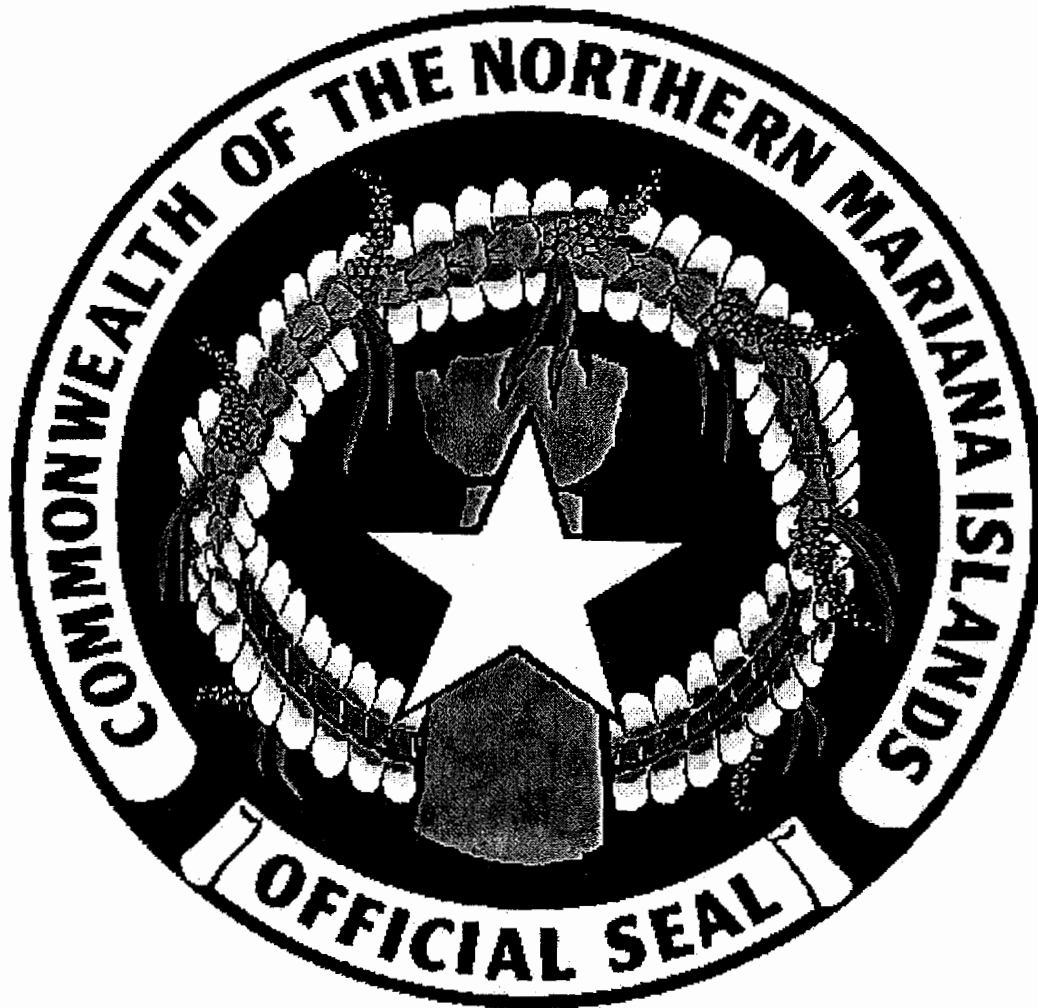


COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS



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COMMONWEALTH REGISTER  
VOLUME 28  
NUMBER 10

October 30, 2006

# **COMMONWEALTH REGISTER**

**VOLUME 28  
NUMBER 10  
OCTOBER 30, 2006**

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

EXTENSION OF EMERGENCY
Volcanic Activity on Anatahan

WHEREAS, On January 23, 2006, a Declaration of Emergency was issued with respect to volcanic activity on the island of Anatahan; and

WHEREAS, said Declaration declared the island of Anatahan as unsafe for human habitation and restricted all travel to said island with the exception of scientific expeditions; and

WHEREAS, the volcanic activity and seismic phenomena which prompted said Declaration continues to exist on the island of Anatahan;

NOW, THEREFORE, I, TIMOTHY P. VILLAGOMEZ, by the authority vested in me as Acting Governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, do hereby extend a state of disaster emergency in the Commonwealth with respect to the island of Anatahan under the same terms and conditions as are contained in the original Declaration.

This Extension of Emergency shall remain in effect for thirty (30) days, unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been revoked or further extended for alike term, and giving reasons for extending the emergency.

Dated this 31st day of October 2006.

[Handwritten signature of Timothy P. Villagomez]
TIMOTHY P. VILLAGOMEZ
Acting Governor

- cc: Lt. Governor (Fax: 664-2311)
Senate President (Fax: 664-8803)
House Speaker (Fax: 664-8900)
Mayor of the Northern Islands (Fax: 664-2710)
Executive Assistant for Carolinian Affairs (Fax: 235-5088)
Director of Emergency Management (Fax: 322-7743)
Attorney General (Fax: 664-2349)
Secretary of Finance (Fax: 664-1115)
Commissioner of Public Safety (Fax: 664-9027)
Special Assistant for Management and Budget (Fax: 664-2272)



**Office of the Mayor**  
MUNICIPALITY OF TINIAN AND AGUIGUAN  
Post Office Box 59  
SAN JOSE VILLAGE, TINIAN, MP 96952

Phone: (670) 433-1800  
(670) 433-1802  
Fax: (670) 433-1819

Jose P. San Nicolas  
Mayor

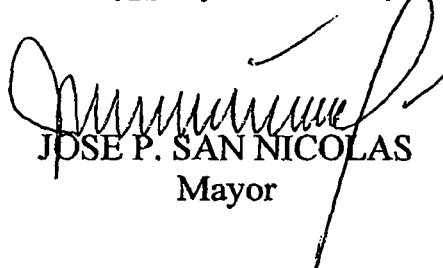
**DECLARATION OF STATE OF EMERGENCY**  
**MUNICIPALITY OF TINIAN AND AGUIGUAN**

I, JOSE P. SAN NICOLAS, pursuant to the authority vested in me as Mayor of the Municipality of Tinian and Aguiguan by Article VI, section 3, do declare a State of Emergency for the Municipality of Tinian and Aguiguan due to the continued deterioration of the Tinian outer seawall and piers.

This Declaration of State of Emergency is made after finding severe deterioration of the World War II outer seawall and piers leaving the inner dock area exposed to dangerous surf conditions. As such I find that the threat of danger to the Municipality of Tinian and Aguiguan caused by the deterioration of the outer wall and piers mandate the issuance of this State of Emergency Declaration. If allowed to continue, such conditions would lead to an exponential increase in the destruction of harbor piers and increased bottom silting and building which would eventually endanger the ability of essential shipping to dock safely.

Therefore in an effort to prevent further erosion of the Tinian piers and silting of the harbor, I hereby invoke my Constitutional authority to take all necessary measures, including but not limited to reprogramming all necessary money within the municipality and suspend all regulatory provisions applicable to procurement regulations to prevent the continued deterioration of the Tinian outer seawall and piers and to prevent continued silting of the Tinian Harbor.

Dated this 05 day of October, 2006.

  
JOSE P. SAN NICOLAS  
Mayor



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Timothy P. Villagomez**  
Lieutenant Governor

**EXECUTIVE ORDER NO. 2006- 007**

**SUBJECT:** Designation of the National Incident Management System (NIMS) as the basis for all incident management in the State/ Commonwealth

**AUTHORITY:** Homeland Security Presidential Directive/ HSPD-5

**WHEREAS**, the President in Homeland Security Directive (HSPD) 5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, local, and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity;

**WHEREAS**, the collective input and guidance from all Federal, State, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NMIS;

**WHEREAS**, it is necessary and desirable that all Federal, State, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management.

**WHEREAS**, to facilitate the most efficient and effective incident management it is critical that Federal, State, local and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

**WHEREAS**, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the State's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes.

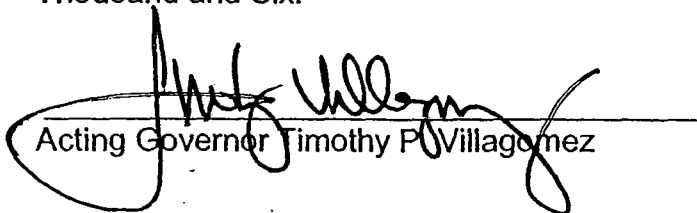
**WHEREAS**, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the State's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes.

**WHEREAS**, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the State, including current emergency management training programs; and

**WHEREAS**, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System;

**NOW, THEREFORE, I, Timothy P. Villagomez,** Acting Governor of the Commonwealth of the Northern Mariana Islands, by the virtue of the authority vested in me by the Constitution and Laws of the Commonwealth of the Northern Mariana Islands, do hereby establish the National Interagency Incident Management System (NIMS) as the State standard for incident management.

**GIVEN** under my hand and the Privy Seal of  
The Commonwealth of the Northern Mariana Islands this  
L.S. 18<sup>th</sup> day of October in the year Two  
Thousand and Six.

  
Acting Governor Timothy P. Villagomez

PUBLIC NOTICE OF EMERGENCY AMENDMENTS TO THE REGULATIONS FOR THE CONTROL OF STRAY AND FERAL DOGS ON THE ISLANDS OF TINIAN AND AGUIGUAN.

These amendments are promulgated pursuant to the Administrative Procedures Act, 1 CMC sect. 9101 et. seq. The Mayor of Tinian and Aguiguan is amending Tinian Stray Dog Regulations published in Commonwealth Register Volume 28 Number 05 May 19, 2006.

Citation of Statutory Authority:

The Mayor of Tinian proposes to promulgate emergency regulations that will clarify, expand, and strengthen the existing stray dog regulations on Tinian. The regulations are promulgated pursuant to Tinian Local Law 12-1.

Short Statement of Goals and Objectives:

Stray dogs on Tinian pose a health problem and in most cases are a danger to residents and visitors. Since the municipality implemented the reduction in the number of street lights utilized on Tinian, many residents and visitors have endured countless attacks from stray dogs. Stray dogs that suffer from malnutrition and disease are unsightly and a negative influence on the tourism industry. Humane considerations demand that such animals be dealt within a proper manner.

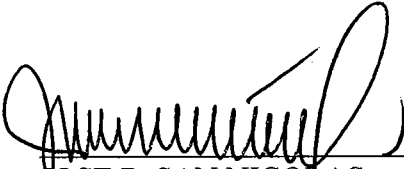
For further information you may contact:

Dr. Thomas Arkle, Special Consultant or Mr. Jose P. Cruz, Advisor at the Office of the Mayor at 670-433-1805.

Citation to Related and Affected Statutes:

NMI Constitution, Article 10, Section 6; 1 CMC sect. 1402; and Tinian Local Law 12-1.

Dated this 2 of October, 2006.



JOSE P. SAN NICOLAS  
Mayor  
Municipality of Tinian and Aguiguan



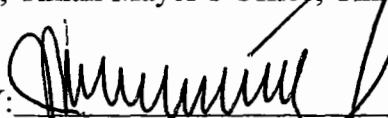
PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE REGULATIONS FOR THE CONTROL OF STRAY AND FERAL DOGS ON THE ISLANDS OF TINIAN AND AGUIGUAN.

EMERGENCY: The Municipality of Tinian and Aguiguan finds that public interest requires the passage of regulations that clarify and strengthen the stray dog regulations promulgated by the municipality of Tinian and Aguiguan. The Municipality further finds that the public interest mandates that adoption of these regulations upon fewer than thirty days notice, and that these regulations shall become effective immediately after filing with the Registrar of Corporations, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120days.

REASONS FOR EMERGENCY: In Fiscal Year 2007, the Tinian Mayor's Office will begin paying for the cost of operating all street lights in the municipality. With the reduction in revenues and appropriations and the added responsibility of paying for the cost of operating streetlights on Tinian, the municipality began implementing cost cutting measures by reducing the number of lighted street lights in Tinian. As a result, out of 1000 streetlights in the municipality, only 174 streetlights are currently being utilized at night. However, with the reduction in street light usage, Tinian pedestrians on streets, residential areas, and on the beaches have endured countless attacks by stray dogs on Tinian. The Municipality of Tinian and Aguiguan finds that the implementation of these regulations upon less than thirty days notice is necessary to immediately address the stray dog problem in Tinian.

INTENT TO ADOPT: It is the intent of the Municipality of Tinian and Aguiguan to adopt these regulations to amend the existing municipal stray dog regulations. Accordingly, interested parties may submit comments to Mr. John E. Untalan, Chief Executive Officer, Tinian Mayor's Office, Tinian, MP 96952 or by fax to 670-433-1819.

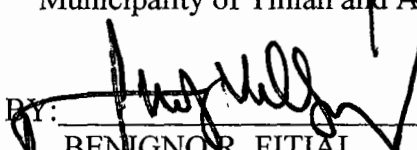
SUBMITTED BY:

  
JOSE P. SAN NICOLAS  
Mayor  
Municipality of Tinian and Aguiguan

Date

10/2/06

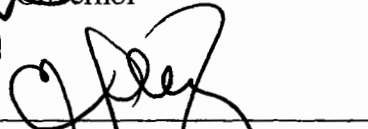
CONCURRED BY:

  
BENIGNO R. FITIAL  
Governor

Date

10/10/06

RECEIVED BY:

  
ESTHER S. FLEMING  
Special Assistant for Administration

Date

10/12/06

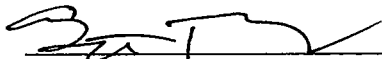
FILED AND RECORDED BY:

  
BERNADITA B. DELA CRUZ

10/17/06  
Date

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

Dated this 12<sup>th</sup> day of October, 2006.

