificate or to continue to qualify to hold a certificate during that person's contract term shall immediately render the contract of employment null and void.
- 2. Tenure Not Created by Certification: The granting of the Provisional, Specialized, Basic, Standard Certificate of Endorsement, or Professional Certificate does not entitle any employee to tenure, nor does it imply, promise, or suggest continued employment with the CNMI Public School System.

(d) Certification shall be aligned with PSS classification and salary schedules as follows:

- 1. Employees with Provisional Certificate shall be classified as Instructor I, Classroom Teacher I, School Librarian I, School Guidance Counselor I, School Vice Principal I and II, or School Principal I to III.
- 2. Employees with Specialized Certificate shall be classified as Instructor II.
- 3. Employees with Basic Certificate shall be classified as Classroom Teacher II, School Librarian II, or School Guidance Counselor II.
- 4. Employees with Standard Certificate shall be classified as Classroom Teacher III, School Librarian III, or School Guidance Counselor III.
- 5. Employees with Professional Certificate shall be classified as Classroom Teacher IV, School Librarian IV, School Guidance Counselor IV, School Vice Principal II, School Principal I, II, or III.

(e) Eligibility for all five certifications:

1. Criminal History: The applicant must be free from any felony conviction or any crime involving moral turpitude, or indicating an unfitness to teach whether a felony or a misdemeanor. A "felony" shall mean any criminal offense punishable by one or more years of imprisonment. A "misdemeanor" shall mean any criminal offense punishable by less than one year of imprisonment.

- 2. No Disciplinary Sanctions: The applicant must not have had a suspension or revocation of his/ her certificate or license by any other state or national agency.
- 3. No Physical or Mental Disability Preventing Service: The Applicant must not possess a physical or mental disability that would prevent the applicant from safely and effectively performing job-related functions or that poses a significant risk of substantial harm to the health or safety of students, coworkers, or others and such risk that cannot be eliminated or reduced by reasonable accommodation.

(f) Types of Certification and Requirements

The Commonwealth shall have five general levels of certification for professionals in the field of education: Provisional, Specialized, Basic, Standard, and Professional.

1. **Provisional Certificate** is a two-year certificate for teachers, librarians, school counselors, related service providers, instructors, and school administrators.

A. Eligibility Requirements:

- The Provisional Certificate requires that teachers, school librarians, school counselors, school administrators and other professional applicants to possess either a baccalaureate, masters, or doctoral degree resulting from a course of instruction of at least three and one-half years length at a U.S. accredited or state approved college or university or the equivalent as determined by PSS. Provisional Certificate for Instructor applicants in specialized areas must meet the minimum requirements as set forth in the PSS classification guidelines.
- ii. Submittal of documentation requirements prior to effective date of employment. Requirements include:
 - a. Complete and signed application form,
 - b. Two passport size photos,
 - c. Official college transcripts,
 - d. Teaching certificate (if any),
 - e. Receipt of payment from PSS Treasurer for certification processing fee, and
 - f. FBI fingerprint submission.

B. Education: Certification Course Requirements

Prior to the two-year expiration date of the Provisional Certificate, the applicant must provide an official transcript or certificate of completion of the Basic Certificate courses or applicable certification courses.

- C. Term: The Provisional Certificate is invalid after its expiration date and shall not be reissued. Requirements must be satisfied to upgrade to the next certification level.
- 2. Specialized Certificate: A Specialized Certificate is a two-year certificate specifically for instructors who do not have a bachelors degree but have specialized training/experience in a particular field or has met the minimum requirements established by PSS.

A. Eligibility Requirements:

Possess a Provisional Certificate.

- i.. All instructors must submit a completed and signed application form in the CNMI under the penalty of jury for a Specialized Certificate within the first quarter of employment.
- ii. Submit receipt of payment from PSS Treasurer for certification processing fee within the first quarter of employment.

B. Education: Certification Course Requirements

Prior to the two-year expiration date of the Provisional Certificate, the applicant must provide an official transcript or certificate of completion of specific specialized courses. Education courses for the Specialized Certificate are as follows:

- i. Specialized Certification in Bilingual Program: Instructors assigned to teach in a Bilingual program must complete the following courses or equivalent:
 - a. Computer Technology
 - b. Instruction in Teaching Linguistically Diverse Students
 - c. Instruction in Chamorro/Carolinian Language Arts

- d. Instruction in Planning and Assessment for Diverse Classroom
- e. Instruction for Students with Disabilities
- f. Instruction in Lesson Planning and Classroom Management
- g. Chamorro or Carolinian Orthography
- ii. Specialized Certificate in Early Childhood (Head Start): Instructors teaching in the Head start program must complete the following courses or equivalent:
 - a. Computer Technology
 - b. Curriculum in Early Childhood Education
 - c. Education for Parenthood
 - d. Guiding and Nurturing
 - e. Safety and First Aid for Young Children
 - f. Administration in Early Childhood Education
 - g. Introduction to Exceptional Individuals
- iii. Specialized Certificate in Vocational Education: Instructors for Vocational Education classes must complete the following courses or equivalent:
 - a. Computer Technology
 - b. Instructional Strategies and Classroom Management
 - c. Instructional in Teaching Linguistically Diverse Students
 - d. Instruction in Planning and Assessment
 - e. Occupational Competency as approved by PSS
- C. Term: Instructors may renew the Specialized Certificate an unlimited number of times repeating the eligibility requirements every two years with proof of completion of 60 hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
- 3. Basic Certificate is a three-year certificate for teachers, librarians, school counselors, and related service providers. Basic Certificate will be issued upon submission of completed requirements. If the applicant has met all the requirements for both the Basic Certificate and Standard Certificate with Endorsement, then the Standard Certificate will be issued.

A. Eligibility Requirements:

i. Applicant must possess a Provisional Certificate.

- ii. The applicant must submit a recommendation from his/her principal or supervisor, which shall be based on the performance evaluation of the employee. Should the employee's performance evaluation meet a rating of satisfactory or above, he/she shall be issued a letter of recommendation for the Basic Teaching Certificate.
- iii. The applicant must submit a copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education Certification.

B. Education: Certification Course Requirements

- i. Any teacher or librarian applying for the Basic Certificate must have satisfactorily completed and submitted an official transcript of the following course requirements or any identified equivalent courses as accepted by PSS, prior to the expiration date of the Provisional Certificate and before issuance of the Basic Certificate.
 - a. Multicultural Education/Teaching Linguistically Diverse Students
 - b. Teaching Reading
 - c. Inclusive Practice for Students with Learning Disability
 - d. Instructional Strategies/Classroom Management
 - e. Internship or Mentoring Program
 - f. Computer Technology
- ii. Any school counselor applying for the Basic Certificate must have satisfactorily completed and submitted an official transcript of the following course requirements or identified equivalent as accepted by PSS, before the expiration date of the Provisional Certificate and before the issuance of the Basic Certificate.
 - a. Computer Technology
 - b. Test and Measurement
 - c. Introduction to Counseling
 - d. Issues and Philosophies of Culturally Diverse Schools
 - e. Multicultural Counseling
 - f. Counseling Process: Theory
 - g. Counseling Process: Practice
- C. Term: The Basic Certificate shall be issued and valid for a period of three (3) years. The Basic Certificate is invalid after its expiration date and shall not be reissued.

4. Standard Certificate with Endorsement is a five-year certificate for teachers, librarians, school counselors, and related service providers.

A. Eligibility Requirements:

- i. The applicant must possess a Provisional Certificate and has met the requirements of the Basic Certificate.
- Three recommendations including performance evaluations: one (1) from an immediate supervisor or school principal, one (1) from a colleague, and one (1) from a parent, or former student describing the candidate's proficiency, skills, and competency. The performance evaluations must be based on cumulative performance over a contract term.
- iii. A signed application form in the CNMI under the penalty of perjury.
- iv. An official transcript showing satisfactory completion of the required courses or equivalent or a certificate of completion.
- A copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education.

B. Education: Certification Course Requirements

- i. Standard Certificate with Elementary Education Endorsement: Teacher teaching in elementary schools must complete the following courses or equivalent.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. Reading Diagnostic
 - d. Tests and Measurements
 - e. Language Arts Method
 - f. Math Methods
 - g. Science Methods
 - h. Social Studies Methods
 - i. Curriculum in Early Childhood Education
- ii. Standard Certificate with Special Education Endorsement: Special Education teachers teaching in the Special

Education Program must complete the following courses or equivalent.