  
MATTHEW T. GREGORY  
Attorney General

Agg 10/5/06

PROPOSED AMENDMENT TO THE REGULATIONS FOR THE  
CONTROL OF STRAY  
AND FERAL DOGS ON THE ISLANDS OF TINIAN & AGUIGUAN

**Section 1. Authority:**

These regulations are promulgated by the Mayor of Tinian and Aguiguan pursuant to the authority granted by Tinian Local Law 12-1

**Section 2. Purpose:**

These regulations are promulgated to AMEND previous regulations as published in the Commonwealth Register, Volume 28, Number 05, page 025713 and dated May 19, 2006.

**Section 3. Amendment:**

Sections 3, 4, 5, 6, 7 and 8 of the current regulations are hereby repealed in their entirety and shall be replaced by the following sections:

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**Section 3.1      Definitions:**

- 3.1.1 Dog: Means any animal of the Genus *Canis*.
- 3.1.2 Stray Dog: Means any unlicensed dog.
- 3.1.3 Feral Dog: Means dogs that have become wild, have no license or home and that primarily live off the land or, in populated areas, from garbage and handouts.
- 3.1.4 License: Means a visible tag on a collar affixed to a dog's neck and acquired under authority from the Mayor's Office upon proper application and payment.
- 3.1.5 Humane Disposal: Means any method of euthanasia of a dog that is painless and lacking in cruelty.
- 3.1.6 Cage or Caging: Means the control of unlicensed dogs by placing in a cage or other place of controlled confinement
- 3.1.7 Mayor's Office: Means the Office of the Mayor of Tinian and Aguiguan.
- 3.1.8 Dog Control Officer: Means any person so appointed by the Mayor and, after having appropriate training, shall be authorized to enforce all the regulations and intent herein contained.
- 3.1.9 Impoundment: Means the act of caging or otherwise taking control of any dog.
- 3.1.10 Altered Dog: Means any dog, male or female, having undergone a veterinary medical procedure designed to render said dog infertile and incapable of reproduction.
- 3.1.11 Vicious Dog: Means any dog that bites or attempts to bite any human or other animal without provocation, or that has a disposition or propensity to attack, bite or menace any human or other animal without provocation and endangers the health and safety of any person.
- 3.1.12 Municipality: Means the Chartered Municipality of Tinian and Aguiguan
- 3.1.13 PAWS: Means the "Pet Animal Welfare Statute" of 2005.
- 3.1.14 PETS: Means the "Pets Evacuation and Transportation Standards" Act.
- 3.1.15 PSAP: Means the "Pet Safety and Protection" Act.
- 3.1.16 AFPE: Means the "Animal Fighting Prohibition Enforcement" Act.
- 3.1.17 HSUS: Means the "Humane Society of the United States".

**Section 4.1 Dog Shelter; Established:**

The Mayor shall initiate a "Memorandum of Understanding" (MOU) between the Mayor's Office and the Resident Director of the Department of Lands and Natural Resources (DLNR) for the physical establishment of a suitable enclosure for the purpose of keeping and safely holding or caging dogs at the DLNR compound and for the care and disposal of dogs therein located. Such location and facility shall be referred to as the "Tinian Dog Shelter."

**Section 5.1 Dog Control Officer; Established:**

**5.1.1 Dog Control Officer:** The Mayor shall establish a position within the Mayor's Office entitled "Dog Control officer". The person so appointed shall have experience, determined by the Mayor, in the proper handling and control of dogs and shall be given any additional training as needed and so determined by the Mayor in order to carry out the provisions of these regulations.

**5.1.2 Equipment:** The Mayor's Office shall furnish any equipment necessary for use by the Dog Control Officer (DCO) in carrying out these regulations. Such equipment may consist of, but not limited to, personal protective clothing and equipment, dog control devices such as collars, chains, leashes, "Ketch-All" poles or other similar holding devices, an appropriate vehicle designed and outfitted to safely transport captured or otherwise controlled dogs from the capture location to the dog control facility or other designated location and any other equipment as may be deemed necessary by the DCO and approved by the Mayor.

**5.1.3 Applicable statutes:** When carrying out the provisions of this Chapter, the DCO or any other person so enforcing these regulations shall, at all times, be aware of and remain in compliance with the requirements of any applicable animal welfare statutes such as but not limited to "PAWS", "PETS", "PSAP" and "AFPE". It shall be incumbent upon the DCO to regularly review and maintain copies of pertinent requirements of various animal welfare laws and regulations as posted on websites such as that of the Humane Society of the United States. The DCO shall, under requirements of "PETS", provide a suitable disaster protection and pet evacuation plan to the local Emergency Management Office of the Municipality of Tinian and Aguiguan within 90 days of initial appointment and shall maintain said plan by review at least annually or as otherwise required.

**Section 6.1 Impoundment:**

**6.1.1** It shall be the duty of the DCO and his/her employees to take up and deliver to the Tinian Dog Shelter any dog found upon any public or private property within the Municipality in violation of any of the provisions of this chapter.

**6.1.2** For the purpose of taking up such dogs, the DCO may employ such humane devices and methods as necessary to take up such dogs including the use of type approved traps, cages, or other devices and shall include the use of "bait"; but in no case shall such devices or methods result in death or undue injury to the dog except as provided for in subsection 13.2.2.

**6.1.3** On occasion, as deemed necessary by the DCO, a public notice may be posted in conspicuous public places at least 72 hours in advance for the purpose of notifying the public that the DCO will conduct an intensive or special program in a specific location and at specific hours to capture or take up any dogs not in compliance with provisions of this chapter.

6.1.4 Whenever necessary to make an inspection to enforce any of the provisions of this chapter, the DCO or his/her designee may enter private property at all reasonable times to inspect same or to perform any duty imposed by this chapter, provided, that if such private property is occupied, such official shall first present proper credentials and demand entry. If entry is refused, or if the owner or the other person having control of such property is not present to permit entry, such official shall have recourse to every remedy provided by law to secure entry at a later time.

## **6.2 Care of Dogs:**

The Resident Director of DLNR per MOU with the Mayor's Office shall safely keep all dogs impounded at the Tinian Dog Shelter and shall furnish the same all necessary food and water, and shall give the same ordinary attention as may appear to be reasonably required for the welfare of such dogs.

## **6.3 Impoundment; Voluntary:**

6.3.1 The owner of any dog may, with the consent of the DCO, place the custody of such dog with said official for the purpose of obtaining his/her assistance in procuring a new owner for the dog under such terms and conditions as that official, in his sole and absolute discretion, shall determine. The act of the owner in so placing the custody of the dog with the DCO shall, in no event and under no circumstances, obligate that official of the Municipality to procure a new owner for the dog and, in the event such official so determines, the dog may be destroyed and disposition made of the carcass.

6.3.2 The owner of any dog may, with the consent of the DCO, place the custody of such dog with said official with the purpose of disposing of the dog as that official so determines. By placing the dog in the custody of the DCO in accordance with this section, the owner thereof relinquishes and conveys to the Municipality all his right, title and interest in and to the dog and to the proceeds of any sale of the dog thereafter made, and neither the Municipality nor the official shall be required to make an accounting for any such proceeds. If the DCO elects to accept custody of the dog, he/she shall require the owner thereof to evidence in writing his knowledge and acceptance of the provisions of this section.

6.3.3 Notwithstanding anything in this section to the contrary, in the event the DCO has not procured a new owner for the dog and the same has not been destroyed, the person so placing the dog in such custody may redeem and reclaim (See also section 6.6) it from the custody of the DCO and Municipality upon the payment of a fee established by the Mayor by regulation.

6.3.4 The owner of the unwanted dog may deliver the dog to the DCO at the Tinian Dog Shelter without charge or, at the owner's request, that official will pick up the dog at a fee established by the Mayor by regulation.

## **6.4 Impoundment; Nonpayment; Abandonment:**

The refusal or failure of the owner of any impounded dog to pay the fee and charges after due notification shall be held to be an abandonment of the dog by the owner.

## **6.5 Impoundment; Disposal:**

**6.5.1** The destruction of any dog shall be in compliance with humane destruction methods as approved by the Humane Society of the United States and as described in "Euthanasia Training Manual", by Dr. Rebecca Rhoades, D.V.M.; ISBN: 0-9658942-6-6 and shall be carried out under the supervision of a Veterinarian or Para-Veterinarian who shall have in his/her possession a copy of such manual and shall follow all prescribed methods of such manual.

**6.5.2** Prior to destroying an impounded dog, the DCO shall contact any and all local dog welfare protection groups that have registered with the DCO and who the DCO have found ready, willing and able to place abandoned or wild dogs with responsible owners, to determine if the group is willing to take the dog in an attempt to place the dog with a willing owner. If the group is so willing, then the DCO shall release the dog to the group after the holding period and/or after the expiration of any notice period as set forth below in sections 6.5.3 and 6.5.5.

**6.5.3** Prior to placing the dog with any dog welfare/protection group or destruction of any dog, the DCO shall attempt to contact the owner of the dog, if any. If the dog is wearing a tag issued by the Municipality, or a tag that provides the DCO with information sufficient for him/her to determine the identity of the owner of the dog, then notice that the dog has been impounded and may be destroyed or given to a new owner, shall be given to the owner either by personal service or by certified mail. The dog may not be disposed of or given away prior to the owner receiving forty-eight hours notice if by personal service or 72 hours if by certified mail. For the purposes of determining the running of the notice period for notices serviced via certified mail, the seventy-two hour notice period will begin to run upon the DCO delivering the letter to the post office.

**6.5.4** The notice shall include the day and time that the dog was impounded, the daily impound fee, any other fees that the owner must pay to regain possession of the dog, and any procedures the owner must follow to regain possession of the dog.

**6.5.5** If an impounded dog is not wearing a tag that would provide the DCO with the ability to determine the owner's identity, or if the owner does not respond to the notice issued by the DCO, then the DCO may, at the expiration of a one hundred twenty hour holding period (5 days), or at the end of the notice period, whichever is later, destroy the dog or give the dog away to a dog welfare or protection group, or to any individual that the DCO deems to be ready, willing, and able to care for the dog.

**6.5.6** If the DCO deems that the dog can be sold and thereby generate revenue for the Municipality, the DCO may sell the dog rather than give the dog to a dog welfare/protection group, or to an individual, except that such sale shall comply with all requirements of animal welfare acts relating to "puppy mills" and "research" purposes.

**6.5.7** At the time of sale or placement with an individual of any dog, a spay/neuter deposit shall be required from the purchaser/new owner. Such deposit shall be established by the Mayor by regulation. All such deposits shall be deposited in a special account for the Municipality for dog control. A purchased/placed dog under six months of age at the time it is sold/placed shall be spayed or neutered within sixty days or the deposit shall be deemed unclaimed and forfeited to the Municipality. If a written statement is obtained by the purchaser/new owner from a licensed Veterinarian or Para-Veterinarian that the dog is not suitable for surgery the deposits shall not be deemed forfeited. If such statement from a licensed Veterinarian or Para-Veterinarian indicates the required surgery has been performed within the specified time, any deposit collected shall be refunded to the purchaser/new owner.



**6.5.8** At the time of sale or placement with an individual of any dog, a "parvo" vaccination deposit shall be required from the purchaser/new owner. Such deposit shall be established by the Mayor by regulation. All such deposits shall be deposited in a special account for the Municipality for dog control. A purchased/placed dog under six months of age at the time it is sold/placed shall be so vaccinated within sixty days or the deposit shall be deemed unclaimed and forfeited to the Municipality. If a written statement is obtained by the purchaser/new owner from a licensed Veterinarian or Para-Veterinarian that the dog is not suitable for vaccination, the deposit shall not be deemed forfeited. If such statement from a licensed Veterinarian or Para-Veterinarian indicates the required vaccination has been performed within the specified time, any deposit collected shall be refunded to the purchaser/new owner.

**6.5.9** The DCO may, without waiting for such five-day period to elapse (subsection 6.5.4 above), cause any impounded dog to be destroyed when that official reasonably determines, upon the advice of a licensed Veterinarian or Para-Veterinarian, that such dog is unfit by reason of its having been injured, having become infected with a dangerous or communicable disease, having become incurably crippled or having become infirmed through advanced age. Such official may likewise so destroy any impounded dog upon receiving the written report of a duly licensed Veterinarian or Para-Veterinarian that such dog is afflicted with a painful and incurable disease.

#### **6.6 Impoundment; Redemption by Owner:**

The owner or person entitled to possession of any impounded dog shall have the right to redeem and take possession of the same at any time prior to the sale or destruction thereof, upon payment to the Treasurer of the Municipality of Tinian and Aguiguan of the costs and charges incident to the impounding, taking and keeping thereof (see Section 18.1.3), and upon satisfactory proof of the ownership and right to possession of the dog being made to the DCO and, if previously sold, to receive all of the net proceeds of such sale in excess of the costs and charges of the taking, impounding, keeping and expenses of the sale thereof. As an incident to the redemption of any dog, the owner or other person shall also pay the license fee under Section 18.1.1 or 18.1.2, plus any penalty under Section 18.1.4, for any dog for which a license tag has not been issued for the current year.

#### **6.7 Interference with Officers or Shelter:**

No person shall conceal or attempt to conceal, rescue, or attempt to rescue any dog mentioned in this chapter from the DCO, or from any other officer authorized to enforce any of the provisions of this chapter, while engaged in the capture or in conveying to the Tinian Dog Shelter any such dog, or to interfere in any matter with said persons in the performance of any duty incident to their office, or to rescue or attempt to rescue any dog which has been impounded in the Tinian Dog Shelter, or to bring harm to or attempt to bring harm to any dog in custody of the Municipality or its officials.