- a. Instructional Technology
- b. NMI History/Pacific Institute (NMI)
- c. Reading Diagnostic
- d. Tests and Measurements
- e. Student Evaluation for Special Education
- f. Behavioral Modification in the Classroom
- g. Modification and Adaptation of Curriculum for Special Education Students
- h. Medical Implication of Special Education Students in the Classroom
- i. Current Issues in Special Education
- ii. Standard Certification with Early Childhood Special Education Endorsement: Teachers providing education services to students in the Early Childhood Intervention Program must complete the following courses or equivalent.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. Reading Diagnostic
 - d Tests and Measurements
 - e. Philosophical, Historical and Legal foundations of Early
 - f. Intervention and Special Education.
 - g. Health, Safety and Medical Aspects of children with special needs.
 - h. Fundamentals Child Growth and Development
 - i. Partnerships and Families
 - j. Evaluation & Assessment
 - k. Program Implementation in Natural Environments.
- Standard Certificate with Early Childhood Education (Head Start) Endorsement: Teachers providing educational services to students in the Head Start Program must complete the following courses or equivalent.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. Reading Diagnostic
 - d. Curriculum in Early Childhood Education
 - e. Guiding and Nurturing Young Children
 - f. Education for Parenthood

- g. Safety, Health and First Aid for Young Children
- h. Administration in Early Childhood Education
- i. Introduction to Exceptional Individual
- iv. Standard Certificate with Secondary Education Endorsement: Teacher teaching in the junior and senior high schools must complete the following courses or equivalent.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. Reading Diagnostic
 - d. Tests and Measurement
 - e. Methods in Content Area
 - f. 3 Courses in the Content Area (9 credits)
- v. Standard Certificate with Library Science Endorsement: Librarians providing library services in elementary or secondary schools must complete the following courses or equivalent.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. School Library Administration
 - d. Selection, Evaluation and Access of School Lib Material
 - e. Children Literature or Young Adult Literature
 - f. School Library Material and the Curriculum
 - g. Technology and the School Library
- vi. 1. Standard Certificate with Bilingual Education Endorsement: Teachers teaching bilingual program in the elementary or secondary schools must complete the following courses or equivalent.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. Reading Diagnostic
 - d. Evaluation and Assessment in Bilingual
 - e. Historical and Philosophical Foundation of Bilingual
 - f. First and Second Language Acquisition
 - g. Chamorro or Carolinian Orthography

2. Any teacher who has obtained or completed the course requirements of the Specialized Certificate in Bilingual would only need to take the following courses:

- a. Instructional Technology
- b. NMI History/Pacific Institute (NMI)
- c. Reading Diagnostic
- vii. Standard Certificate for Special Education Related Service Provider Endorsement: Related services providers must obtain professional licensure and/or certification within the area of discipline or service and fulfill continuing education credits to maintain and renew their respective licenses. A copy of the professional licensure must be submitted to the Human Resources Office. The provider must complete the following courses or equivalent before the expiration date of the Provisional Certificate.
 - a. Instructional Technology
 - b. NMI History/Pacific Institute (NMI)
 - c. Teaching Linguistically Diverse Students
- viii. Standard Certificate with School Counseling Endorsement: School Counselors providing guidance and counseling services in the elementary and secondary schools must complete the following course requirements or equivalent.
 - a. NMI History/Pacific Institute
 - b. Dynamics of Individual Behavior
 - c. Individual and Group Assessment
 - d. Group Counseling
 - e. Prevention and Outreach
 - f. Career Counseling and Placement
 - g. Instructional Technology
- C. Term: Teachers, librarians, school counselors, and related service providers may renew the Standard Certificate with Endorsement every five years with submittal of the eligibility requirements. In addition, there must be proof of completion of 60 hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
- 5. Professional Certificate is a ten-year certificate for qualified teachers, school counselors, and librarians and related service providers. Upon completion of the Standard Certificate with Endorsement, an applicant may pursue the Professional Certificate. For school administrators, the Professional Certificate is a four-year certificate.
 - A. Eligibility Requirements:

- i. A signed application form.
- ii. Three recommendations including performance evaluations: one (1) from an immediate supervisor or school principal, one (1) from a colleague, and one (1) from a parent, or former student describing the candidate's proficiency, skills, and competency. The performance evaluations must be based on cumulative performance over a contract term.
- iii. Proof of current membership of professional education association and specialized endorsement.
- iv. A copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education Certification.

B. Education: Certification Course Requirements

- i. The applicant must provide a certified copy of the transcript of courses showing satisfactory completion of a master or doctorate degree in the field of education; or a masters or doctorate degree in a specialized field area. The specialized fields area shall include any of the following for classroom teachers, librarians, school counselors, and school administrators:
 - a. Secondary Education Masters in Specialized Content Area
 - b. Special Education
 - c. Early Childhood Education
 - d. Counseling
 - e. Education: Administration and Supervision
 - f. Other specialized area in education
- The applicant must provide a certified copy of the transcript of courses showing satisfactory completion of a master or doctorate degree in the field of Special Education; or a masters or doctorate degree in a specialized field area. The specialized fields area shall include any of the following for related service providers:
 - a. Audiology
 - b. Speech Language Pathology
 - c. Physical Therapy

- d. Occupational Therapy
- e. Deaf and Hard of Hearing
- f. Education Psychologist
- iii. Any school principal or school vice principal applying for the Administrators' Professional Certificate must satisfactorily complete and submit official transcripts of the following course requirements or identified equivalent as accepted by PSS, before the expiration date of the Provisional Certificate and before the issuance of the Professional Certificate.
 - a. Introduction to School Administration
 - b. Instructional Supervision and Evaluation (Clinical Supervision)
 - c. School Law/Education Law
 - d. School Personnel
 - e. School Finance
 - f. Instructional Leadership & Supervision Seminar
 - g. Facilitative Leadership Seminar
- C. Term: Teachers, librarians, school counselors, and related service providers may renew the Professional Certificate every ten years with submittal of the eligibility requirements. School administrators may renew the Protessional Certificate every four years with submittal of the eligibility requirements. In addition, all qualified applicants must provide proof of completion of 60 hours (120 hours for administrators) of seminars, workshops, or inservice training as sanctioned by PSS and/or equivalent university/college courses.

(g) Burden of Proof

The Commissioner of Education or Certification Officer may request additional proof of eligibility before making any certification determination. The burden of providing requested documentation is on the applicant.

(h) Renewal or Reapplication

An applicant applying for a new certificate or the renewal of a prior certificate must comply with the procedures set out in this Regulation as though applying for the first time, except that the Commissioner or Designee may waive the submission of documents, which are already on file and which do not need to be updated (e.g. college transcripts).

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(i) Certification Decision

- 1. The Commissioner of Education shall appoint a Certification Officer. The Certification Officer shall act on behalf of the Commissioner of Education for certification decisions.
- 2. The Certification Officer shall render a decision on an application for a Specialized, Basic, Standard with Endorsement or Professional Certificate within thirty (30) calendar days of receiving a completed application. The employee/applicant will be notified and the decision shall take effect immediately.
- 3. In the case of the denial of a certificate, the decision shall be placed in writing. It shall give written notice of the reasons for denial by citing the requirement(s) not met and explaining the evidence against the applicant.
- 4. The denial of any application may be appealed to the Commissioner of Education pursuant to the hearing procedures set forth herein.

(j) Revocation and Suspension of Certificates

1. Grounds for Revocation and Suspension

The Commissioner of Education shall have the authority to suspend or revoke any certificate, whether provisional, specialized, basic, standard with endorsement or professional upon receipt of evidence that suspension or revocation is necessary.

2. Mandatory Revocation or Suspension

The Commissioner or Designee must revoke any certificate when the holder has committed a material deception or fraud on his/her application for employment with the Public School System or on his/her application for certification, or has been convicted of any felony indicating an unfitness to teach or a crime of moral turpitude. These offenses include but are not limited to:

- A. violent felonies in which an individual threatens to cause, attempts to cause or causes serious bodily injury;
- B. sexually violent offenses as defined by CNMI law;
- C. criminal sex offense against a minor as defined by CNMI law;
- D. child abuse or neglect as defined by CNMI law or similar offenses in other jurisdictions;

- E. violations of the CNMI Minor Children Firearms Control Act or similar offenses in other jurisdictions;
- F. distribution to persons under 18 as defined by CNMI law or similar offenses in other jurisdictions;
- G. criminal histories may be evaluated based on the nature and severity of the incident; the identity of the victim; the length of time since the incident; whether any specific pattern of criminal behavior exists; and specific efforts the individual has made towards rehabilitation.
- 3. Grounds for Discretionary Action

The Commissioner of Education may suspend or revoke a certificate, if appropriate, upon the following grounds:

- A. Immoral conduct;
- B. Unprofessional conduct;
- C. Incompetence;
- D. Defiance of and refusal to obey the policies, rules, regulations and laws governing the duties of PSS certified personnel; and
- E. Substantial evidence of the commission (evidence of conviction not necessary) of a crime of moral turpitude or a felony indicating an unfitness to teach.
- 4. Complaints
 - A. An action to suspend or revoke a certificate must be initiated by a written complaint filed by the Commissioner or Designee and served upon the employee. The complaint shall give written notice of the charges by: i) citing any regulation violated, or any misconduct of the employee; ii) explaining the evidence against the employee; iii) stating the proposed sanction; and iv) informing the employee of the opportunity for a formal hearing. The employee shall receive the complaint twenty (20) days prior to any suspension or revocation action pursuant to 3 CMC § 1183(e). The notice and opportunity for a hearing regarding a suspension or revocation must comply with 1 CMC § 9111.
 - B. In the case of a denial of a certificate by the Certification Officer under §2305 hereof, the decision shall be placed in writing. It shall give written notice of the reasons for denial by citing the

requirement(s) not met and explaining the evidence against the applicant.

- 5. Interim Suspension
 - A. No suspension or revocation shall take effect until a hearing, if requested, has reached a final judgment, pursuant to 1 CMC § 9111(a).
 - B. If the Commissioner finds that public health, safety, or welfare imperatively requires it, the emergency summary suspension of a certificate may be ordered pending proceedings for revocation or other action pursuant to 1 CMC §9111(b).
- 6. Opportunity for Formal Hearing

The employee/applicant shall be provided with an opportunity to have a formal hearing regarding any denial, suspension or revocation of a certificate. The hearing will be held before the Board of Education and the majority of Board Members at the hearing will make any suspension decision. The employee/applicant must request a formal hearing in writing within ten (10) days of the receipt of his/her complaint or notice of the denial of certificate. The request shall be addressed to the Chairperson of the Board of Education.

- 7. Scheduling the Hearing
 - A. The PSS Legal Counsel shall represent the Commissioner/Designee in presenting a complaint for revocation or suspension and in presenting the evidence supporting the denial of a certificate.
 - B. The employee/applicant is entitled to retain counsel at his or her own expense or to represent him or herself in the proceeding.
 - C. The Chairperson of the Board of Education shall schedule a hearing date within forty-five (45) days of the employee's request for a hearing. The date shall be set with due regard for the need of PSS to take action on the suspension or revocation and for the need of the employee to have sufficient time to adequately prepare a defense. The hearing shall not be scheduled for a date earlier than (20) twenty days after providing notice of the proposed action, as required by 3 CMC § 1183(e).

D. The Chairperson shall provide a date for the exchange of witness lists and documents intended to be introduced at the hearing. The Chairperson may COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE also hold a pre-hearing conference to accomplish one or more of the following tasks:

- i. Decide the issues for the hearing;
- ii. Stipulate as to uncontested facts;
- iii. Estimate the length of the hearing;
- iv. Mark exhibits; or
- v. Determine the admissibility of contested evidence.
- 8. Burden of Proof

The Commissioner/Designee, or the Certification Officer shall have the burden of proving the charge or decision by a preponderance of the evidence.

- 9. Conduct of Hearing
 - A. The hearing shall commence with a reading of the complaint or the decision of the Commissioner/Designee or Certification Officer.
 - B. Each side shall be permitted to make an opening statement. The PSS Legal Counsel shall present evidence to support the findings of the Commissioner/Designce subject to cross-examination.
 - C. The employee/applicant may present evidence to rebut the charges, or findings, subject to cross-examination. Each side may present rebuttal evidence.
 - D. After all the evidence has been presented, a closing argument may be offered on behalf of the Commissioner/Designee or Certification Officer. The employee/applicant may then present a closing argument, followed by the final summation on behalf of the Commissioner of Education/Designee or Certification Officer.
 - E. Proceedings hereunder shall be conducted consistent with the requirements of 1 CMC § 9109.
 - F. A recording shall be made of the proceeding to serve as the official record.
- 10. Evidence
 - A. The formal rules of evidence do not apply. Any relevant evidence of probative value is admissible with only the weight assigned to it affected by its nature.

- B. A notary shall administer oaths to witnesses.
- C. Hearsay evidence shall be admissible and may constitute sufficient evidence if relevant and probative, of a kind that responsible persons are accustomed to relying upon in serious affairs, and such that a reasonable mind would accept the evidence as adequate to support a conclusion of ultimate fact.
- D. Where suspension, revocation or the denial of a certificate depends upon the proof of the commission of a crime, proof need only be by substantial evidence and not proof beyond a reasonable doubt. An acquittal on criminal charges is not a bar to a certificate's denial, suspension or revocation. A certified copy of conviction shall constitute prima facie evidence of the commission of the crime, which may be rebutted by a substantial showing of circumstances tending to disprove its commission.
- 11. Decision
 - A. The decision-making process must comply with 1 CMC § 9110.
 - B. The attorney for the Commissioner/Designee shall not participate in the private deliberations of the Board of Education.
 - C. The Commissioner or Certification Officer shall issue a written decision with findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact and law presented on the record and an appropriate order invoking or denying a sanction, or in the case of a review, affirming or reversing a certification decision.
 - D. The written decision and order shall be served on the employee/applicant within forty-five (45) days of the completion of the hearing process.
- 12. Appeal

The employee/applicant may appeal the Board of Education's decision pursuant to the procedures and time restrictions set forth in 3 CMC § 1183(e).

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL

Chapter 7

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C. Leave for Certified Employees

§7302 Annual Leave

- 1. Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for annual leave with pay. A certified employee shall be given 5 days annual leave upon hire, per school year. Employees working a 190- day per year schedule, such as teacher aides, will also be given 5 days annual leave per school year.
- 2. Employee requests to use annual leave must be made in advance of the period of time it is to be used and should be made in writing and as early as possible. Annual leave requests must be submitted in advance to the employee's direct supervisor and may only be used if it is approved by the direct supervisor.
- 3. Requests for the use of annual leave by certified employees during instructional time are discouraged and should be made infrequently. Such requests will only be approved in rare circumstances.
- 4. The maximum accumulation of annual leave shall be *forty (40)* hours per school year. Annual leave shall be cashed out *at the end of each school year with the employee's written request. Any annual leave not used or cashed out in the school year shall be lost.* The cash value of one hour of annual leave shall equal 1/2080th of the employee's annual salary at the time of separation.

§7303 Sick Leave

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1. Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for sick leave with pay. Certified employees will accrue 5 days sick leave upon hire, per school year. Sick leave shall have no cash value at anytime and unused portions shall carry over from year to year. Employees working a 190- day per year schedule, such as teacher aides, will also be given 5 days sick leave per school year.

The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental, or optometry examination, or if (a)he and/or his/her index have family as each a decus ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment. Doctor's notes may be required by the employee's direct supervisor in their discretion prior to approving payment for the use of sick leave.

Whenever possible, sick leave shall be requested in advance of when it is werded and medical approximents shall be scheduled of an employee's own time. Except in emergency situations sick leave shall always be requested by the employee before 5:00 a.m. on the day it is to be used.

The Commissioner of Education is granted the authority to create a universal sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of their sick and annual leave already. The Commissioner is hereby vested with the power to create the policies needed to regulate the universal sick leave pool.

Sick leave records shall be retained for a period of three years after the employee separates from the PSS. If the employee becomes reemployed during that three year time period the sick leave balance shall be recredited to the employee. If the employee does not again begin employment with the PSS within three years of separation the sick leave shall be lost.

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REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF NON-CERTIFIED PERSONNEL

Chapter 6

C. Leave for Non-Certified Employees

§6302 Annual Leave

- 1. Non-Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for annual leave with pay Non-certified employees with less than three (3) years of creditable PSS service shall accrue annual leave at the rate of four (4) hours per pay period. Non-certified employees with less than six (6), but three (3) or more than three (3) years of creditable PSS service shall accrue annual leave at the rate of six (6) hours per pay period. Non-certified employees with six (6) or more years of creditable PSS service shall accrue annual leave at the rate of eight (8) hours per pay period. Annual leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten (10) week days of the pay period; otherwise there shall be no accrual for that pay period. *Employees working a 190- day per year schedule, such as teacher aides, will follow the leave regulations for certified personnel.*
- 2. Employee requests to use annual leave must be made in advance of the period of time it is to be used and should be made in writing and as early as possible. Annual leave may only be used if it is approved in advance by the employee's direct supervisor.
- 3. The maximum accumulation of annual leave shall be 360 hours. Annual Leave may be cashed out upon separation from the PSS. Separation shall mean that the employee will not work for the PSS for at least six (6) consecutive months, *unless waived by the Commissioner of Education subject to approval of the Board of Education*. The cash value of one (1) hour of annual leave shall equal 1/2080th of the employee's annual salary at the time of separation. Annual leave accrued in excess of 360 hours shall be converted to sick leave.

§6303 Sick Leave

1. Non-certified employees who have been contracted with by the PSS for a period of three months or more are eligible for sick leave with pay. Sick leave shall accrue for non-certified employees at the rate of four (4) hours per pay period. *Employees working a 190- day per year schedule, such as teacher aides, will follow the leave regulations for certified personnel.* Sick leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten (10) week days of the pay period; otherwise there shall be no accrual for that pay period. Sick leave shall have no cash

- 2. The use of sick leave shall allow the employee to be paid at his/her usual rate while ill, injured, receiving a medical, dental, or optometry examination, or if he/she and/or his/her immediate family are under a doctor-ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine or medical appointment. Doctor's notes may be required by the employee's direct supervisor in his/her discretion prior to approving payment for the use of sick leave.
- 3. Whenever possible, sick leave shall be requested in advance of when it is needed, and medical appointments shall be scheduled on an employee's own time.
- 4. The Commissioner of Education is granted the authority to create a universal sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of his/her sick and annual leave already. The Commissioner is hereby vested with the power to create the policies needed to regulate the universal sick leave pool.
- 5. Sick leave records shall be retained for a period of three (3) years after the employee separates from the PSS. If the employee becomes reemployed during that three (3) year time period, the sick leave balance shall be recredited to the employee. If the employee does not again begin employment with the PSS within three (3) years of separation, the sick leave shall be lost.

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL

Chapter 3: Standards of Conduct for Certified Employees §3512 and Chapter 2: Standards of Conduct for Non-Certified Employees §2511

Internet Usage

The Public School System (PSS) offers internet access for employee and student use. The Board of Education recognizes that it is important for students to have access to electronics-based research tools for their application to learning, problem solving, production of work, and presentation of information. The Board also recognizes that while these resources represent extraordinary learning opportunities and enriching educational materials, they also offer persons with illegal or unethical motives avenues for reaching students, teachers, parents/guardians and members of the community. Additionally, these resources present tempting opportunities for users to explore areas that are either confidential, have restricted access or are inappropriate to the classroom or workplace.

This regulation outlines acceptable student and employee behavior with respect to use of PSS technology and electronic resources. It may be referred to as the "Acceptable Use Regulations" for the employee's use of Public School System Educational Systems Network (PSS-ESN).

(a) Purpose

- 1. The term "educational purpose" in this policy and regulations includes use of the system for classroom activities, professional or career development, and limited high-quality self-discovery activities. Students will limit their use of the system for self-discovery purposes to no more than 10 hours per week.
- 2. The PSS-ESN has a limited educational purpose. The purpose of the PSS-ESN is to assist in preparing students for success in life and work in the 21st century by providing them with electronic access to a wide range of information and the ability to communicate with people from throughout the world.
- 3. The system will be used to increase PSS intra-communication, enhance productivity, and assist PSS employees in upgrading their skills through greater exchange of information with their peers. The PSS-ESN will also assist the PSS employees in sharing information with the local community, including parents, social service agencies, government agencies, and businesses.