### **Section 7.1 Dog Licensing:**

#### **7.2 Tag; Required:**

No person shall own or have in custody or control any dog, male or female, over the age of four months, without at all times having upon such dog a collar or harness to which shall be securely fastened a tag as provided in the regulations in this section. Said tag may be issued at any time during the calendar year and may be issued for a period of

twelve months or longer. The tag shall be obtained from the DCO or designated office, inscribed with letters or words identifying the tag as issued by the Municipality of Tinian and Aguiguan and with the serial number of the tag. The tag shall be valid only during the period for which the tag is issued and shall remain the property of the Municipality.

**7.3 Tag; Collar Required:**

A suitable dog collar in either nylon or metal shall be included with the required tag for the sole purpose of attaching the dog license tag to the dog's neck. The Mayor's Office and DCO or any of their designees or other Municipal officials make no warranty or guarantee of any kind as to the suitability of said collar except as a secure device for retention of the dog's license tag and said collar should not be used by the dog's owner for any other purpose except at the owner's sole risk and liability for loss, breakage, or injury.

**7.4 Application:**

Each application for a dog license tag shall contain, at a minimum, the name of the dog, age, sex, color, and breed/description of the dog for which the license is requested and the name, address and telephone of the owner and the location where the dog is to be kept.

**7.5 Endorsement of Tag Number:**

All applications for a dog license (tag) shall be endorsed by the Mayor and the receipt, or copy thereof, for payment from the Municipal Treasurer shall be kept on file in the office of the DCO along with an original copy of the application and open to public inspection.

**7.6 Spayed or Neutered Dog; Reduction in Fee:**

Whenever dog license tags are issued pursuant to this part, any such tag shall be issued for a reduced fee as determined by the Mayor by regulation from the normal fee required for a dog, if a certificate is presented from a licensed Veterinarian or Para-Veterinarian that the dog has been spayed or neutered.

**7.7 Tag Issuance; Records:**

**7.7.1** The DCO is authorized and directed to procure on an as needed basis such quantity of tags and collars as may be required for dogs in the Municipality, which tags shall be plainly inscribed as set forth in this section, and shall be valid for only the period for which they are issued. The DCO, his/her assistants, and deputies shall furnish such tags and collars to the owners and persons in control of the dogs in the Municipality for fees which shall be established by the Mayor by regulation for each unaltered dog and for each altered dog whose spaying or neutering is verified by a certificate from a licensed Veterinarian or Para-Veterinarian.

**7.7.2** The DCO shall keep a register, by electronic means or other means as deemed appropriate, wherein shall be entered the name of every person to whom a dog tag has been issued, together with the serial number, and the period for which it is valid, the date of issuance, the address of applicant, and any other data deemed pertinent. Such tag shall be good only for use upon the dog described in any person's application and so recorded in the register.

**7.8 Tag; Replacement:**

In case of loss or destruction of any tag required by the provisions of this section, a duplicate shall be issued by the DCO upon request and upon payment of a fee established by the Mayor by regulation.

**7.9 Tag; Exemptions:**

**7.9.1** No license fee shall be required for the issuance of a tag for any dog certified by the DCO as being duly or properly trained to aid or assist disabled persons when such dog is actually being used by a person for the purpose of aiding or assisting such disabled person, and the DCO shall annually issue tags free of charge to owners or persons having the custody and control of such dogs upon appropriate verification of such use.

**7.9.2** No license fee shall be required for the issuance of a tag for any dog certified by the DCO as being duly or properly trained for service within any government agency, local, CNMI, or Federal when actually being used in service of said agency or department.

**7.10 Tag; Counterfeit Prohibited:**

**7.10.1** No person shall imitate or counterfeit any application, tag, receipt, or registration certificate required or issued pursuant to this section or use any imitation or counterfeit of any such application, tag, receipt or certificate.

**7.10.2** No person shall alter, obscure, tamper with or otherwise mutilate or destroy any tag issued by the DCO or render the tag's inscription and/or number unreadable in any manner.

**7.11 Owner's Existing Collar:**

Upon demonstration to the DCO that a tag applicant already has applied a suitable collar or harness to his/her dog, a reduced tag fee shall be available as set by the Mayor by regulation. A suitable collar or harness must be of a commercially available design and be fabricated of leather, nylon or a metal chain with a secure buckle or adjustment device and a secure metal ring or other secure method of attaching the required tag to the collar.

**7.12 Exhibit of Receipt or Tag Required:**

No person owning or having in his/her control any dog subject to license under this chapter shall refuse to show upon demand to the DCO, or any police officer, the receipt for a license tag fee or the license tag for any duly registered dog.

**7.13 Transfer of Ownership:**

No person shall transfer by any manner, including but not limited to, sale, barter or gift, any dog having been properly licensed and tagged, to any other person without notification of such to the DCO within five (5) working days of such transfer. There shall be a fee for such transfer, set by the Mayor by regulation. The DCO shall make or cause to be made appropriate entries in any records of ownership and no further license or fees shall be due until expiration of the original owner's license, unless said license shall already be delinquent. In such case all required fees and penalties shall be paid prior to completion of transfer of ownership and the dog shall be impounded until all requirements of this Chapter are fulfilled by the owner of record.

**7.14 Notification of Expiration:**

The DCO shall maintain a file or record of all licenses issued under this Chapter by date of license expiration (in addition to the requirements of Section 7.7). Ten (10) working days prior to expiration of any license, the DCO shall make every reasonable attempt to notify the dogs owner of record that the license is about to expire. Such notification may be made by telephone, e-mail, in person or by the mailing of a suitable post-card type notification. Failure to respond within a maximum allowance of five (5) working days AFTER expiration of the license to said notification by the dog's owner of record shall be cause for the DCO to determine lawful status of the dog and to undertake any actions necessary to cause compliance with the provisions of this Chapter.

**Section 8.1 Unlawful Killing, Injuring or Impounding:**

Except as otherwise provided in this chapter, it is unlawful for any person to kill, injure, or impound any dog if the owner of the dog has complied with the provisions of this chapter.

**Section 9.1 Female in Heat; Permitting to Run at Large:**

It is unlawful for any person to permit any female dog, which is owned, harbored, or controlled by him/her to run at large at any time during the period when the dog is in heat or breeding condition.

**Section 10.1 Rabies Control:**

[Reserved.]

**Section 11.1 Dog Regulation:**

**11.2 Dog Leash Required:**

**11.2.1** No person owning, having a proprietary interest in, harboring, or having the care, charge, control, custody or possession of a dog, shall permit such dog to be in or upon any public street, park or other public place (see 11.2.2 below) or private property not belonging to the owner unless such dog is upon a secure leash not more than eight feet long held continuously in the hands of a responsible person capable of controlling the dog, unless the dog is securely confined within a vehicle or in or upon any unenclosed or enclosed lot or premises.

**11.2.2** A leash shall not be required for any person who is in possession of or operating within the terms of a valid, un-revoked permit from the Municipality for the conduct of obedience or any other type of trial or show of the dogs in or upon any public place. Permits so required by this subsection shall be issued by the DCO specifically for the date, time and place of the activity to be permitted and it shall be the exhibitor's responsibility to maintain all dogs within the specific area permitted at all times.

**11.2.3** No person owning, having a proprietary interest in, harboring, or having the care, charge, control, custody or possession of a dog, shall permit such dog to be in or upon any public beach, whether leashed or unleashed, at any time; except that any dog certified by the DCO as being duly or properly trained to aid or assist disabled persons when such dog is actually being used by such person for the purpose of aiding or assisting such

disabled person while transiting through or remaining upon any public beach shall not be so restricted; but that the requirements of section 11.3 shall apply.

### **11.3 Pooper-Scooper Required:**

Every person owning, having a proprietary interest in, harboring, or having the care, charge, control, custody or possession of a dog, shall, when in compliance with subsections 11.2.1 and 11.2.3, at all times have in their possession appropriate material(s) for the complete picking up and removal of any and all contaminates such as feces or droppings deposited or otherwise produced by said dog. Such contaminates must be removed from any public property by carriage, by the owner or person having control of the dog, in a secure leak-proof container and may not be deposited upon any public place or in any public receptacle or other place for trash or other items or upon private property not belonging to the owner or person having control of the dog.

### **11.4 Possession without Owner's Consent:**

No person, not the owner thereof, and without the consent of the owner thereof, shall hold or retain in his/her possession any dog within the Municipality for any period longer than twenty-four hours unless such person reports the same, with the true description thereof, to the DCO.

### **11.5 Dead Dogs:**

**11.5.1** It shall unlawful for the owner of any dog to place the dead carcass of any dog, whether registered to him/her or not, upon any public place or roadway or to otherwise improperly dispose of said carcass in any manner other than by burial upon the owners private property and at a depth of not less than two (2) feet below the mean average surface of the land within a boundary of not less than twenty (20) feet square, or by taking the dead dog to the Tinian Dog Shelter for disposal, or by requesting the DCO to pick-up the dead dog at the owner's premise upon payment of any required fee. Said dog shall not be buried within five (5) feet of any property boundary of the owner's land.

**11.5.2** Any dead dog found on public property, roadway, easement or shoulder of any roadway shall be removed and properly disposed of by the DCO or his/her designee. When a reasonable suspicion or other evidence causes the DCO to believe the dead dog may have been placed upon public property by its owner or other person, the DCO is authorized to make every attempt under the laws of the CNMI to cause the owner or other person to remove of and properly dispose of the dead dog.

**11.5.3** Notwithstanding the regulations of any other agency of the Commonwealth, the DCO shall, in agreement with DLNR or any other agency of the Municipal or Commonwealth governments, determine, delineate and set aside an appropriate plot of public lands for the burial of all dead dogs, whether found dead upon a public place, turned in by the dogs owner or other person or destroyed by the DCO under provisions of this chapter. Such plot shall be secured in such a manner and marked with appropriate signage as to prevent unauthorized entry to the public and only the DCO or his/her designees shall have access to such plot and for the sole purpose of carcass burial.

**11.5.4** When feasible or applicable, the DCO may determine that carcasses may be disposed of through means of incineration in a facility approved for such purposes.

**11.5.5** The DCO shall be responsible, on behalf of the Municipality, for obtaining any required ongoing permits for the disposal of dead dogs either through burial or incineration from any concerned agency of the Municipal, CNMI or Federal governments.

11.5.6 Any person, while in the lawful operation of any vehicle upon the public highways and who shall accidentally strike and kill or injure any loose dog, shall, as soon as practically feasible, notify the DCO of the time, date and location of the death or injury but shall not be held accountable for any further action or liability by the Municipality.

**Section 12.1 Refunds:**

In the event the DCO or his/her designee determines after the sale of a dog, and at the request of the purchaser, that the dog bites, or that an examining Veterinarian or Para-Veterinarian has determined that the dog is ill and there are sufficient facts and circumstances which indicate the illness was incurred by the dog prior to the sale, the DCO or his/her designee may authorize the refund of the purchase price, inoculation fee, license fee, and any other fees or charges paid by the purchaser to the Municipality in connection with the sale of the dog and in excess of the costs and charges of taking, impounding and keeping of said dog; provided, that the purchaser of the dog files a written request for the refund with the DCO within fifteen days after the date of sale of the dog and the dog shall have been remanded to the Tinian Dog Shelter.

**Section 13.1 Vicious Dogs:**

13.1.1 Any "Vicious dog" that bites or attempts to bite any human or other animal without provocation, or that has a disposition or propensity to attack, bite or menace any human or other animal without provocation and endangers the health and safety of any person may be taken into custody by the DCO without prior consent or authorization as set forth in section 14.2.

13.1.2 Any dog that bites or attempts to bite a person or other animal that is unlawfully on its owner's premises, or that has been provoked or teased, or that is otherwise performing its duties as a police dog, shall not be deemed to be a vicious dog.

**13.2 Impoundment of Vicious Dog:**

13.2.1 Any law enforcement or Dog Control Officer of the Municipality shall have the authority summarily and immediately to impound a dog when there is evidence it is vicious within the meaning of this section.

13.2.2 If the dog can not be safely taken up and impounded, it may be destroyed forthwith by such method as deemed immediately practical and applicable or, at the discretion of the DCO, the dog may be securely caged by its owner on the owner's private property in such a manner as to prevent any further contact with any human or other animal and said cage shall be further secured by the DCO with a tamper-proof device until such time as a decision shall be rendered under provisions of sections 14.3 and 14.4. If destruction is immediately necessary to protect the health and safety of the public, the DCO may request assistance of any police officer (DPS) to immediately destroy said animal by shooting that shall result in immediate death as humanely as possible.

**13.3 Vicious Dog Hearing:**

Where there exists evidence sufficient to give rise to the suspicion that a dog is "vicious" within the meaning of this section, the DCO shall conduct a hearing for the purpose of determining whether the dog is a vicious dog. The DCO shall notify the owner of the

dog, and may notify any interested parties of the time and place of hearing. At such hearing the owner and any interested party shall be given the opportunity to present any evidence relevant to the issue. After such hearing the DCO is empowered to declare such dog to be a vicious dog. All hearings shall be conducted in accordance with the APA [Administrative Procedures Act, 1 CMC 9101, et seq.].

#### **13.4 Disposition of Vicious Dogs:**

**13.4.1** Any dog declared to be a vicious dog may, at the discretion of the DCO, be humanely destroyed. Such humane destruction shall occur no earlier than ten days following notice given to the owner of intention to destroy the dog, or if a hearing is held, no earlier than ten days after a decision has been issued in the same and after all rights to appeal have been exhausted.

**13.4.2** The owner, if any, of any dog declared to be a vicious dog shall be required to reimburse the Municipality of Tinian and Aguiguan in an amount equal to any costs associated with the destruction of said vicious dog and for any fees or other costs associated with the holding of the dog whether destroyed or returned to the owner under subsection 14.5.1.

#### **13.5 Issuance of Rules and Regulations; Summary Destruction:**

**13.5.1** If after the hearing provided in this section, it is determined that the dog is vicious, the DCO, if he/she elects not to destroy the dog, may through the issuance of an order, place conditions pertaining to the keeping and containing of such dog by its owner. Such conditions shall include a requirement for the owner of said dog to obtain and maintain a personal liability insurance policy of at least \$100,000 and to post a conspicuous sign warning that a "vicious" dog is on the property.

**13.5.2** If such dog is thereafter determined to be in violation of any of the terms of an order issued by the DCO pertaining to the keeping and containing of a dog found to be vicious, such dog shall be impounded and thereafter subject to destruction after any and all hearings and appeals have been taken as required under this section.

#### **Section 14.1 Penalties:**

**14.1.1** The failure to timely renew required licenses or to comply with other administrative procedures of this Chapter shall result in penalty as set by the Mayor by regulation.

#### **Section 15.1 Enforcement:**

**15.1.1 Officers Designated:** The DCO and any employee designated by the Municipality including police officers of the CNMI Department of Public Safety shall have the duty to enforce this chapter.

**15.1.2 Enforcement Training:** The Department of Public Safety shall train all DCO's and his/her designees in those law enforcement skills necessary to enforce this Chapter. Periodic law enforcement seminars shall be held to train any new officers and to update information on laws and procedures.

**15.1.3 Citation for Violation:** The DCO or his/her designee or any Officer of the DPS may issue a citation to any person violating the provisions of this Chapter in his/her presence.

**15.1.4 Citation on Reasonable Belief:** The DCO or his/her designee or any Officer of DPS may issue a citation to any person for violation of any provision of this Chapter if he/she has reasonable belief that such person did violate any such provisions.

**15.1.5 Basis for Reasonable Belief:** Any reasonable belief may be based upon a written statement provided by a person who witnessed any violation of the provisions of this Chapter or by physical evidence found that indicates such a violation did occur.

**15.1.6 Appearance in Court:** Any persons so cited for violations of the provisions of this Chapter shall be served with a citation by the issuing official and ordered to appear at the traffic court, Commonwealth Superior court for a hearing. Citations shall be filed with the Attorney General's Office and the Clerk of the Superior Court.

**15.1.7 Minors:** Parents or legal guardians shall assume financial responsibility for payment of any fines assessed by the Superior Court for violations of this Chapter by any minor under their care or custody.

**15.1.8 Jurisdiction:** The Commonwealth Superior Court shall have jurisdiction to hear cases brought under the authority of this Chapter. The Attorney General's Office shall be responsible for prosecuting any violators of these regulations.

**15.1.9 Penalties:** A person found to have violated any provision of the regulations in this chapter shall be fined not more than one hundred dollars (\$100.00) for the first offense and not more than two hundred dollars (\$200.00) for the second offense within a twelve-month period. Any person charged with a first violation of this Chapter may post and forfeit bail in the amount of \$100.00 and avoid a court hearing. A court may order any person found to have violated the provisions of this Chapter to perform up to eight hours of community service in addition to any fine imposed. All fines shall be paid to the Clerk of the Commonwealth Superior Court.

**Section 16.1 Disposition of fees:**

All monies collected for licensing and any other fees and penalties collected by the Municipality under provisions of this chapter shall be transmitted to the Tinian Municipal Treasurer who shall maintain such funds in a separate account and such funds shall be appropriated and used solely for expenses associated with these regulations. Such funds shall be available without further appropriation and without fiscal year limitation.

**Section 17.1 Severability (previously section 8):**

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

**Section 18.1 Fee Schedule:**

The fee schedule is authorized by regulations promulgated pursuant to Tinian Local Law No. 12-1.



<b>18.1.1 License Fees – Tag and Collar: <sup>+++</sup></b>			
	Non Altered	Altered	Senior Citizen <sup>++</sup>
1 Year License	\$18.00	\$14.00	\$12.00
2 Year License	\$26.00	\$18.00	\$16.00
3 Year License	\$34.00	\$22.00	\$18.00
4 Year License	\$42.00	\$26.00	\$20.00

<b>18.1.2 License Fees – Tag Only: <sup>+</sup></b>			
	Non Altered	Altered	Senior Citizen <sup>++</sup>
1 Year License	\$10.00	\$6.00	\$5.00
2 Year License	\$18.00	\$10.00	\$8.00
3 Year License	\$26.00	\$14.00	\$10.00
4 Year License	\$34.00	\$18.00	\$12.00

<sup>+</sup> Duplicate tag shall be charged at 80% of any applicable fee in 18.1.2

<sup>++</sup> Senior Citizens must be 60 years of age and own an altered dog.

<sup>+++</sup> Tag and Collar fees are NON-REFUNDABLE except as allowed in Section 13.1

<b>18.1.3 Redemption Fees (within a 12 month period): <sup>*</sup></b>		
	Impound	Board (per day)
1 <sup>st</sup> Impound	\$20.00	\$5.00
2 <sup>nd</sup> Impound	\$40.00	\$5.00
3 <sup>rd</sup> Impound	\$100.00	\$5.00
<b>Special Impound:</b>		
Vicious Dog	\$50.00	\$8.00
After Hours	\$50.00	\$5.00

<sup>\*</sup> Senior citizen with an altered dog: Impound fee is 50% of applicable impoundment fee, plus \$5.00 per day board.

**18.1.4 Administrative Penalty**                      \$20.00

**18.1.5 Adoption Fees: <sup>\*</sup>**

Dogs over 4 months		Dogs under 4 months	
Adoption Fee	\$20.00	Adoption Fee	\$20.00
Alter Deposit	\$20.00	Alter Deposit	\$20.00
Parvo Deposit	\$10.00		

<sup>\*</sup> A license must be purchased for any dog over four months of age.

**18.1.6 Transfer of Ownership:**

Transfer processing fee: \$5.00

**18.1.7 Dog Pick-up Request:**

Alive: \$25.00

Dead: \$15.00

**18.1.8 Dog Collar Replacement:**

Nylon (19 to 25 inches):	\$8.00
Metal Chain (choke type – 19 to 25 inches):	\$6.00
Puppy Collar (Nylon only; 9-13 inches):	\$6.00

**18.1.9 Deposit Refunds:**

Proof of alter and/or vaccination must be provided within 30 days of adoption in order to receive a refund of deposit under 18.1.5 above.



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary of Public Health

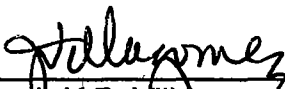


PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

The Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC Section 2605, hereby propose these Amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program to remove the requirement of medical referral escorts to file a travel voucher upon returning from the referral location as provided in the regulations.

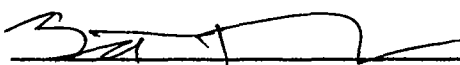
It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CMC Section 9104, in proposing these amendments to the Rules and Regulations. Copies of the proposed Rules and Regulations may be obtained from the Office of the 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 409 CD Saipan MP 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

  
\_\_\_\_\_  
Joseph K.P. Villagomez, MA  
Secretary of Public Health

Date: 10-23-06

Certification by the Office of the Attorney General

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

  
\_\_\_\_\_  
Matthew T. Gregory  
Attorney General

Date: 20/10/06

Filed By: Bernadita Cruz  
BERNADITA B. DELA CRUZ  
Commonwealth Registrar

Date: 10.30.06

Received By: Esther Fleming  
ESTHER S. FLEMING  
Special Assistant for Administration

Date: 10-30-06

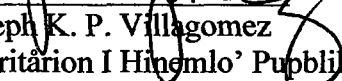
**Commonwealth I Sankattan Siha Na Islas Mariana  
Dipáttamenton I Hinemlo' Publiku  
Ofisinan I Sekretário**

**NOTISIAN PUPBLIKU**

**MAN MAPROPONE NA AMENDASION SIHA PARA I  
AREKLAMENTO YAN REGULASION NI GUMIBEBIETNA I  
ATMINISTRASION I PROGRAMAN I MARIFERIN MEDIKÁT  
(MAN MALANGO)**

I Sekretáron I Dipáttamenton I Hinemlo' Publiku (DPH), gi Commonwealth I Sankattan Siha Na Islas Mariana (CNMI), ni kininsisiste ni I aturidát ni ma'entrega giya guiya sigun I lai 1 CMC Seksiona 2605, este na momento a propopone este siha na amendasion para I Areklamento yan Regulasion siha ni Gumibebietna I Atministrasion I Programan I Manriferin Medikát (muna hanáo man malango) para u mana suha I ginagagáoI man esgagaihon mariferin medikát para u na hálom travel voucher ni maprobeniyi gi hálom I regulasion siha gi biráda tatte ginen I lugát anai mariferi.

Intersion I Dipáttamenton I Hinemlo' Publiku para u tatiyi I nisisidát I Akton Areklamenton Atministradot, spesifikátmente I lai 1 CMC Sesksiona 9104, ni mapropopone este siha na amendasion para I Areklamento yan Regulasion siha. Kopian I man mapropone na regulasion siha guaha gi Ofisinan I Sekretáron I Dipáttamenton I Hinemlo' Publiku gi Sentron Hinemlo' Commonwealth giya Saipan. Debi di u mana hálom I tinige' opinion siha guato gi: Ofisinan I Sekretáron I Hinemlo' Publiku, gi Dipáttamenton I Hinemlo' Publiku, gi P.O. Box 500409 CK, giya Saipan, MP 96950. Debi di u maresibe' ni Dipáttamenton I Hinemlo' Publiku gi hálom trenta (30) diha siha anai mafecha este na notisia para u mapupblika gi Rehistradoran I Commonwealth.

  
Joseph K. P. Villagomez  
Sekretáron I Hinemlo' Publiku  
Dipáttamenton I Hinemlo' Publiku

Fecha: 10-30-06

Setifikasion ginen I ofisinan I Abugádu Henerát

Sigun i Lai 1 CMC Seksiona 2153, ni inamenda ginen i Lai Publiku 10-50, i mapropone na amendasion para I areklamento yan regulasion siha ni man ch'che'ton este na momento, esta man maribisa yan aprueba pot para u fotma yan ligát suficiente ginen i Ofisinan i Abugádo Henerát.

MATTHEW T. GREGORY  
Abugâdu Henerât

Fecha: \_\_\_\_\_

Pinelo' as: Bernadita B. DeLa Cruz  
BERNADITA B. DELA CRUZ  
Rehistran I Commonwealth

Fecha: 10/30/06

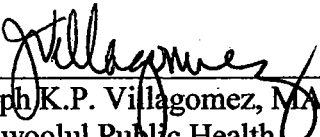
Marisibe as: Esther S. Fleming  
ESTHER S. FLEMING  
Especiât Na Ayudânte Para I Atministrasion

Fecha: 10/30/06

**ARONGORONGOL TOULAP  
POMWOL SSIWEL KKAAL NGÁLI ALLÉGH KKA E LEMELEM  
AMMWELIL PROGRÓMAAL AKKAFANGAL MAL SEMWAAY**

Samwoolul Bwulasiyool Public Health mellol Commonwealth Téel Falúwasch Marianas, sáangi bwáng ye re ngáleeey mereel 1 CMC Tálil 2605, ekke pomwoli Ssiwelóól Allégh kka e lemeli Progrómaal Akkafangal mal semwaay igha ebwe ak'ayúúló mille schóóy alillis (escorts) rebwe amasawa travel voucher ngáre schagh raa sefál me bwuley reel akkatéél allégh kkaal.

Aghiyeghil Bwulasiyool Public Health nge ebwe tabweey, mwir sáangi yááyál ngali Alleghul Administrative Procedure, iye schescheel 1 CMC Talil 9104, igha ekke pomwoli ssiwel kkaal ngáli Allághúl kkaal. Tilighial pomwol Allegh kkaal nge emmwel óubwe bwughil mereel Bwulasiyool Samwoolul Public Health iye elo llól Commonwealth Health Center. Mángemáng reel pomwol Allegh kkaal nge emmwel óubwe afanga ngáli Bwulasiyool Samwoolul Public Health, Depattamentool Public Health, P.O. Box 409 CD Seipél MP 96950. Alongal aghiyegh nge re bwughil llól eliigh(30) rááilil llól schagh rállil yaal akkatééló mellól Commonwealth Register.

  
Joseph K.P. Villagomez, MA  
Samwoolul Public Health

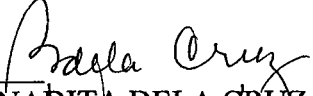
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Alúghúlúgh mereel Bwulasiyool Sów Bwungul Allégh Lapalap

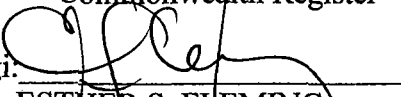
Sáangi allégh ye 1 CMC Talil 2153 iye aa ssiwel mellól Alléghúl Toulap 10-50, pomwol allégh kka e appasch nge raa takkal amweri fischiy mereel CNMI Bwulasiyool Sów Bwungul Allégh Lapalap.

Matthew T. Gregory  
Sów Bwungul Allégh Lapalap

Rál

Ammwel sáangi:   
BERNADITA DELA CRUZ  
Commonwealth Register

10/30/06  
Rál

Mwir sáangi:   
ESTHER S. FLEMING  
Sów Ahllisil Sów Lemelem

10/30/06  
Rál

## **Proposed Amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program**

**Citation of Statutory Authority:** 1 CMC Section 2605 authorized 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 main objective of the proposed amendment is to remove the burdensome task of preparing and submitting a travel voucher for each and every escort that accompanies a medical referral patient.