- 4. Users may not use the PSS-ESN for commercial purposes, defined as offering or providing goods or services or purchasing goods or services for personal use. PSS procurement rules will be followed for purchase of goods or services for PSS through the PSS-ESN.
- 5. Users may not use the system for political lobbying.
- 6. PSS employees and students for school related purposes may use the system to communicate with their elected representatives.
- 7. The provisions set forth in the "CHILDREN'S INTERNET PROTECTION ACT (U.S. Pub. L. 106-554)," apply to all users of the PSS-ESN.

(b) **PSS Responsibilities**

- 1. The Commissioner of Education will serve as the coordinator to oversee the PSS-ESN and will work with the CNMI local government as necessary.
- 2. The School Principal will serve as the school-level coordinator for the PSS-ESN, will approve school-level activities, ensure teachers receive proper training in the use of the system and the requirements of this policy and regulations, establish a system to ensure adequate supervision of students using the system, maintain executed user agreements, and be responsible for interpreting the PSS Acceptable Use Policy and Regulations at the school level.
- 3. The PSS Technology Coordinator will establish a process for setting-up individual and class accounts, set quotas for disk usage on the system, establish a retention schedule, establish a virus protection process, and other related activities.

(c) Technical Services Provided through PSS-ESN

- 1. <u>E-mail</u>. E-mail will allow employees and students to communicate with people from throughout the world. Users will also be able to subscribe to mail lists (listserv) to engage in-group discussions related to educational subjects.
- 2. World Wide Web. The Web provides access to a wide range of information in the form of text, graphics, photographs, video, and sound, from throughout the world. The Web is a valuable research tool for students and employees.
- 3. <u>Telnet</u>. Telnet allows the user to log in to remote computers.
- 4. File Transfer Protocol (FTP). FTP allows users to download large files and computer software.

- 5. **Newsgroups**. Newsgroups are discussion groups that are similar to mail lists (listserv). The PSS will provide access to selected newsgroups that relate to subjects that are appropriate to the educational purpose of the system.
- 6. **Internet Relay Chat (IRC).** IRC provides the capability of engaging in "real-time" discussions. The PSS will provide access to IRC only for specifically defined educational activities.
- 7. **Blocking software**. The CNMI Public School System will acquire software designed to block access to certain sites.
- (d) Access to the System
- 1. Employee & Student Use. The PSS Acceptable Use Policy & Regulations, set forth herein and Regulation 6320 (student use), will govern all use of the PSS-ESN. Board, PSS and school policies and regulations regarding student and employee conduct will also govern the use of the system.
- 2. World Wide Web. All PSS employees and students will have access to the Web through the PSS's networked computers. Parents may specifically request that their child(ren) not be provided such access by notifying the school principal in writing. For information regarding parent notification and student accounts, refer to Regulation 6320(c) and section (e) of this regulation.
- 3. Classroom Accounts. Elementary age students will be granted e-mail access only through a classroom account. Elementary students may be provided with an individual account under special circumstances at the request of their teacher and with the approval of their parent and the school Principal. An agreement will only be required for an individual account, which must be signed by the student and his or her parent. Parents may specifically request that their child(ren) not be provided access through the classroom account by notifying the school Principal in writing.
- 4. Individual E-mail Accounts for Students. Secondary students may be provided with individual e-mail accounts. Secondary students may have dial-up access to the system at the recommendation of the teacher and school Principal. An agreement will be required for an individual e-mail account. The student and his or her parent must sign this agreement before the account may be used.
- 5. Individual E-mail Accounts for PSS Employees. PSS employees will be provided with an individual account and will have dial-up access to the system. Employees must sign the Employee Account Agreement before the account may be used.
- 6. **Guest Accounts**. Guests may receive an individual account with the approval of a school administrator or program manager if there is a specific, PSS-related purpose requiring such access. Use of the system by a guest must be specifically limited to the PSS-related purpose. An agreement will be required and parental signature will required if the guest is a minor (e.g. PSS may allow home school students to obtain access through the PSS-ESN). Guest accounts are only temporary and will only be active for only the period of time that is approved.

(e) Parental Notification and Responsibility

- 1. The PSS will notify the parents about the PSS network and the policies and regulations governing its use. Parents must sign an agreement to allow their student to have an individual account. Parents may request alternative activities for their child(ren) that do not involve Internet access.
- 2. Parents have the right at any time to review the contents of their child(ren)'s e-mail files. Parents have the right to request the termination of their child(ren)'s individual account at any time.
- 3 The PSS Acceptable Use Policy and Regulations contain restrictions on accessing inappropriate material. There is a wide range of material available on the Internet, some of which may not be fitting with the particular values of the families of the students. It is not practically possible for the PSS to monitor and enforce a wide range of social values in student use of the Internet. Further, the PSS recognizes that parents bear primary responsibility for transmitting their particular set of family values to their children. The PSS will encourage parents to specify to their child(ren) what material is and is not acceptable for their child(ren) to access through the PSS-ESN.
- 4. The PSS will provide students and parents with guidelines for student safety while using the Internet.
- 5 If dial-up access is provided parents are responsible for monitoring their student's use of the Internet when they are accessing the system from home.

(f) **PSS Limitation of Liability**

1. The PSS makes no warranties of any kind, either express or implied, that the functions or the services provided by or through the PSS-ESN will be error-free or without defect. The PSS will not be responsible for any damage users may suffer, including but not limited to, loss of data or interruptions of service. The PSS is not responsible for the accuracy or quality of the information obtained through or stored on the system. The PSS will not be responsible for financial obligations arising through the unauthorized use of the system.

(g) Due Process

- 1. PSS will cooperate fully with local, state, or federal officials in any investigation related to any illegal activities conducted through PSS-ESN.
- 2. In the event there is a claim that a student violated Regulation 6320 or other PSS, Board or School policy or regulation in his or her use of the PSS-ESN, he or she will

be provided the due process and hearing rights set forth in such regulations. Additional restrictions may be placed on the student's use of the Internet account.

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- 3. Student disciplinary actions will be tailored to meet specific concerns related to the violation and to assist the student in gaining the self-discipline necessary to behave appropriately on an electronic network. If the alleged violation also involves a violation of other provisions of the Student Code of Conduct, the violation will be handled in accord with the applicable provision of the Student Disciplinary Regulations.
- 4. Employee violations of the PSS Acceptable Use Policy will be handled in accord with Board, PSS and school Policies and Regulations.
- 5. Any PSS administrator or program manager may terminate the account privileges of a guest user by providing notice to the user. Guest accounts not active for more than 30 days may be removed, along with the user's files without notice to the user.

(h) Search and Seizure

- 1. System users have a limited privacy expectation in the contents of their personal files on the PSS-ESN.
- 2. Routine maintenance and monitoring of the system may lead to discovery that the user has or is violating the PSS Acceptable Use Policy and Regulations, the Student Disciplinary Regulations, PSS Personnel Regulations, or the law.
- 3. An individual search of an employee or student account will be conducted if there is reasonable suspicion that a user has violated the law or PSS, Board or student policies and regulations. The nature of the investigation will be reasonable and in the context of the nature of the alleged violation.
- 4. PSS employees should be aware that their personal electronic files may be discoverable in legal actions.

(i) Copyright and Plagiarism

- PSS Policies and Regulations and federal law on copyright will govern the use of material accessed through the PSS-ESN. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by a copyright. Because the extent of copyright protection of certain works found on the Internet is unclear, employees will make a standard practice of requesting permission from the holder of the work if their use of the material has the potential of being considered an infringement. Teachers will instruct students to respect copyright and to request permission when appropriate.
- 2. PSS policies, regulations and procedures regarding plagiarism will govern use of material accessed through the PSS-ESN. Teachers will instruct students in appropriate research and citation practices.

(j) Academic Freedom, Selection of Material, Student Rights to Free Speech

- 1. Board, PSS and school policies and regulations on Academic Freedom and Free Speech will govern the use of the Internet.
- 2. When using the Internet for class activities, teachers will select material that is appropriate in light of the age of the students and that is the relevant to the course objectives. Teachers will preview the materials and sites they require or recommend students access to determine the appropriateness of the material contained on or accessed through the site. Teachers will provide guidelines and lists of resources to assist their students in channeling their research activities effectively and properly. Teachers will assist their students in developing the skills to ascertain the truthfulness of information, distinguish fact from opinion, and engage in discussions about controversial issues while demonstrating tolerance and respect for those who hold divergent views.

(k) PSS Web Site

- 1. **PSS Web Site**. The PSS will establish a Web site and will develop Web pages that will present information about the PSS. The PSS Technology Coordinator or his/her appointee, will be designated the Webmaster, responsible for maintaining the PSS Web site.
- 2. School or Class Web Pages. Schools and classes, upon approval from the Principal, may establish Web pages that present information about the school or class activities. The School Principal will designate an individual to be responsible for managing the school Web site. Teachers will be responsible for maintaining any class sites.
- 3. Student Web Pages. With the approval of the School Principal, students may establish personal Web pages. The principal will establish a process and criteria for the establishment and posting of material, including pointers to other sites, on these pages. Material presented in the student's Web site must be related to the student's educational and career preparation activities. Student Web pages must include the following notice: "This is a student Web page. Opinions expressed on this page shall not be attributed to the PSS."
- 4. School or Extracurricular Organization Web Pages. With the approval of the School Principal, extracurricular organizations may establish Web pages. The principal will establish a process and criteria for the establishment and posting of material, including pointers to other sites, on these pages. Material presented on the organization Web page must relate specifically to organization activities and will include only student-produced material. Organization Web pages must include the following notice: "This is a student extracurricular organization Web page. Opinions expressed on this page shall not be attributed to the school or PSS.