**Brief Summary of the Proposed Rule:** The proposed amendment will change NMIAC 140-10.7-325 Maintenance Cost Sections (a) of the old regulation and eliminate the requirement of escorts to fill out a travel voucher upon return from the referral location. There are currently adequate internal controls to ensure proper payments are made that substantiates and verifies expenditure of public funds. More specifically: travel and subsistence payments for patient escorts are verified through an official travel authorization from on Saipan prior to departure; additional subsistence and/or travel allowances requested by the liaison office are pre-approved by MRO before disbursement; and total subsistence, travel allowance, and hotel accommodations issued to an escort as provided in and exit report prepared by the liaison office is reconciled by DOF for liquidation of encumbered funds and reports to MRO any overpayments and underpayments. These internal controls allow for close monitoring and documentation of expenditures that essentially substitutes the function of a travel voucher.

**Contact Person(s):** Joe Santos, Acting Medical Referral Manager, 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, Commonwealth Register Volumes and Numbers 18-04, 18-07, 20-02, 20-06, 22-05, 22-07, 23-09, 24-02, 26-01, 26-02, 26-05, 26-07.





Commonwealth of the Northern Mariana Islands

Department of Public Health

Medical Referral Program



Northern Mariana Islands Administrative Code (NMIAC) Section 140-10.7-325 (Former V Rules and Regulations Governing the Administration of the Medical Referral Program, Section 5.5. 18 Comm.Reg. No. 7, July 15, 1996, is modified as follows:

Section 140-10.7-325 Maintenance Costs

- (a) Accommodations and Subsistence Allowance.

.....

~~It shall be the responsibility of the escort to file a travel voucher and any other requested documentation with the Medical Referral Office within ten (10) days of return from the medical referral. It shall then be the responsibility of the Medical Referral Office staff to forward these documents to the Department of Finance, Accounting and Travel Section. If the escort fails to comply with the prescribed time lines, the CNMI Government reserves the right to seek reimbursement from the escort for the costs incurred in connection with the escort's referral travel.~~

.....



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



STATE BOARD OF EDUCATION  
PUBLIC SCHOOL SYSTEM  
P.O. BOX 501370  
SAIPAN, MP 96950

Roman C. Benavente  
Chairman

Dino M. Jones  
Vice Chairman

Marja Lee C. Taitano  
Secretary/Treasurer

Members  
Herman T. Guerrero  
Lucia Blanco-Maratita

Scott Norman  
Non Public School Rep.

Student Representative

Ambrose Bennett  
Teacher Representative

Commissioner of Education  
David M. Borja, D.B.A.

## **PROPOSED AMENDMENTS TO PUBLIC SCHOOL SYSTEM POLICIES AND REGULATIONS REGARDING SPECIAL EDUCATION SERVICES, INCLUDING DISCIPLINE**

The Board of Education (Board) for the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its intention to amend PSS policies and regulations regarding special education programs. PSS is repealing Regulation 2610 regarding discipline of students with disabilities. Although CNMI law does not require PSS to follow the notice and comment process for changes in policies, PSS includes the changes to policies in this publication to inform the public of recent changes in federal law that apply to PSS's Special Education Program. The amendments are noted in the attached.

**Statutory Authority:** The proposed amendments to PSS policies and regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

### **Goals and Objectives:**

PSS must revise its policies regulations to comply with the 2004 Reauthorization of the Individuals with Disabilities Education Act (IDEA) and the U.S. Department of Education Regulations promulgated in August 2006. PSS is repealing Regulation 2610 because federal law and PSS's Special Education Procedural Manual govern the discipline of students receiving special education services.

**Summary of Proposed Amendments:** The proposed amendments ensure compliance with federal law and avoid duplication and possible conflict between federal law and local procedure.


### **Citation of Related and/or Affected Board Regulations:**

- Policy 2110 Nondiscrimination and Student Rights
- Regulation 2220 Admission and Withdrawal
- Regulation 2320 Attendance
- Policy and Regulation 2610 Discipline
- Regulation 2860 Student Services

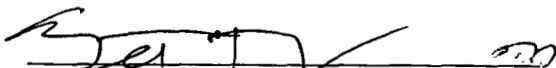
**Contact Person:** All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950, call 664-3727 or fax 664-3711 within thirty (30) calendar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

Dated this 13th day of October 2006, at Saipan, Northern Mariana Islands.


**BOARD OF EDUCATION**

By:   
**ROMAN C. BENAVENTE**  
**Board of Education Chairperson**

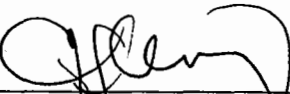
Pursuant to 1 CMC Section 2153, as amended by Public Law 10-50, the proposed amendments to Board of Education regulations, copies of which are attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

  
**Matthew T. Gregory**  
**CNMI Attorney General**

Date: 10/30/06

Filed By:   
**BERNADITA B. DELA CRUZ**

Date: 10/30/06

Received By:   
**ESTHER S. FLEMING**  
**Special Assistant for Administration**

Date: 10/30/06

## NOTISIAN PUPBLIKU

### MAPROPONE I AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION SISTEMAN ESKUELAN PUPBLIKU NI TINETEKA I SETBISIUN SPECIAL EDUCATION, A ENKLUSU DISIPLINA

I Kuetpon I Edukasion para I Commonwealth I Sankattan Siha Na Islas Marianas manotifika I pupbliku henerât pot I intension-niha para u ma'amenda I areklamento yan regulasion I Sistemán Eskuelan Púbbliku ni tineteka I Setbisiun Prográman Special Education, I Sistemán Eskuelan Púbbliku a diroroga I Regulasion 2610 ni tineteka I famagu'on ni man gai disabilidât yanggen para u fan madisiplina. Entonses I lai giya CNMI ti a rekomenda I Sistemán Eskuelan Púbbliku para u matatiyi maneran I notisia yan opinion para u matulaika gi areklamento siha, I Sistemán Eskuelan Púbbliku a enklusu I tinilaika siha para I areklamento gi este na publikasion para u infotma I pupbliku pot I man nuebu siha na tinilaika gi lai federât ni a aplika I Regulasion Sistemán Eskuelan Púbbliku yan I Prográman special Education gi Sistemán Eskuelan Púbbliku. I amendasion man manota gi I man che'che'ton siha.

**Aturidât I Lai:** I man mapropone na amendasion siha para I areklamento yan regulasion siha gi Sistemán Eskuelan Púbbliku man ma'establesi sigun I aturidât I Kuetpo ni maprobeniyi gi Atikulu XV gi CNMI Constitution, Lai Púbbliku 6-10 yan I Akton Areklamenton Atministradot CNMI.

**Finiho yan Diniseha:**

Debi di I Sistemán Eskuelan Púbbliku u maribisa I areklamenton regulasion siha ni para u konsiste ni I Akton 2004 Reauthorization pot I Petsonma siha ni man gai Disabilidât (IDEA) yan Regulasion Dipáttamenton Edukasion Estâdus Unidos ma'establesi gi Agostu 2006. I Sistemán Eskuelan Púbbliku a diroroga I Regulasion 2610 pot rason na I Lai gi Federât yan I Lepblon Areklamenton I Special Education gi Sistemán Eskuelan Púbbliku magubietna I disiplinán estudiânte siha ni maresisibe' I setbisiun Special Education.

**Sumâria pot I Man Mapropone na Amendasion Siha:** I man mapropone na amendasion para u asigura na u matatiye' I lai federât ya u suhâyi I duplikasion yan hâfa para u kinontra gi entalo I lai gi federât yan I areklamenton I lukât.

**Annok I Man Achule' yan/pat Inafekta Na Regulasion I Kuetpo:**

Areklamenton 2110 Direchon Estudiânte yan U Tâya Deskriminasion gi  
Estudiânte  
Areklaenton 2220 Ma'enlista ya Malaknos  
Areklamento 2320 Attendance  
Areklamneto yan Regulasion 2610 Disiplina  
Areklamenton 2860 Setbisiun Estudiânte

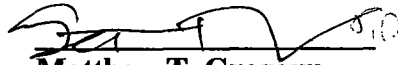
**Petsona Ni Para U Ma'ágang:** Todu i man enteresao na petsona siña ma'eksamina i man mapropone na amendasion yan regulasion siha ya hu fan nahalom tinige' opinion, pusion, pat deklarasion para pat i kumontra i mapropone na amendasion siha guatto i Kabiseyon i Kuetpo, Kuetpon i Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, ágan i numiru 664-3727 pat fax gi 664-3711 gi halom trenta (30) diha siha gi kalendário tinatitiye' i fechan i publikasion gi Rehistran i Commonwealth pot este na amendasion siha.

Mafecha este gi mina 13<sup>th</sup> na ha'áne gi Oktubre 2006, giya Saipan I Sankattan Siha Na Islas Marianas.

### KUETPON I EDUKASION

Ginen as:   
**ROMAN C. BENAVENTE**  
**Kabiseyon I Kuetpon Edukasion**

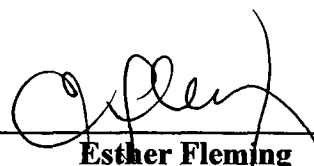
Sigun i Lai 1 CMC Seksiona 2153, ni inamenda ginen i Lai Puplicu 10-50, i mapropone na regulasion yan amendasion ni Kuetpon i Edukasion i kopia siha ni man ch'che'ton este na momento, esta man maribisa yan aprueba pot para u fotma yan ligat suficiente ginen i Ofisinan i Abugádo Henerát.

  
**Matthew T. Gregory**  
**Abugádo Henerát i CNMI**

Fecha: 10/30/06

Pine'lo as:   
**BERNADITA B. DELA CRUZ**  
**Rehistran i Commonwealth**

Fecha: 10/30/06

Marisibe' as:   
**Esther Fleming**  
**Espesiát Na Ayudante Para I Atministrasion**

Fecha: 10/30/06

## ARONGORONGOL TOULAP

### POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL IMWAL MELEITEY (GAKKO) BWELLE REEL AWEWEEL ALILLISIL SPECIAL EDUCATION ME BWAL DISCIPLINE

Mwiischil Imwal meleitey (Board) mellól Commonwealth Téél Faléwasch Marianas nge ekke arongaar aramas toulap reel aghiyeghil igha ebwe fillóoy alléghúl me ammwelil PSS bwelle reel progrómaal special education. PSS nge e féerú sefáli Alléghúl special education discipline ye 2610 bwelle reel aweweel atel meleitey kka re semwaayúl iligh, rese bwang, Inaamwo igha alléghúl CNMI ese bwal yááyá ngáli PSS igha rebwe ttabweey ammataf yeel me aweweel mwghutul ye ssiweli allégh kkaal, PSS ebwal ssiweli allégh e akkatééwow reel toulap bwelle ssiwel llól alléghúl federóód iye e ghil ngáli PSS Progrómaal Special Education me alléghúl PSS kaal. Lliwel kkaal nge eyoor llól schéel tilighi yeel.

**Akkatéél Bwángil:** Pomwol lliwel ngáli alléghúl PSS me ammwelil e akkaté bwelle bwángil Mwiisch iye e tooto mereel Article XV mellÚl CNMI Allégh Lapalap, Alléghúl Toulap 6-10 me CNMI Administration Procedure Act.

**Aweweel Pomwol Allégh:** Alléghúl PSS kkaal nge ebwe fféer sefál bwelle rebwe tabweey alléghúl aramas kka re semwaayúl iligh llól 2004 (ADEA) me Alléghúl U.S. Department iye ebwe akkaté ótol Elúwel 2006. PSS nge ebwe féerú sefáilil Alléghúl 2610 bweigha alléghúl federóód me tilighial PSS kkaal iye e lemeli kkapaseer atel meleitey kka rekke bwughi education services.

**Aweweel Pomwol Lliwel:** Pomwol lliwel kkaal nge ebwe alúghúlúgh alléghúl federóód me esóbw fféer sefál me schéschéel fitighoghool alléghúl federóód me alléghúl faley.

#### **Akkááw allégh me Alléghúl mwiisch kka weires:**

Alléghúl 2110 essóbw yoor weiresiir me bwángiir atel meleitey  
Alléghúl 2220 atotoolongol me atotoowul  
Alléghúl 2320 Attendance  
Alléghúl me Amwelil 2610 Alléghúl  
Alléghúl 2860 alillisiir Atel meleitey

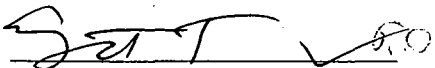
**Aramas ye ubwe faingi:** Schóókka re tipeli nge emmwel rebwe amweri pomwol lliwel kkaal me ischilong mangemang, awewee ngare eyoor aghiyegh reel pomwol kkaal ngáli Samwool, Mwiischil Imwal meleitey. P.O. Box 1370 CK, Seipél, MP 96950, faingi 664-3727 me ngáre fax reel 664-3711 llól eliigh (30) rállil mwiril schagh yaal akkatééló llól Commonwealth Register bwelle lliwel kkaal.

Rállil ye 13th ótol Sarobwel 2006, mewóol Seipél, Téél Falúw Kka Falúwasch

**MWII SCHIL IMWAL MELEITEY**

Sáangi:   
**RÓMAN C. BENAVENTE**  
Samwoolul Mwiischil Imwal Meleitey

Sáangi allégh ye 1 CMC Tálil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50 pomwol lliwel kkaa ngáli Alléghúl Mwiischil Imwal meleitey, tilighial ikka e appasch, nge raa takkal amweri fischiy me allégheló mereel Bwulasiyool Sów Bwungul Allégh Lapalap

  
**Matthew T. Gregory**  
CNMI Sów Bwungul Allégh Lapalap

16/30/06  
Rál

Ammwel sáangi:   
**BERNADITA B. DELA CRUZ**

10/30/06  
Rál

Mwir sáangi:   
**ESTHER S. FLEMING**  
Sów Alíllisil Sów Lemelem

10/30/06  
Rál

**Nondiscrimination and Student Rights****Equal Educational Opportunity For Disabled Students**

It is the policy of the Board of Education to provide free appropriate education for all students with disabilities. Students with disabilities are those who have been identified by professionally qualified personnel as needing accommodation or special educational planning and related services. Such students with disabilities will be identified pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1400 et seq.; 34 C.F.R. Part 300), ~~The Education for All Handicapped Students Act of 1975~~, the Rehabilitation Act of 1973, Section 504 as amended (29 U.S.C. §§705, 794; 34 C.F.R. Part 104), and Commonwealth law. The PSS programs and services available to meet the needs of these students will be in accordance with the aforementioned laws.