(l) Uncceptable Use

The following uses of the PSS-ESN are considered unacceptable:

- 1. **Personal Safety** (Restrictions are for students only. Teachers should ensure that students follow these restrictions.)
 - A. Users will not post personal contact information about themselves or other people. Personal contact information includes address, telephone, school address, work address, etc.
 - B. Users will not agree to meet with someone they have met online without their parent's approval and participation.
 - C. Users will promptly disclose to their teacher or other school employee any message they receive that is inappropriate or makes them feel uncomfortable in any way.

2. Illegal Activities

- A. Users will not attempt to gain unauthorized access to the PSS-ESN or to any other computer system through the PSS-ESN, or go beyond their authorized access. This includes attempting to log in through another person's account or access another person's files. These actions are illegal, even if only for the purposes of "browsing".
- B. Users will not make deliberate attempts to disrupt the computer system's performance or destroy data by spreading computer viruses or by any other means. These actions are illegal.
- C. Users will not use the PSS-ESN to engage in any other illegal act, such as arranging for a drug sale or the purchase of alcohol, engaging in criminal gang activity, threatening the safety of person, etc.

3. System Security

- A. Users are responsible for the use of their individual account and should take all reasonable precautions to prevent others from being able to use their account. Under no conditions should a user provide their password to another person.
- B. Users will immediately notify the school system administrator if they have identified a possible security problem. Users will not go looking for security problems, because this may be construed as an illegal attempt to gain access.
- C. Users will avoid the inadvertent spread of computer viruses by following the PSS virus protection procedures if they download software.

4. Inappropriate Language

- A. Restrictions against inappropriate language apply to public messages, private messages, and material posted on Web pages.
- B. Users will not use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language.
- C. Users will not post information that, if acted upon, could cause damage or a danger of disruption.
- D Users will not engage in personal attacks, including prejudicial or discriminatory attacks.
- E. Users will not harass another person. Harassment is persistently acting in a manner that distresses or annoys another person. If a user is told by a person to stop sending them messages, they must stop.
- F. Users will not knowingly or recklessly post false or defamatory information about a person or organization.

5. Respect for Privacy

- A. Users will not repost a message that was sent to them privately without permission of the person who sent them the message.
- B. Users will not post private information about another person.

6. Respecting Resource Limits.

- A. Users will use the system only for educational and professional or career development activities (no time limit), and limited, high-quality, self-discovery activities. For students, the limit on self-discovery activities is no more than three (3) hours per week.
- B. Users will not download large files unless absolutely necessary. If necessary, users will download the file at a time when the system is not being heavily used and immediately remove the file from the system computer to their personal computer.
- C. Users will not post chain letters or engage in "spamming". Spamming is sending an annoying or unnecessary message to a large number of people.
- D. Users will check their e-mail frequently, delete unwanted messages promptly, and stay within their e-mail quota.
- E. Users will be subscribe only to high quality discussion group mail lists that are relevant to their education or professional/career development.

7. Plagiarism and Copyright Infringement

- A. Users will not plagiarize works that they find on the Internet. Plagiarism is taking the ideas or writings of others and presenting them as if they were original to the user.
- B. Users will respect the rights of copyright owners. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by a copyright. If a work contains language that specifies acceptable use of that work, the user should follow the expressed requirements. If the user is unsure whether or not they can use a work, they should request permission from the copyright owner.

8. Inappropriate Access to Material

- A. Users will not use the PSS-ESN to access material that is profane or obscene (pornography), that advocates illegal acts, or that advocates violence or discrimination towards other people (hate literature). For students, a special exception may be made for hate literature if both the teacher and the parent approve the purpose of such access to conduct research and access. PSS employees may access the above material only in the context of legitimate research.
- B. If a user inadvertently accesses such information, they should immediately disclose the inadvertent access in a manner specified by their school or department. This will protect users against an allegation that they have intentionally violated the Acceptable Use Policy & Regulations.

9. Consequences for Unacceptable Uses

- A. Your supervisor, the Technology Coordinator or the COE may revoke your privilege under the Acceptable Use Policy & Regulations for any unacceptable uses, including uses not specifically listed herein.
- B. Unacceptable use by an employee or an employee's failure to respond to the unacceptable use of a student may result in disciplinary action or even termination.

Employee Account Agreement

Name

Position

School or Department

I have read the PSS Acceptable Use Regulation. I agree to follow the rules contained in this Regulation. I understand that if I violate the rules, I may face disciplinary action, including termination, in accord with the CNMI, the Board of Education, the Public School System (PSS) Personnel Regulations and the Acceptable Uses Policy and Regulations.

I hereby release and agree to indemnify the Board, PSS and the CNMI, their personnel, and any institutions with which they are affiliated, from all claims and damages of any nature arising from my use of, inability to use, or improper or illegal use of the PSS system, including, but not limited to claims that may arise from the unauthorized use of the system to purchase products or services.

Signature _____ Date

NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO THE IMMIGRATION REGULATIONS SECTION 706H

I, Pamela Brown, the Attorney General of the Commonwealth of the Northern Mariana Islands, which is promulgating the Immigration Regulations regarding the definition and procedure for the classification of Foreign Student Entry Permits, published as Emergency Regulations in the Commonwealth Register Vol. 25, No. 7 on August 22, 2003 at pages 20718 to 20724, by signature below hereby certify that the regulations published therein are a true, complete and correct copy of the Regulations regarding the definition and procedure for the classification of Foreign Student Entry Permits as previously proposed by the Office of the Attorney General which, after the expiration of appropriate time for public comment, have hereby 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 $\frac{1}{1-1}$ day of January 2004, in Saipan, Commonwealth of the Northern Mariana Islands.

- tamp Porcie PAMELA BROW

Attorney General Commonwealth of the Northern Mariana Islands



COMMONWEALTH PORTS AUTHORITY

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

NOTICE AND CERTIFICATION OF ADOPTION OF THE PROPOSED AMENDMENT TO THE AIRPORT RULES AND REGULATIONS

I, Carlos H. Salas, Executive Director of the Commonwealth Ports Authority, which is promulgating the proposed amendment to the Airport Rules and Regulations, as published in the Commonwealth Register, Volume 25, Number 10, November 17, 2003, on pages 21465-21468, by signature below hereby certify that, as published, such proposed amendment to Section 2.9(b) of the Airport Rules and Regulations are a true, complete, and correct copy of the amendment to the Airport Rules and Regulations, which, after the expiration of the appropriate time for public comment, with no comments having been received, have been adopted without any changes. I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 7th day of January , 2004 at Saipan, Commonwealth of the Northern Mariana Islands.

CARLOS H. SALAS, Executive Director

Pursuant to 1 CMC §2153, as amended, this Notice and Certification of Adoption, and the Amendment to the Airport Rules and Regulations to which they apply, have been reviewed and approved by the Office of the Attorney General.

n.

PAMELA BROWN, Attorney General Mil-

Received N

THOMAS A TEBUTEB Special Assistant for Administration

Date:

Filed by:

BERNA DITA B. DELA CRUZ Commonwealth Register

Date: 1-13.04

VOLUME 26 NUMBER 01 Jan ROTA INTERNATIONAL AIRPORT / SEAPORT P.O. Box 561, Rota, MP 96951

January 22, 2004

PAGE 021710 WEST TINIAN AIRPORT / SEAPORT San Jose Village. Tinian, MP 96952

2.9 Permit Required for Vehicle Rental Service

No vehicle rental business or solicitation for such business may be conducted upon or within the Airport unless:

- a. On-Premises Vehicle Rental Concessionaires. The vehicle rental business is operating under the terms of a valid lease or concession agreement with the Authority; or,
- b. Off-Premises Vehicle Rental Permittees. The vehicle rental business shall obtain and have in full force and effect a written permit issued by the Executive Director, upon such terms and conditions as he shall deem to be in the best interests of the Authority. Such permit shall authorize the permittee to pick up pre-confirmed and pre-arranged customers only and only at such areas as the Executive Director shall designate for customer pick-up. In no event shall permittee be allowed to solicit customers at the Airport, nor shall permittees be allowed to pick up any disembarking passengers or their baggage at the customs/passenger arrival area of the airport nor at the commuter terminal of the Saipan International Airport.

Any vehicle rental business operating under the terms and conditions of a permit issued under this section shall provide transportation for its customers by unmarked vehicles, so as not to encourage the solicitation of customers at the Airport. The term "solicitation" as used in this Part shall be specifically defined to mean the asking of a passenger or other person if he or she desires to rent a vehicle. Use of the public vehicular parking area by vehicle rental business operating under the terms of this subsection (b) is strictly prohibited. Such vehicle rental businesses shall not suffer or permit its customers to use such areas to pick up or drop off any rental vehicle, or for the storage of any rental vehicle. Permits issued under this part 2.9(b) shall not be exclusive. The fee for any permit issued under this subpart (b) shall be FIVE THOUSAND DOLLARS (\$5,000.00) per month for Francisco C. Ada/Saipan International Airport, THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00) per month for Rota and Tinian International Airports, and shall be payable monthly in advance. Failure to pay such permit fee within seven (7) days of its due date shall serve to invalidate any permit understanding. Any vehicle rental business operating at or upon the airport without a valid permit, or in violation of the terms and conditions of its permit, or these regulations, shall be subject to such penalties as set forth under Section 2.11(f) and may have its privilege to conduct such business at the Airport terminated pursuant to Part 1, Section 1.5.

> Liability for bodily injury, including death (limit \$100,000.00 for each person, \$300,000.00 each accident and for property damage limit \$50,000.00).

Each vehicle rental business shall submit a certificate of insurance and a copy of the insurance policy for review by the Executive Director prior to obtaining a permit to operate a vehicle rental business at the Airport. A certificate or certificates evidencing such insurance shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days prior written notice to the Authority.