**Admission and Withdrawal****Admission of Resident Students****(a) Proof of Residency**

All students, five to twenty-one (5-21) years of age, who reside within the boundaries of the CNMI, may attend PSS schools tuition free. In order to "reside" within the CNMI, the student must be physically domiciled within CNMI boundaries. The domicile of a minor student is generally the domicile of the student's parent/guardian.

A student may only register in the PSS if the student provides proof of residency or if the student or parent/guardian requests a waiver from the Board of Education on the basis of hardship or good cause. Parents/guardians will be required to sign a "Proof of Residency" form at the time of enrollment. If the Commissioner has reason to suspect that the admission of a student will create an immediate danger to the safety of others, a hearing will be convened within three (3) working days of the request to register. At the hearing, the Commissioner will determine whether the student may enroll.

**(b) Waiver**

Students or parents/guardians seeking a waiver of the residency requirement must complete and submit to the Commissioner a "Request for Waiver of Proof of Residency" form stating the reasons for which the waiver is requested. If a waiver is requested, the Board of Education must convene a hearing no later than forty-five (45) days after the request for waiver is filed. If the Board fails to convene a timely hearing, the request for waiver is automatically granted. Following the hearing, the Board will provide written notice of its decision and the reasons for its approval or denial of the waiver request.



In considering whether a waiver of residency should be granted, the presumption that a student's domicile is in the home of the student's parent/guardian is not conclusive. Students residing within the Commonwealth, but not within the domicile of their parent/guardian, will be considered residents of the Commonwealth if they reside within the Commonwealth for reasons other than solely to attend Commonwealth schools.

**(c) Records Review**

Within forty-eight (48) hours of enrolling a new student, the Commissioner/designee will request copies of the new student's transfer and discipline records from all schools in which the new student attended at any time within a twelve (12) month period preceding enrollment in the PSS. In addition, parents/guardians of students new to the PSS will be required to complete and sign "Prior Discipline Record" form informing the PSS concerning suspension or expulsions incurred at schools previously attended. The Commissioner/designee is responsible for ensuring that all pre-registration residency, waiver request, and prior discipline forms are completed and maintained as PSS records.

**(d) Denial of Enrollment for Certain Offenses**

However, no student will be enrolled who has been convicted of or charged without final adjudication of the following criminal acts or the corresponding juvenile offenses:

1. First degree murder as defined by CNMI law or similar offenses in other jurisdictions.
2. Second degree murder as defined by CNMI law or similar offenses in other jurisdictions.
3. ~~First degree assault.~~ Aggravated Assault and Battery as defined by CNMI law or similar offenses in other jurisdictions
4. ~~Foreible rape.~~ Assault with a Dangerous Weapon as defined by CNMI law or similar offenses in other jurisdictions.
5. ~~Foreible sodomy.~~ Sexually violent offenses as defined by CNMI law or similar offenses in other jurisdictions.
6. Robbery as defined by CNMI law or similar offenses in other jurisdictions in the first degree.
7. ~~Distribution of drugs to a minor.~~ Distribution of a controlled substance to persons under 18 as defined by CNMI law or similar offenses in other jurisdictions.
8. Arson as defined by CNMI law or similar offenses in other jurisdictions in the first degree.

9. Kidnapping as defined by CNMI law or similar offenses in other jurisdictions (Class A felony).

Notwithstanding this subsection, the denial of enrollment of a student with a disability for these offenses is only authorized to the extent it is consistent with the IDEA. This provision does not apply to a disabled student who is convicted or adjudicated guilty as a result of conduct related to the student's disability.

## **STUDENTS**

## **Regulation 2320**

### **Attendance**

#### **Part-time Attendance**

The PSS recognizes the need of some students to attend school on a part-time basis. The Board of Education has established the following regulations regarding part-time attendance.

It is the intent of this regulation to meet the individual needs of each student and at the same time establish rules and regulations that will preserve the discipline, health, and academic standards of the school.

#### **(a) Eligibility Requirements**

1. To be eligible for part-time attendance, the student must be a resident of the CNMI.
2. The student must be more than sixteen (16) years old and less than twenty (20) years unless the IEP of a student under 16 provides for part-time attendance. Students twenty years and older may apply and it will be at the discretion of the principal, and, in the case of a student with a disability, the IEP team, whether to approve part-time attendance for such students.
3. The student must have parent/guardian approval if under 18 years of age.
4. The student must demonstrate a definite need to attend school on a part-time basis. Examples are: a) financial needs of student or family, b) health problems of self or family, c) vocational training in school or on the job, d) enrollment in a school of higher education, and e) unique curriculum offerings.

#### **(b) Application Procedure**

The student must secure an appointment with the guidance counselor and school principal prior to classification as a part-time student. The student must complete a part-time attendance request form at the conference. Before any decision is given concerning the request, a conference must be held with the student's parent/guardian if the student is under

18 years of age. All applications and conferences must be completed during the time preceding the semester in which the student is to be enrolled on a part-time basis.

After an application has been submitted, the principal shall rule on the request and report to the Commissioner the names of all students who are to be enrolled on a part-time basis. This same report shall be transmitted to the Board of Education. In the event the principal denies the request, the student may appeal to the Commissioner who must respond in a reasonable time.

Part-time students are governed by the same rules and regulations that apply to regularly enrolled students.

**STUDENTS**

**Policy 2610**  
**(Regulation 2610)**

**Discipline**

**Discipline of Students with Disabilities**

The obligation and the responsibility to attend school regularly and to comply with the Board's discipline policies applies to all students. When appropriate, the PSS may discipline a student with a disability who is eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) in a manner that is consistent with the IDEA law and regulations and PSS policies, including the special education procedural manual, and applicable law.

A special education student will be provided a free appropriate public education consistent with the IDEA if the student has been removed from school for more than ten (10) school days in a school year. If a special education student is removed ten (10) cumulative school days or less, special educational services will be provided only if such services are provided to students without disabilities who have been similarly removed.

**STUDENTS**

**Regulation 2610**

**Discipline**

**Discipline of Students with Disabilities**

REPEALED IN ITS ENTIRETY. Please refer to applicable law and special education procedural manual.

**Student Services**

**Students with Communicable Diseases or Contagious Conditions**

(a) A student shall not attend classes or other school-sponsored activities, if the student (1) has, or has been exposed to, an acute (short duration) or chronic (long duration) contagious or infectious disease or condition, and (2) is liable to transmit the contagious or infectious disease or condition, unless the Commissioner/designee has determined, based upon medical evidence and the certification of a physician, that the student:

1. No longer has the disease or condition.
2. Is not in the contagious or infectious stage of an acute disease or condition.
3. Has a chronic infectious disease or condition that poses little risk of transmission in the school environment with reasonable precautions.

(b) School officials may require any child suspected of having a contagious or infectious disease or condition to be examined by a physician and may exclude the child from school, in accordance with the procedures authorized by this regulation, so long as there is a substantial risk of transmission of the disease or condition in the school environment.

(c) A student who has a chronic infectious disease or condition, and who is permitted to attend school, may be required to do so under specified conditions. Failure to adhere to the conditions will result in the student being excluded from school. A student who has a chronic infectious disease or condition and who is not permitted to attend school or participate in school activities will be provided instruction in an alternative educational setting in accordance with Board policy.

(d) Students with acute or chronic contagious or infectious diseases or condition and their families have a right to privacy and confidentiality. Only staff members who have a medical reason to know the identity and condition of such students will be informed. Willful or negligent disclosure of confidential information about a student's medical condition by staff members will be cause for disciplinary action.

(e) All employees will follow the most recent guidelines issued by the Centers for Disease Control, including applicable universal precautions in cleaning up body fluid spills, (a copy of which shall be on file in the PSS department addressing health services and in the principal's office of each school, regardless whether an individual infected with a body fluid or blood-borne pathogen is known to be present in the school environment or related activities. Willful or negligent disregard for these precautions by any staff member will be cause for disciplinary action.

**(f) Acute Infectious Disease or Contagious Condition**

1. A staff member who has reason to believe that a student has been exposed to a contagious or infectious disease or condition, or who observes symptoms of such a disease or condition, shall inform the principal. The principal will consult with a medical professional about the child.
2. If the medical professional determines that the student has an acute contagious or infectious disease or condition, the principal will exclude the student from school for the number of days specified in the latest revision, or until a physician certifies that the student no longer is liable to transmit the disease or condition.
3. If a student has been excluded from school by the principal because the student has or is suspected of having an acute contagious or infectious disease or condition, the student and his/her parent/guardian may appeal such decision in writing to the Commissioner. The Commissioner may require the student to be examined by a physician designated by the PSS, the child's own physician, or both, at the option of the Commissioner. The student shall not attend classes or participate in school activities during the appeal period.

**(g) Chronic Infectious Disease or Condition**

1. If the principal, after consulting with a medical professional, determines that a student may have a chronic infectious disease or condition, the student may be excluded from school and provided an education in an alternative setting until the following procedures have been concluded.
2. The principal shall immediately report any student who has or is suspected of having a chronic infectious disease or condition to the Commissioner or his/her designee and PSS Legal Counsel.
3. Prior to any long-term exclusion of a student, the student's parents/guardians shall receive written notification of the intent to exclude and their procedural safeguards written notice of their procedural safeguards pursuant to Section 504 of the Rehabilitation Act of 1973.
4. The Commissioner or his/her designee shall within ten (10) working days appoint a review committee to assess the student's medical condition. The Committee should include the following:
  - a. The student's parents/guardians
  - b. A physician
  - c. The principal who shall serve as chairperson.
  - d. Others mutually agreed upon by the PSS and the parents/guardians.

- e. The PSS' Legal Counsel may serve on the Committee in an advisory capacity.
5. If the student has been identified as a student with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA), the student may be excluded from school and provided with an education in an alternative setting, so long as such exclusion does not constitute a change in placement pursuant to the IDEA. If the exclusion constitutes a change in placement, the IDEA standards and procedures shall apply to such change. The student's medical condition and educational placement will be evaluated in accordance with the procedures set forth above, with the following additional provisions:
  - A. Prior to excluding the student, the student's parents/guardians shall receive written notification of their procedural safeguards pursuant to the IDEA in addition to written notice of their procedural safeguards pursuant to Section 504 of the Rehabilitation Act of 1973.
  - B. The Review Committee shall include the chairperson of the student's Individual Educational Program Committee or his/her designee.
6. The members of the Review Committee shall determine the fitness of the student to attend school. The Committee will assess the student's condition, the school conditions, and the risks of exposing others to the disease or contagious condition in the school environment, and shall determine whether the student should (1) be permitted to attend school without restrictions; (2) attend school under stated restrictions and conditions; or (3) be excluded from attending school and provided an alternative educational program. The Committee will prepare a written individual school health care plan for the student and establish dates and/or conditions under which the student's status will be reviewed. The Committee will also identify the persons who have a medical need to know the identity of the student because they are responsible for providing proper health care, and will provide the names of those persons to the Commissioner or his/her designee.
7. Within five (5) working days after the Committee is convened, the Committee will make a determination and prepare findings of fact, which the Chairperson shall communicate in writing to the student's parents/guardians, the principal, and the Commissioner. The parents/guardians shall again receive written notification of their procedural safeguards under Section 504 of the Rehabilitation Act of 1973 (and in the PSS' compliance plan for implementing the IDEA, if applicable). The meetings, records, and votes of the Review Committee shall not be open to the public. The determination will be final unless reversed on appeal pursuant to the Complaint Procedures set out in the PSS' compliance plan for Section 504 or the IDEA, if applicable.

8. If a student with a chronic infectious disease or contagious condition is permitted to attend school, the Commissioner will notify those persons who were identified by the Review Committee as having a medical need to know the student's identity and conditions under which the student is attending school. Willful or negligent disclosure of confidential information will be cause for disciplinary action.
9. Staff members who have a medical need to know the identity of a student with a chronic infectious disease or contagious condition include (1) those who are designated by the PSS to determine the fitness of the student to attend school; (2) those who are responsible for providing health care to the student, such as the school nurse; and (3) those who are most likely to be in a position to render first aid to the student in case of an accident or medical emergency.
10. A student who has a chronic infectious disease or contagious condition shall be evaluated to determine whether any accommodations or related services are necessary for the student to receive a free appropriate public education. If accommodations or related services are necessary, the PSS shall develop and implement a plan for the delivery of all needed services. This evaluation shall be conducted regardless whether the student is permitted to attend school with or without conditions and restrictions, or is excluded from school.

**PUBLIC NOTICE**  
**PROPOSED AMENDMENTS TO THE SMILING COVE MARINA**  
**REGULATIONS**

**Citation of  
Statutory Authority:**

These regulations ("Marina Regulations") are promulgated under the authority of 1 CMC §§ 2653 and 2654 providing the Department of Lands and Natural Resources with the authority to adopt rules and regulations in furtherance of its powers and duties, including the responsibility for the protection and enhancement of the natural resources of the islands, including the marine environment. Further, 1 CMC § 2661 provides the Division of Fish & Wildlife with the authority to manage marine resources and to administer Public Law 2-51, The Fish, Game, and Endangered Species Act, as amended [2 CMC § 5101 et seq.]. Further, Public Law 2-51 (at 2 CMC § 5106) provides for the assent of the Commonwealth of the Northern Mariana Islands to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. § 777 et seq.), allowing for the Department of Lands and Natural Resources to receive federal grant funds. Federal Aid grant funds were used to construct the improvements in Smiling Cove Marina, and are being used to maintain and manage the marina.