NOTICE AND CERTIFICATION OF ADOPTION OF THE REGULATIONS ESTABLISHING A MECHANISM FOR THE REALLOCATION OF GARMENT WORKER POSITIONS

We, Dr. Joaquin A. Tenorio, Secretary of the Department of Labor, and Pamela Brown, Attorney General, who promulgated Regulations Establishing A Mechanism For The Reallocation Of Garment Worker Positions published in the Commonwealth Register, Volume 25, Number 9, October 15, 2003, at pages 21414 to 21420, by signing below hereby certify that as published such Regulations are a true, complete and correct copy of the Regulations previously proposed which, after the expiration of the time for public comment, have been finally adopted without modification. We further request and direct that this Notice and Certification be published in the CNMI Commonwealth Register.

We declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 19th day of January 2003 in Saipan, Commonwealth of the Northern Mariana Islands.

Dr Loaquin A. Tenorio Secretary of Labor

Filed By: Adelen (Jus Bernadita B. Dela Cruz)

Commonwealth Registrar Date: 1-19-04

Pamela Brown Attorney General

Received by

Thomas A. Tebuteb Special Assistant for Administration Date: 1904

Pursuant to 1 CMC § 2153, as amended, the above certification has been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated: 1/19/04

Pamela Brown Attorney General

NOTICE AND CERTIFICATION OF FINAL ADOPTION OF THE EXCEPTED SERVICE PERSONNEL REGULATIONS

I. Juan I. Tenorio, the Director of the Office of Personnel Management of the Commonwealth of the Northern Mariana Islands, which has promulgated the Excepted Service Personnel Regulations, as originally published in the Commonwealth Register, Volume 25, Number 7, page 20740 through 20789, by signature below, hereby certify that, as published, such Regulations are a true, complete and correct copy of the Excepted Service Personnel Regulations previously proposed, which, after the expiration of the appropriate time for public comment, have been adopted without modification, except for the following minor modifications as set forth below:

- 1. Part I.D.4 is amended to replace "not less than one year" with "not more than two years."
- 2. Parts III.A.1c and III.A.2 are amended to replace the cash stipend with payment of sea shipment costs for 3000 pounds and an up-to \$300 air-postal shipment reimbursement for an employee with dependents and 1500 pounds and an up-to \$150 air-postal shipment reimbursement for an employee without dependents. Employees who have completed their contract and ended employment may also receive their return ticket in cash at the lowest economy excursion fare to their point of hire, unless ticketing of the employee is required by law. The period of time for use of repatriation benefits is amended from three months to one year.
- Part III.B.1 is amended to change the word "equal" to "not to exceed." 3.
- Part III.P amends the part-time employment leave accrual rate to a pro-rated amount of the full-time benefit, 4. rounded off to the nearest guarter-hour per pay period.
- Minor spelling, grammatical, numbering and terminology corrections were made as needed that did not 5. substantially change any concepts in the proposed regulation.

A full copy of the regulations is provided with this adoption notice.

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

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 15th day of January 2004, in Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:

Received by:

IJAN THOM TEB TEE

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

dav o A S. BROWN

Attorney General

Filed and recorded by:

BERNADITA B. DE L COMMONWEALTH REGISTER

1-16-04

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. Civil 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

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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:

- 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 not to exceed two years, 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.

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- 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.

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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 preemployment 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 preemployment drug test must have been received for the Employee before work authorization can be granted.

II.B EFFECTIVE DATES

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- 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.

ILC 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

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government.

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

ILD 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 (1½) 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.

ILE SPECIAL EXCEPTED SERVICE EMPLOYMENT

Employees hired to fill excepted service positions of a special nature that are needed in the public interest 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.

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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. Upon request by the Employer and approval by the Director of Personnel, shipment of household goods and personal effects may be authorized for positions that are considered hard to fill. This authorization shall be limited to the following:
 - (1) The Employer shall pay the cost for one shipment by sea of household goods and personal effects, not to exceed 3,000 pounds net weight for an employee with accompanying dependents, or 1,500 pounds for an employee without accompanying dependents, from the Employee's point of recruitment to his or her duty station.
 - (2) The Employer is not responsible for any amount exceeding the authorized benefit or for any additional personal shipments made by the Employee.
 - (3) The shipment must originate within six (6) months of the date of entry on duty, unless extended by the Director of Personnel for just cause. In the event temporary storage of household goods and personal effects intended for shipment to the duty station is necessary at the point of recruitment after pick-up by the carrier and prior to departure by sea, the government will pay the cost of such temporary storage.
 - (4) Only those items may be shipped which are not restricted by Commonwealth or Federal laws or regulations. Household goods and

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personal effects are defined as personal property of the Employee and his immediate family at the time of shipment that can be transported legally in interstate commerce. The term may include household furnishings, equipment and appliances, clothing and other personal or household items. It does not include automobiles, boats, motorcycles, any other vehicle or trailer, or any pet or animal. It also does not include property that is for resale or disposal, for use in conducting a business or other commercial enterprise, or for any purpose other than the direct use of the Employee and his or her immediate family.

- (5) The Employee is encouraged to self-pack and to ship his or her household effects by the United States Postal Service (USPS) by first class mail. If this option is elected, no sea shipment will be authorized. All limits and restrictions of the sea shipment otherwise apply. The Employee is advised that USPS receipts showing weight and cost of each package must be provided for reimbursement.
- (6) The Employer shall reimburse up to \$300.00 for an air shipment (USPS) or accompanied baggage to an employee with accompanying dependents, and up to \$150.00 to an employee without accompanying dependents, upon presentation of receipts. If the employee self-packs and ships the main shipment through USPS, this amount will be in addition to the 3000 or 1500 pound limit.
- (7) The Employer is not responsible for the cost of insurance or for any damage or loss of shipped items, whether transported by sea shipment or USPS.
- 2. Repatriation. Upon completion of the agreed upon period of service under this contract or any subsequent excepted service contract entered into after the expiration of this contract, the Government shall pay the benefits set out above in III.A.1 with the following conditions:
 - a. The Employer will provide a one-way coach-class ticket to the point of recruitment for the employee and each authorized dependent. Employees may also receive their return ticket in cash at the lowest economy excursion fare to their point of hire, unless ticketing of the employee is required by law. This ticketing benefit will only be provided upon the Employee's full separation from government employment.

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.

- b. No salary will be paid during the period of travel.
- c. The repatriation shipment of household goods and personal effects will be subject to the conditions of Part III.A.1.c, and limited to the actual weight shipped upon recruitment. The Employer will be discharged of the responsibility for repatriation of household goods if the benefit is not utilized within one (1) year from the termination date.
- 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

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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 not to exceed 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.

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- 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

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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 allow, 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 COMMONWEALTH REGISTER VOLUME 26 NUMBER 01 January 22, 2004 PAGE

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.D 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

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- 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.E 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 Employer.

IILF 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.

IILG 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.H 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 ($\frac{1}{2}$) 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 and the federal government. 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

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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.J 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-inlaw. Compassionate leave must be taken within eighteen (18) days after the death of the immediate family member.

III.K 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.L 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 and shall be taken within one week of the date of childbirth. Paternity Leave will only be granted in cases of legal marriage.

IILM 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.N EXTENDED MILITARY LEAVE

Extended Military Leave shall be granted to Excepted Service employees pursuant to the

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federal Uniformed Services Employment and Reemployment Act (USERRA).

III.O FMLA LEAVE

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

III.P PART-TIME ACCRUAL

Part-time or intermittent employees with regular scheduled tours of duty of forty (40) to less than eighty (80) hours during a biweekly period will accrue annual leave and sick leave at a pro rated amount of the full time benefit, rounded off to the nearest quarter hour per pay period, 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 employee 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.Q 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 affected by the Employer with or without the Employee's permission.

III.R 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.

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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

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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 nontolerance 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. <u>Policy</u>

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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/Employer 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 Employer 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.
- 1. 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/Employer. 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/Employer. If the Employee does not feel comfortable bringing it to the attention of any of these parties, or the Division Director or Department Head/Employer 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 Employer, or other senior official in case of the Employer'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/Employer 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.

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- 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.

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- (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.
- 1 The Director of Personnel will forward the final report to the Department Head/ Employer 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 Employer will resolve the complaint/grievance based upon the investigation and the recommendation of the Office of Personnel Management. If the Department Head/Employer 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 Employer 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

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- 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

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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 nontolerance 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

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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

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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.

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- e. Consulting Physician. A licensed physician retained or employed by the government to advise on drug testing.
- f. <u>Drug</u>. 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.
- 1. 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

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- 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);

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- (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 Employer 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 Employer 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.

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- 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 Employer, 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 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.

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- (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.

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- (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.

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- 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 Employer 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. <u>Results</u>. 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 Employer, 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 namespecific, 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:

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- (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 6monoacetylmorphine, 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 Employer, 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.
- 1. Statistical Reporting. The M.R.O. shall compile statistical data, that is not namespecific, 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.

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- (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

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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 SAP. 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.

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NOTICE AND CERTIFICATION OF ADOPTION OF BOARD OF EDUCATION REGULATIONS REGARDING BOARD ADMINISTRATION, FACILITY USE AND MAINTANANCE, PUBLIC ACCESS TO RECORDS, TRANSPORTATION SERVICES, QUALIFICATIONS, PROMOTION, TRANSFER AND CERTIFICATION OF PERSONNEL AND HEAD START POLICIES AND REGULATIONS REGARDING ALL ASPECTS OF THE HEAD STAR PROGRAM

I, Herman T. Guerrero, the Chairman of the Eighth Board of Education for the Commonwealth of the Northern Mariana Islands ("Board") that is promulgating policies and regulations regarding the above pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10 and published in the September 18th, 2003 Commonwealth Register, hereby certify that as published such regulations are an accurate and complete copy of the regulations regarding these matters, which after the expiration of the appropriate time for public comment, have been adopted with the minor modifications as set forth below and in the attached. Modifications are noted in strikes and italics when appropriate.

- 1. Regulation 340 section (a)(5) is modified as follows: Recognize that only the Board, by official action as Board, can exercise its legal authority; an individual member has *no* authority to speak for the Board; and that in relations with the local citizenry, the PSS staff, and the media, Board members must speak and act accordingly.
- 2. Regulation 340 section (a)(6) is modified as follows: Board members shall base decisions on Board actions on the available facts in each situation, and vote in an honest conviction in a nonpartisan manner.
- 3. Regulation 1420 is modified as noted in the attached.
- 4. Regulation and Form 5210 are modified as noted in the attached.
- 5. Regulation 5230 is modified as noted in the attached.
- 6. Regulation 5620 is modified as set forth in the attached.
- 7. Policy 8001 page 3 Parent Committee is changed to Central Parent Involvement Committee in the title and the first sentence of that section.
- 8. Policy 8003 is deleted.
- 9. Policy 8004 is modified as noted in the attached.

- 10. Regulation 8011 section (b) first sentence is modified as follows: When a new form is proposed, the draft will be presented to the Management Team and teachers for review.
- 11. Regulation 8015 (d)(3) first sentence is modified as follows: All program staff along with members of the Policy Council, and Board of Education will participate in program evaluation day on the first Friday of May April.
- 12. Regulation 8015(e) second paragraph last sentence is modified as follows: Policy Council will formally approve the program goals and objectives as part of the grant approval process in May April.

By my signature below, I certify that the proposed policies and regulations as published in the September 18th, 2003 Commonwealth Register and as modified herein are the accurate and complete regulations regarding the Board of Education and Head Start policies and regulations as noted above. I further request that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this day of January 2004, on Saipan, CNMI

By:

ERRERO **Board of Education Chairman**

PAMELA BROWN ATTORNEY GENERAL, CNMI

2 By: THOMAS TEBUTEB

Date: 1/12/04

1/14/04 Date:

SPECIAL ASSISTANT FOR ADMINISTRATION

Filed By:

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BE RNADITA B. DEL REGISTRAR OF CORPORATIONS

Date:

1.13.04

VOLUME 26 NUMBER 01

January 22, 2004 PAGE 021760

Regulation 1420

GENERAL ADMINIS TRATĮON

School/Community Relations

Community Use of School Facilities

Use of Buildings

In accordance with the law, buildings may be used for free discussion of public questions and subjects of general public interest, for the meeting of organizations of citizens and for such other civic, social and educational purposes as will not interfere with the use of the building for school purposes. No part of the building is to be used without permission being granted by the Commissioner or the Board. No Public School System facility, equipment or property shall be used for any nonpublic School System activity except with<u>out</u> the expressed approval of the principal or administrative head.

All requests for the use of public school facilities from organizations outside of the Public School <u>System</u> shall be made in writing on the designated form (available in the principal's office) to the school principal at least three (3) days in advance of the proposed usage.

Each request must state the purpose and nature of the proposed use, and the name(s) of the responsible party. For the use of a building, the applicant must state the approximate time involved, the estimated number of people to be attendance, and any other pertinent information requested by the principal.

An appropriate certificate of insurance must be provided as evidence of liability, comprehensive and collision insurance for the full replacement cost of the equipment by all groups requesting the use of school buses, except when this coverage is already provided by the Board. The Public School System, the Board of Education, and the Commonwealth Government must be named as insured parties by endorsement in the certificate. The Commissioner shall establish required liability limits.

The school principal shall have the authority to grant such approval, provided no approval whatsoever shall be granted for any use which will impose on or adversely effect the school's normal operations. However, the Commissioner has the right to overrule the principal's decision if, in his/her opinion, it is in the best interest of the Public School System.

Applications for Use

Applications for the use of the premises shall be made in writing and shall state the date and purpose of the use, and, if an admission charge is to be made, the purpose of raising said funds and such other information as the Board or the Commissioner may require. Parent organizations and other school activity organizations that have been granted use of certain rooms for regular meeting purposes shall not use other rooms in the building to hold meetings or entertain or use the premises other than the regular meeting night unless receiving prior written application as provided above.

SUPPORT SERVICES

Regulation 5210

Safety, Security and Communications

Hazardous Materials

Each school and programs shall at a minimum comply with the following standards:

- 1. All material safety data sheets (MSDS) shall remain with materials at all times and shall be strictly followed. Additional copies of the MSDS shall be on file in the school office.
- 2. All purchase orders of chemicals for laboratories shall be cleared for review and approval by the Commissioner's designee before purchase.
- 3. The PSS should purchase chemicals for the school year only. Such purchases should not be made in bulk quantities. Teachers should justify the purpose for use and strictly follow procedures of use of all chemicals.
- 4. All schools and programs must purchase cleaning and disinfectant supplies that are nonpoisonous and biodegradable.

5 The school principal shall submit an annual report of all hazardous material used in all this scrooths and those used by preventative maintanance and custodial staff.

Overall Recommendations for Chemical Storage, Handling and Disposal

- 1. All chemicals should be accounted for and a quarterly inventory should be conducted, this includes amount of chemicals *used*, expiration date, date of storage etc.
- 2. The chemical storage room shall be cleaned, maintained and regularly inspected.
- 3. The chemical storage cabinet should be cleaned yearly.
- 4. The chemical storage cabinet corrosive should be balance so the cabinet will not move.
- 5. There shall be adequate storage room ventilation.
- 6. All chemicals should be stored in one room with proper lock to prevent vandalism.
- 7. Fire extinguishers must be readily available and in working condition.
- 8. Emergency wash shall be installed and in working condition.

- 9. All new chemicals purchased must be accompanied by written information such as Material Safety Data Sheet (MSDS) by the manufacturer. MSDS shall be available in the classroom and a copy in the office.
- 10. Information from chemical manufacturer for proper use and disposal of chemical *must be* collected and kept on file. Each school shall prepare a disposal plan and submit the plan to the Department of Environmental Quality for review and consideration.
- 11. Proper personal protective clothing/ equipment *must* be readily available for use by students and teachers.
- 12. Emergency evacuation plan or fire escape plans shall be established and posted.

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- 13. The high schools shall not provide any chemicals without proper documentation to any agency, businesses, community or individuals for storage or disposal.
- 14. Chemicals should be stored per its characteristics (e.g. corrosive, flammable, oxidizer etc.).

SUPPORT SERVICES

FORM 5210

Safety, Security and Communications

Hazardous Materials

STUDENT CLASSROOM LABORATORY SAFETY PROCEDURES

The chemistry, art, agricultural, film development, automotive and vocational laboratories/ areas are a safe place to experiment if you are careful. You must assume responsibility for the safety of yourself and others. *The* following are safety rules to help guide you in protecting yourself and other from injury in the laboratory.

- 1. Do not perform experiments without your teacher's supervision.
- 2. Read your lab handout assignment before you begin. If you are in doubt about any procedure, ask your teacher for help.
- 3. Safety goggles and a laboratory apron may be required during experiments. Eyeglasses are not a substitute for safety goggles. Contact lenses should never be worn when safety goggles are worn; they absorb vapors and are difficult to remove in an emergency.
- 4. Know how to use the safety equipment provided for you. Know the location of the fire extinguisher, safety shower, eyewash, fire blanket and the first aid kit.
- 5. Report any accident, injury or incorrect procedure immediately to your teacher.
- b. If you spill any corrosive chemicals, wash it off immediately using plenty of water.
- 7. Never taste any chemical substance. Eating and drinking are prohibited in the laboratory.
- 8. If clothing should catch fire, smother it with a fire blanket, or quench it under a safety shower.
- 9. Handle all chemicals carefully. Check the labels of all bottles before removing contents. Do not return unused chemicals to reagent bottles.
- 10. Keep combustible materials away from open flames.
- 11. When heating a substance in a test tube, be careful not to point the mouth of the test tube at another person or yourself.
- 12. Use caution and the proper equipment to handle hot glassware and metals. Hot glass looks the same as cool glass.
- 13. Follow the directions for disposal of chemical substances, as well as disposable supplies during, and upon completion of an experiment. Immediately notify your teacher of broken lab equipment and glassware.
- 14. Long hair should be tied back and shoes must be worn while conducting experiments. Avoid wearing scarves, ties, or clothing with loose sleeves.
- 15. Wash your hands with soap and water when finished with your laboratory work.
- 16. Work areas should be kept clean and tidy at all times. A lab activity *is* not finished until work areas have been cleaned and all lab equipment has been returned to its original location.

Student Safety Contract

I will:

- D Follow all written and verbal instructions provided by the teacher.
- Derived Protect eyes, face, hands and body while conducting experiments.
- Construction Know the location and purpose of all safety equipment in the laboratory
- Conduct myself in a responsible manner at all times in the laboratory.

I

, have read all the safety

rules and promise to abide by them at all times in the laboratory. I understand that failure to follow these rules may result in injury to myself or others, my dismissal from the lab with an F and/or a disciplinary referral.

Date

Student's Signature

Parent or Guardian's Signature

Parent of Guardian's Name Home Phone: Work Phone: Parent or Guardian's Name: Home Phone: Work Phone:

Name and phone number of a person other than your parent or guardian to contact in case of an emergency.

Name: Phone:

SUPPORT SERVICES

Regulation 5230

Safety, Security and Communications

Accident/ Incident Reporting

All schools shall follow emergency procedure guidelines to ensure the health and safety of all students.