**Short Statement of  
Goals and Objectives:**

It is the purpose of these regulations to maintain Smiling Cove Marina in a sanitary, sightly, and orderly condition and to preserve the public health, safety, peace, welfare, and convenience in use thereof.

**Brief Summary of the  
Proposed Regulations:**

To provide preferential berthing priority for sportfishers and recreational boaters, **and for other purposes.**

**For Further  
Information Contact:**

Sylvan O. Igisomar, Director, DFW telephone (670) 664-6000 or facsimile (670) 664-6060.

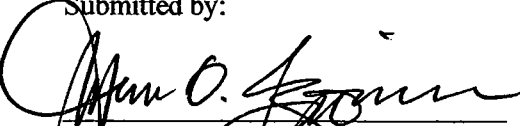
**Citation of Related  
and/or Affected Statutes,**

Division of Fish & Wildlife Regulations, 2NMIACs. 85-30.1, and Smiling Cove Marina Rules & Regulations, 2 NMIACs. 85-30.2.

**Rules and Regulations  
And Orders:**

Dated this 20<sup>th</sup> day of September 2006.

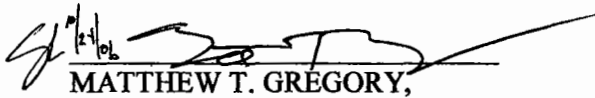
Submitted by:

  
Sylvan O. Igisomar  
Director, Division of Fish and Wildlife

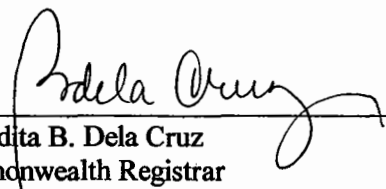


Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed amended regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General.


Dated the 24<sup>th</sup> day of October, 2006.

  
MATTHEW T. GREGORY,  
Attorney General

Date: 10/24/06

  
Bernadita B. Dela Cruz  
Commonwealth Registrar

Date: 10/24/06

  
Ester S. Fleming  
Special Assistant to the Governor for  
Administration

## NOTISIAN PUPBLIKU

### MAN MAPROPONE NA AMENDASION SIHA PARA I REGULASION I SMILING COVE MARINA

**Annok I Aturidât I Lai:** Este na regulasion siha (“Regulasion I Marina”) man ma’establesi papa I aturidât I lai 1 CMC Seksiona 2653 yan 2654 a probeninyi I Dipâtamenton I Tano’ yan Naturât na Guinaha siha ni I aturidât para u adopta areklamento yan regulasion siha para u ayuda mâs I minetgot-ña yan chi’cho’-ña, enklusu I responsabilidât-ña para I pruteksion yan I atbânsan I naturât na guinaha-ña siha gi islâ-ta, enklusu I uriyan tâsi. Adimâs, I lai 1 CMC Seksiona 2661 a probeniyi I Dibision Fish and Wildlife ni I aturidât para u maneha I guinahan I tâsi ya para u administrehâ I Lai Pupbliku 2-51, I Akton Guihan, Peska (game), yan I gâga’ siha ni esta man hâssan, ni inamenda [ 2 CMC Seksiona 5101 et seq.]. Adimâs, Lai Pupbliku 2-51 (gi 2 CMC Seksiona 5106) a probeniyi para I inaprueban I Commonwealth Sankattan Siha Na Islan Mariana para I Asistimenton Federât gi Akton Sport Fish Restoration (16 U.S.C. Seksiona 777 et seq.), a sesedi I Dipâtamenton I Tano’ yan Naturât na Guinaha siha para u resibe’ fundon federât. Fundon Asistimenton Federât man ma’usa para u mahâtsa ya ma’adulânta I Smiling Cove Marina, ya man ma’u’usa para u maneha yan adahi I marina.

#### **Kadada’ Na Mensâhe**

**Pot I Finiho yan Diniseha:** Pot rason este siha na regulasion para u ma’adahi I Smiling Cove Marina, gi ginasgas, inatanun, yan mâolek na kondision para u maprisetba I hinemlo’ pupbliku, sinâfu, pâs, minâolek yan kombiniente para u ma’usa.

#### **Kadada’ Na Sumâria**

##### **Pot I Man Mapropone**

##### **Na Regulasion siha:**

Para u probeniyi mâolek na distânsia para I man pepeska yan I man gai’ boti, yan palu siha na manera.

#### **Para Mâs Infotmasion**

##### **Âgang:**

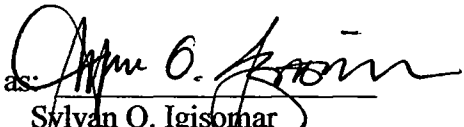
Si Sylvan O. Igisomar, Direktot, Dibision Fish and Wildlife gi Numirun tilifon (670) 664-6000 pat facsimile gi (670) 664-6060.

**Annok I Man Achule'  
Yan/pat Inafekta Na  
Lai, Areklamento,  
Regulasion yan  
Otden Siha:**

Regulasion Dibision Fish and Wildlife, 2NMIACs.85-30.1,  
yan Areklamento yan Regulasion Smiling Cove Marina,  
2NMIACs.85-30.2

Mafecha gi este mina 20<sup>th</sup> na diha gi Septiembre 2006.

Ninahalom as:

  
Sylvan O. Igisomar  
Direktot, Dibision I Fish and Wildlife

Sigun I lai 1 CMC Seksiona 2153 (e) yan 1 CMC Seksiona 9104 (a)(3) I man mapropone  
na regulasion ni man ma'amenda ni man che'che'ton esta man ma'ina yan ma'aprueba  
pot para u fotma yan ligat suficiente ni I Abugadu Henerat I CNMI.

Mafecha este gi mina 24<sup>th</sup> na diha gi Septiembre, 2006.

  
MATTHEW T. GREGORY,  
Abugadu Henerat

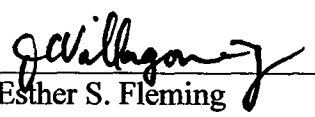
Fecha:

10/24/06

  
Bernadita B. Dela Cruz  
Rehistran I Commonwealth

Fecha:

10/24/06

*For*   
Esther S. Fleming  
Espisiat Na Ayudanten  
I Gubietnu para I Atministrasion

**ARONGOL TOULAP**  
**POMWOL LLIWEL KKAAL NGALI ALLEGHUL SMILING COVE MARINA**

**Akkatéel Bwángil:** Allégh kkaal (“Alléghúl Marina”) nge e akkaté faal bwáng ye e tooto mereel 1 CMC táilil 2653 me 2654 iye re ayoora ngáli Depattamentool Lands and Natural Resouces (Bwulasiyool Faluw me Nguluwal) fengál me bwáng ye ebwe fillóoy allégh kkaal llól bwángil me yaal angaang, e bwal toolong alillisil ebwe ammwela me aghatchúwuló ngúlúwal weleórol falúw kkaal, e bwal toolong leeset. Bwal eew, 1 CMC Táilil 2661 e ayoora ngáli Bwulasiyool Fish and Wildlife fengal me bwángil igha ebwe ammwela fischiy ngúlúwal leeset me ebwe mwóghut ágheli Alléghúl Toulap ye 2-51, Iigh, urul, me Alléghúl maal kka rebwele rosoló, iye aa ssiwel mereel [2 CMC Táilil 5101 et seq.] Sóbwólóól, Alléghúl Toulap ( mellól 2 CMC Táilil 5106) nge e ayoora bwángil Commonwealth Téel Falúwasch Marianas ngáli alillisil Federóód sáangi Sport Fish Restoration Act ( 16U.S.C. Táilil 777 et seq.), ebwe mmwelil bwe Depattamentool Lands and Natural Resources ebwe bweibwogh salapial federóód kkaal. Salapial Federóód (Federal Aid grant). Federal Aid grant yeel nge rebwe ayúúw ngáli Smiling Cove Marina, me yááyá ngáli ammwelil marina.

**Aweweel pomwol liiwel:** Elo bwe Allégh kkaal ebwe amwela fischiy Smiling Cove Marina, sóbwólóól, me tabweey allégh me lugheey ammwelil limifisch (public health, allégh, schighar, ammweliir aramas, me ebwe ghatch yááyál

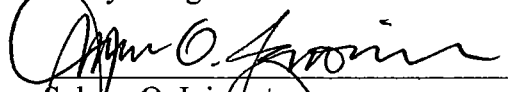
**Aweweel Pomwol Allégh:** Rebwe ayoora leliyeer schóól leeset me recreational boaters, me akkáaw yááyál.

**Reel ammataf faingi:** Sylvan O. Igisomar, Samwoolul, DFW tilifoon (670) 664-6000 me ngáre facsimile reel (670) 664-6060.

**AKKÁÁW ALLÉGH ME AKKÚLÉ,** Alléghúl Bwulasiyool Fish and Wildlife, 2NMIACs. 85-30.1, me alléghúl Smiling Cove Marina me Alléghúl kkaal, 2NMIACs. 85-30.2

Rállil ye llól 20<sup>th</sup> Maan 2006.

Isaliyallong:



Sylvan O. Igisomar  
Samwoolul, Division of Fish and Wildlife

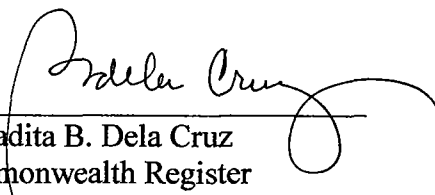
Sáangi allégh ye 1 CMC Talil 2153(e) me 1 CMC Tálil 9104(a)(3) bwulul allegh kka e ssiwel ikka e appasch nge raa takkal amweri fischiy aléghéléghéló mereel CNMI Bwulasiyool Sow Bwungul Allegh Lapalap.


Rállil ye llól 24 Maan 2006.

  
MATTHEW T. GREGORY  
Sów Bwungul Allégh Lapalap

Rál: 10/24/06

Rál: 10/24/06

  
Bernadita B. Dela Cruz  
Commonwealth Register

  
Esther S. Fleming  
Sów Alillisil Sów Lemelem

**RULES AND REGULATIONS  
FOR  
SMILING COVE MARINA**

**PART I.  
SECTION 10.0  
AUTHORITY**

- 10.1 **Department of Lands and Natural Resources / Division of Fish & Wildlife.** These regulations (“Marina Regulations”) are promulgated under the authority of 1 CMC §§ 2653 and 2654 providing the Department of Lands and Natural Resources with the authority to adopt rules and regulations in furtherance of its powers and duties, including the responsibility for the protection and enhancement of the natural resources of the islands, including the marine environment. Further, 1 CMC § 2661 provides the Division of Fish & Wildlife with the authority to manage marine resources and to administer Public Law 2-51, The Fish, Game, and Endangered Species Act, as amended [2 CMC § 5101 et seq.]. Further, Public Law 2-51 (at 2 CMC § 5106) provides for the assent of the Commonwealth of the Northern Mariana Islands to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. § 777 et seq.), allowing for the Department of Lands and Natural Resources to receive federal grant funds. Federal Aid grant funds were used to construct the improvements in Smiling Cove Marina, and are being used to maintain and manage the marina.
- 10.2 **Purpose.** It is the purpose of these regulations to maintain Smiling Cove Marina in a sanitary, sightly, and orderly condition and to preserve the public health, safety, peace, welfare, and convenience in the use thereof.

**PART II.  
SECTION 20.0  
APPLICATION AND SCOPE**

- 20.1 **Geographic Area.** The Marina Regulations shall apply to the berthing of vessels at docks, their mooring in the waterways, and other activities conducted within the Smiling Cove Marina as depicted in the charts attached hereto as Exhibits A-1 and A-2. The term “Smiling Cove Marina”, as used in these regulations, shall apply to all that area circumscribed on Exhibit “A-1”. When the docks are referred to by slip number, reference shall be to Exhibit “A-2”.
- 20.2 **Other Laws and Regulations.** These regulations in no manner diminish the authority of laws and lawful regulations that otherwise apply to the waters and lands of the Smiling Cove Marina, such as the Boating Safety regulations and the Vehicle Code.

**PART III**  
**SECTION 30.0**  
**SELECTION OF LEASES AND PERMITS**  
**FOR BERTHING SLIPS**

**30.1 Lease or Permit Required for Tenancy in Smiling Cove Marina.**

(a) Berths: No vessel shall be permitted to be berthed at a dock slip in Smiling Cove Marina without a lease approved by the Director of Fish & Wildlife after consulting with the Marina Manager. This includes government-owned vessels that are also required to pay berth fees. There are no exemptions unless mutually agreed upon between the government agency and authorized by the Director of Fish & Wildlife.

(b) Moorings: No vessel shall be permitted to be moored in the waterways of Smiling Cove Marina, except as provided for in Part V for storm and typhoon conditions.

(c) "Tenant Vessels" Defined: "Tenant vessels" are vessels for which a valid berthing lease has been issued.

(d) Other Permits: The Marina Manager, at his discretion and judgment, shall be allowed to issue temporary berthing permits at Smiling Cove Marina for visiting or transient vessels, not to exceed thirty (30) days in duration, without the prior approval of the Director of Fish & Wildlife.

**30.2 Categories of Vessel Exclusions.** Except as provided for in Part V, the following vessels shall not be granted leases, issued permits, or be allowed to berth on any dock or moor within the waterways of Smiling Cove:

(a) Vessels as a Place of Abode. Vessel is deemed to be lived aboard if a person or persons occupy the vessel and engage in those usual and customary activities associated with a person's residence or abode, such as sleeping, preparation of meals, etc., for any period in excess of 72 consecutive hours in any seven (7) day period unless the vessel is transient and has a holding tank for containment of waste by-products.