All PSS staff involved in or witnessing an accident/incident on campus that involves personal injury or property damage must immediately make an oral report to his or her supervisor and/or the principal. Supervisors and principals shall inform the Commissioner's officer no later than the end of the school day on which the accident/incident was reported.

Written reports from staff to principal shall be completed within 24 hours when an incident or accident occurs when a student is injured on school property or during a school sanctioned activity.

(a) Written Accident Report Procedures

- 1. The person in charge at the time of the accident shall complete the Accident/Incident Report form.
- 2. The Accident/Incident Report form shall be returned and forwarded to the principal within 24 hours.
- 3. The principal reviews the report and makes a necessary recommendation.
- 4. The principal shall forward a copy to the Commissioner/designee within 24 hours and a copy to the Legal Counsel if a serious injury/accident and/or hospitalization occurs or results in the absence of the student for a day or more. A copy remains in the school.
- (b) Accident/ Incident Reports will include:
 - 1. Date, time and place of accident.
 - 2. Name and address of injured person(s).
 - 3. Name of staff member(s) in attendance.
 - 4. Type of accident.
 - 5. Personal injures incurred.
 - 6. Treatment given.

Regulation 5230 Page 2

- 7. Description of the accident.
- 8. Property damage incurred.
- 9. Name and address of any parties with first-hand information regarding the accident.
- 10. Name of staff member making the report.
- 11. Date and time of parent/guardian notification.
- 12. If available, the hospital number and insurance number of party involved in the accident.

All written reports shall be sent to the Commissioner within 24 hours. The Commissioner shall report to the Board all serious accidents and shall also submit to the Board periodic statistical reports on the number and types of accidents occurring in the schools.

Regulation 5620

SUPPORT SERVICES

Transportation

Student Transportation Services

- (a) All school bus riders must adhere to the following rules and procedures.
 - 1. Leave home early enough to arrive at school bus station on time. (6:15 a.m.)
 - 2. Wait for school bus in a safe place and remain there quietly. Stay well off the roadway.
 - 3. Enter the school bus in an orderly manner and take a seat. Remain quiet.
 - 4. Follow all instructions of the school bus driver. The bus driver is in charge at all times.
 - 5. Remain seated at all times while the school bus is in motion.
 - 6. Learn emergency drill procedures and follow them at all times.
 - 7. Help to keep the school bus clean and in good condition.
 - 8. Keep head, arms and other parts of the riders' body inside the school bus at all times.
 - 9. Be alert for traffic when leaving the school bus.
 - 10. Do not carry tools or equipment to or from school unless turned over to the school bus driver to be returned when disembarking.
 - 11. Do not eat, drink, or chew gum while inside the school bus.
 - 12. Turn over instruments, such as radio, cassette recorder, guitar, ukulele etc., to the school bus driver upon entering the bus to be returned when disembarking.
 - 13. Place books, lunches, purses and other belongings directly under the seat.
 - 14. Be courteous to the school bus driver, conductor and fellow passengers.
 - 15. No crossing behind the bus at all times.
 - 16. No chewing betel nut inside the school bus.
 - 17. No spitting inside the bus or out the window.
 - 18. No smoking or use or other tobacco products inside the school bus.
 - 19. No fighting inside the school buses.
 - 20. Student and/or parent/ guardian are responsible to pay for damages or destruction to the bus or property of others.

HEAD START PROGRAM

Policy 8004

Program Governance

Central Parent Involvement Committees

Central Parent Involvement Committees are responsible for electing HPC representatives. These Committees should work with the HPC to develop program design and curriculum and are responsible for planning and participating in formal and informal activities for students, parents and staff. At least one member of a Central Parent Involvement Committee will sit on the HPC Personnel Committee and participate in the recruitment and selection of Head Start staff, including the Director.

The goal of the *Central Parent Involvement Committee (CPIC)* policy is to promote family involvement in the governance and decision making of the program, CNMI Head Start will encourage families at each center to meet on a regular basis. The families will facilitate these CPIC Meetings in accordance with the procedures set forth in Regulation 8004.

HEAD START PROGRAM

Regulation 8004

Program Governance

Central Parent Involvement Committee (CPIC)

(a) Meetings:

The Parent Involvement Coordinator will schedule the first CPIC Meeting for all sites. The Site Coordinator will inform all enrolled parents of the first CPIC Meeting in August. During the first meeting, families will vote on a date/time for the remaining meetings for the year. Example: 6 p.m. the second Tuesday of each month.

(b) Voting:

A quorum is required for all voting. A quorum consists of a minimum of half the number of parents/guardians of enrolled children. Only parents or legal guardians of currently enrolled children may vote at CPIC Meetings.

Nominations will be made for all positions, and be seconded. Voting may be completed orally, by hand or by written ballot and must be approved by a majority.

(c) **Positions elected by each CPIC are**:

- 1. CPIC President
- 2. CPIC Vice President
- 3. CPIC Secretary/Treasurer
- 4. HPC Representative
- 5 Health Advisory Committee (HAC) Representative

(d) Roles and Responsibilities:

- CPIC President: Conducts CPIC Meetings Ensures that information regarding monthly events is discussed
- 2. CPIC Vice President: Conducts CPIC Meetings when the President is absent
- 3. CPIC Secretary/Treasurer:

Takes minutes, writes agenda, copies both and ensures distribution. Copies are distributed to all Center Families, the Parental Involvement Coordinator, and the Center Parent Notebook. May collaborate with Center Staff to ensure completion of these tasks.

4. HPC Representative:

Attends all CPIC and HPC Meetings, and sits on committees as needed. Is responsible for sharing all concerns and positive comments from the center families with HPC. Acts as advocate for their center with HPC, the Board of Education and other governing bodies.

5. HAC Representative:

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Attends all CPIC Meetings and all HAC Meetings and assumes responsibilities associated with that committee. Is responsible for sharing all health-related concerns and positive comments from the center families with HAC. Acts as advocate for their center with HAC.

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Regulation 8004 Page 3

- (e) CPIC meetings will be conducted at the Head Start Centers. Site staff will decide at the beginning of the school year, prior to the first meeting, responsibilities for attending CPIC Meetings and write a staff plan. Site Coordinators will keep a copy of the staff plan and send a copy to the P/I Coordinator. These responsibilities include opening and closing of the center for evening meetings, assisting with childcare, and giving a report from the Education Staff.
- (f) Education staff will prepare a written report of upcoming classroom events, field trips, schedule changes, upcoming home visits and conferences, and educational themes.
 Site staff will be responsible for informing parents/guardians of upcoming meetings.
 Notices shall be posted on the Parent Bulletin Board, all classroom doors, and included in Center Newsletters/Calendars.

Refer to Communication Policy and Procedure

9 VOLUME 26 NUMBER 01

Notice Of Certification and Adoption of Amendment to the Solid Waste Collection Disposal Regulations, Section 2 to Require Pre-Sorting Of All Garment Material Prior to Delivery to Recycling Locations

I, Juan S. Reyes, Secretary of the Department of Public Works which promulgated as an Emergency Regulation and as Notice of Intent to Adopt an Amendment to the Solid Waste Collection Disposal Regulations. Section 2 to require pre-sorting of all garment material prior to delivery to recycling locations which were published in the Commonwealth Register Vol. 24, No. 05, on May 20, 2002, beginning at page 19125, by signature below whereby certify that as published such Amendment is a true copy Amendment to the Solid Waste Collection Disposal Regulations, which have been proposed by the Department of Public Works which after the expiration of appropriate time for public comment, have been adopted with no changes.

By signature below, I hereby certify that the proposed amendment to the Solid Waste Collection Disposal Regulations is the true, correct and complete Amendment to the Solid Waste Collection Disposal Regulations adopted by the Department of Public Works. 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 this declaration was executed on this 14th day of January, 2004, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:

JUÁN S. REYES Secretary of Public Wo

Received by Thomas A. Tebuteb

Special Assistant to the Administration

Filed by:

Bernadita B. DelaCruz Commonwealth Register

1/14/04

10:30 A.W. Time

Time

1-15-04

11:20 am Time

Pursuant to 1 CMC § 2153, as amended, and 1 CMC § 9104(a)(3), these adopted rules and regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

and, Marcin 1 1/15/04 MELA BROWN /(date) PAMELA BROWN

Attorney General

VOLUME 26 NUMBER 01

January 22, 2004 PAGE 021772

Notice of Certification and Adoption of Amendment to Solid Waste Collection Disposal Regulations Concerning Allocation and Management of the Solid Waste Management Revolving Fund

I, Juan S. Reyes, Secretary of the Department of Public Works which promulgated as an Emergency Regulation and as Notice of Intent to Adopt an Amendment to the Solid Waste Collection Disposal Regulations, to establish a policy regarding allocation and management of the Solid Waste Management Revolving Fund which was published in the Commonwealth Register Vol. 22, No. 04, on April 14, 2000, beginning at page 17200 through 17209, by signature below whereby certify that as published such Amendment is a true copy Amendment to the Solid Waste Collection Disposal Regulations, which have been proposed by the Department of Public Works which after the expiration of appropriate time for public comment, have been adopted with no changes.

By signature below, I hereby certify that the proposed amendment to the Solid Waste Collection Disposal Regulations is the true, correct and complete Amendment to the Solid Waste Collection Disposal Regulations adopted by the Department of Public Works. 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 this declaration was executed on this -14π day of January, 2004, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:

Juan / Um JUAN S! REYES

Secretary of Public Works

Filed by:

Bernadita B. DelaCruz Commonwealth Register

Received by:

Thomas A. Tebuteb Special Assistant to the Administration

1.15.04 Date

11:20an Time

Date

Time

Pursuant to 1 CMC § 2153, as amended, and 1 CMC § 9104(a)(3), these adopted rules and regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Arono 1/15/04

PAMELA BROWN /(date) Attorney General