(b) Unseaworthy Vessels. Lessees, permittees and applicants shall, upon request, demonstrate or allow inspection of vessels for seaworthiness by the Marina Manager or his designee.

(c) Work Boats. The term "work boats" includes tugboats, crew boats, landing craft, vessels engaged in cargo trade, fishing trawlers, utility boats, construction boats, barges and dredges.

(d) Deep Draft Vessels. Vessels with a draft deeper than eight feet (8') are "deep draft vessels".

(e) Vessels Greater than 60 feet Long. The length of the vessel shall be determined by its length overall (LOA) rounded upward to the next whole foot, including all permanent and functioning overhangs.

(f) Vessels Without Auxiliary Propulsion. Auxiliary propulsion means an engine, either outboard or inboard, sufficient to provide the vessel with safe maneuvering ability in the marina.

30.3 **Categories of Exclusion for Leases.** No vessel shall be granted a lease for berthing slip that comes within any of the categories listed in Section 30.2 or this section.

(a) Unregistered or Undocumented vessel. A vessel must have either current CNMI registration or U.S. Coast Guard documentation.

(b) Commercial Vessel. A vessel engaged in the commercial carriage of passengers, including but not limited to, sport-fishing boats, Managaha transfer boats, tour boats, and parasailing tow boats *may only be allowed to lease a berthing slip on a month-to-month basis after all non-commercial priority preference berthing slip requests are satisfied. Commercial vessel month-to-month berthing slip leases may only be granted or renewed if there are no pending berthing slip lease requests from non-commercial vessels.*

(c) Minimum Length. A vessel with a length overall (LOA) of ~~twenty feet (20')~~ or less *less than fifteen feet (15')*.

(d) Maximum Beam. A vessel with a beam greater than fifteen feet (15'), except that vessels of greater than 15' beam may be berthed at Dock "G". "Beam" is defined as the maximum breadth of the vessel.

(e) Vessel has Alternate Government Berth. A vessel with any form of permit, license or lease from the government of any agency or corporation of the Commonwealth, or any vessel which has been habitually berthed for a year or longer alongside any dock, pier, quay, or jetty shall be excluded from obtaining a lease unless the other permit, license, or lease is first canceled and rescinded and/or the use of the dock, pier, quay or jetty is abandoned.

(f) Applicant has Another Berth. An applicant must not currently possess a lease for the berthing of another vessel at Smiling Cove. For purposes of this exclusion, "applicant" shall include a natural person, corporation, partnership, joint venture or other legal entity.

30.4 **First Come-First Served Priority.** Slips shall be assigned by the Marina Manager according to first come-first served priority, *recognizing an absolute priority preference for non-commercial vessels*, and vessels shall be matched to slips so as to maximize useable berthing space and not restrict maneuverability.



- 30.5 **Grant of Berthing Lease.** Upon selection for the grant of a lease, an applicant shall have ten (10) days to complete the berthing lease, execute it, and pay the first month's berthing fees and the security deposit. Failure to do so will result in the denial of the application and the award of the lease to another applicant.
- 30.6 **Security Deposit.** A security deposit in the amount of three months' berthing fees shall be required of a new applicant for a berthing lease. A security deposit in the amount of six months' berthing fees shall be required of an evicted lessee or permittee whose application is being reconsidered pursuant to Section 90.3. All security deposits shall be applied to expenses incurred by the Division of Fish and Wildlife for violations of lease or permit terms or violations of these rules and regulations, including but not limited to curing delinquent berthing fees and expenses for impoundment or removal of a vessel pursuant to Sections 90.1 and 90.2. The security deposit shall not be considered to be an advance payment of berthing fees by the lessee or permittee. In the event that all berthing fees are paid on a timely basis, then at the conclusion of any lease or permit period, the lessee or permittee shall be entitled to a return of his or her security deposit without interest.
- 30.7 **Mooring Permits.** (Reserved.)
- 30.8 **Location of Moorings.** (Reserved.)
- 30.9 **Restriction on Moorings.** (Reserved.)

**PART IV.  
SECTION 40.0  
BERTHING AND MOORING FEES**

- 40.1 **Fees for Berthing Slips.** The following fees shall be assessed lessees assigned berths, on a monthly basis:

(1) ~~Vessels 29.0 feet or less in length: \_\_\_\_\_ \$3.50 per foot.~~

(2) ~~Vessels 29.1 feet to 44.0 feet in length: \_\_\_\_\_ \$5.50 per foot.~~

(3) ~~Vessels 44.1 feet or greater in length : \_\_\_\_\_ \$8.00 per foot.~~

***a) Non-Commercial Activity Vessels***

***(1) Vessels 29.0 feet or less in length: \$3.50 per foot.***

***(2) Vessels 29.1 feet to 44.0 feet in length: \$5.50 per foot.***

***(3) Vessels 44.1 feet or greater in length : \$8.00 per foot.***

b) Vessels Involve in Commercial Activities

- (1) *Vessels 29.0 feet or less in length:* \$5.00 per foot.
- (2) *Vessels 29.1 feet to 44.0 feet in length:* \$8.00 per foot.
- (3) *Vessels 44.1 feet to 60 feet in length :* \$10.00 per foot.
- (4) *Vessels 60.1 feet and greater in length:* \$15.00 per foot.

40.2 Fees for Moorings. (Reserved.)

40.3 Delinquency. *The due date for berthing slip lease payment shall be no later than the 10th day of each month (e.g., January lease payment is due by January 10). All delinquent payments, including those made after the 10th day of each month, shall be charged a 10% late fee for each month that payment is not made.* Failure to pay berthing or mooring fees for a period of 30 days after the date that those fees are due, shall constitute delinquency, and shall be grounds for cancellation of the lease or permit pursuant to Section 90.1.

PART V.  
SECTION 50.0  
TYPHOONS AND TROPICAL STORMS.

- 50.1 “Storm Conditions” defined. “Storm conditions” means the government has declared that Saipan is currently in Tropical Storm Condition 2 or 1 or Typhoon Condition 2 or 1.
- 50.2 Typhoon Contingency Plan. All references to storm or typhoon preparation shall be in accordance with the current year’s Typhoon Contingency Plan. The Plan specifies where each vessel will be berthed or moored in the event of a storm. The Plan may be amended by the Marina Manager as needed to accurately reflect the assigned berthing and mooring locations of all vessels during storm conditions.
- 50.3 Temporary Lifting of Exclusions During Storm Conditions. In the event of storm conditions, vessels excluded from Smiling Cove Marina under Sections 30.2(a) and 30.2(f) may enter and moor in Smiling Cove Marina provided that they have applied for and received an approved Non-Tenant Storm Condition Permit from the marina office, in accordance with Sections 50.7 and 50.8. The permit will specify where the non-tenant vessel may berth or moor in the marina area during storm conditions, according to the Typhoon Contingency Plan. All vessels registered in the Typhoon Contingency Plan but which do not hold a valid lease issued pursuant to Section 30.1 are required to leave within forty-eight hours after the return to Condition 3 or the giving of the “all clear” signal.

50.4 **Emergency Moorings.** In the event of storm conditions, any vessel permitted in Smiling Cove may moor across the channel of the waterway if the following conditions are observed and the vessel does not obstruct other permitted vessels according to the Typhoon Contingency Plan:

- (a) The vessel operator must follow the directions of the Director of the Division of Fish and Wildlife or his designee.
- (b) The vessel must be moored in a manner that will not jeopardize the safety of adjacent vessels in a storm.
- (c) All floats, gangways, and other floating obstacles other than vessels must be removed entirely from the water and secured on high ground.
- (d) All loose objects on the vessel shall be either removed or sufficiently tied down to withstand typhoon strength winds.
- (e) Mooring lines must use chafing protection on the vessel and at the end where they are fastened to trees, posts, or other objects out of the water.
- (f) Vessels entering the Smiling Cove Marina specifically for storm protection which are not registered according to the Typhoon Contingency Plan, shall be placed in available locations on a first-come, first-served basis by the Marina Manager or his designee.
- (g) Mooring lines must be removed from crossing the channel and all other locations that impede the movement or navigation of vessels in the waterways within twelve (12) hours of the announcement of the "all clear" signal.

50.5 **Unattended Vessels during Storm Conditions.** Any vessel with a berthing lease that is within Smiling Cove Marina during storm conditions and is not attended to by a person or persons who adequately secure the vessel for typhoon strength winds shall have its lease or permit terminated. It is the obligation of every boat owner to adequately secure his vessel so that it does not present a hazard to other vessels in the marina.

50.6 **Marina Manager's Authority.** The Marina Manager is empowered to regulate all vessel movement and placement within Smiling Cove Marina, its boundaries and shore areas prior to or during storm conditions as the designee of the Director of Fish & Wildlife. The Marina Manager or his/her designee shall:

- (a) Announce when the marina is officially closed to vessel movement into or out of it when Condition 2 is aired by weather broadcast, via VHF marine band radio on channel 16 as Notice to Mariners. This broadcast will be transmitted at ten (10) minute intervals for one hour.
- (b) Advise owners of trailerable vessels to remove them from the marina before Storm Condition 2 or Typhoon Condition 2.

(c) Monitor the placement of non-tenant vessels according to size and berth space. Non-tenant vessels are accorded refuge at Smiling Cove Marina pursuant to compliance with Sections 50.7 and 50.8.

(d) Ensure that no vessels moor or anchor in the Marina channel.

(e) Penalize and assess fines pursuant to CNMI laws for violations of this section.

(f) (Reserved.)

(g) (Reserved.)

50.7 **Non-Tenant Storm Condition Permit Procedures.** An owner of any vessel that is not a tenant at Smiling Cove Marina who wishes to berth or moor within its premises during storms or typhoons must apply for a Non-tenant Storm Condition Permit in accordance with subsections (a) through (d) below:

(a) Complete an application and submit it to the marina office during the open application period, held each year between January 1 and March 31;

(b) Produce evidence of current, adequate and applicable insurance coverage along with the application;

(c) Pay the required annual fee if the application is approved; and

(d) Have a current vessel inspection report and Certificate of Number, as applicable.

(e) Any application submitted that cannot show evidence required by subsections (a) through (d) above will be denied.

(f) No non-tenant vessel has the right to infringe upon the safety and welfare of the tenants of Smiling Cove Marina.

(g) All applications are subject to availability of berthing slips or mooring spaces at the marina.

50.8 **Non-Tenant Storm Condition Permit Fees.** The fees to be charged for the privilege to berth, moor or anchor within Smiling Cove Marina premises during storm conditions are assessed on an annual basis, are due and payable when the application is received and approved, and are not refundable. Fees are charged as follows:

(a) Vessels under 20 feet in length: Not permitted.

(b) Vessels 20 feet to 30 feet in length: \$50.00

(c) Vessels 31 feet to 40 feet in length: \$55.00

- (d) Vessels 41 feet to 50 feet in length: \$60.00
- (e) Vessels 51 over feet in length: \$65.00
- (f) Vessels at anchor: \$30.00

**PART VI.  
SECTION 60.0  
CONVENIENCE DOCK**

- 60.1 **“Convenience Dock” defined.** The “convenience dock” is marked on Exhibit “A-2” as the dock due North of the launching ramp.
- 60.2 **Commercial Vessels Prohibited.** Commercial vessels engaged in carrying passengers for hire, whether for transportation or any activity (fishing, parasailing, sightseeing, etc.) are prohibited from using the convenience dock.
- 60.3 **Use of Convenience Dock.** The Convenience Dock is for the use of recreational boaters and fishermen. They shall use the dock for no longer than one-half hour at a time and shall tie up to the dock in a manner so as to allow the maximum number of vessels to use the dock.

**PART VII.  
SECTION 70.0  
VISITING VESSELS**

- 70.1 **“Visiting Vessel” Defined.** A “visiting vessel” is a vessel registered outside of the Commonwealth or documented with a home port other than in the Commonwealth whose owner is not a resident of the Commonwealth and which will remain on Saipan for less than fourteen (14) days.
- 70.2 **Procedure Upon Entry.**
  - (a) Visiting Vessels that visit from outside of the Commonwealth must clear various government inspections, such as customs, agricultural quarantine, and immigration. To receive such clearance, visiting vessels must call Port Control at the Commonwealth Port Authority on Channel 16, announce their arrival, and present themselves for inspection at the area designated by Port Control near Charlie Dock.
  - (b) Visiting Vessels that have been cleared may request permission from the Marina Manager to temporarily berth in Smiling Cove. This permission will be granted if there is sufficient room to accommodate the vessel and the vessel does not come within a category of exclusion under Section 30.2. In particular, a visiting vessel can not be used

(d) in case of an emergency.

The lessee or permittee further consents to the movement of the vessel by the Marina Manager if, after notice to move the vessel is given by the Marina Manager, the lessee or permittee fails to comply with any such notice. The lessee or permittee shall reimburse the Division for costs incurred in moving the vessel. Neither the Division nor the Commonwealth government nor any of its officers or employees shall be liable for such action and all lessees and permittees waive all claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this provision.

90.5 **Non-transferability of Lease.** A lessee or permittee shall not give, sell, sublease, assign, or transfer, or attempt to give, sell, sublease, assign or transfer, whether voluntarily or involuntarily, the use of a designated slip, the lease or permit therefor, or any interest therein. No agreement, whether oral or in writing, between the lessee or permittee and any other person, firm, or entity may be made in connection with:

- (a) the use of a designated slip by a person other than the lessee or permittee,
- (b) the use of a designated slip by a vessel other than one owned by the lessee or permittee,
- (c) the transfer of ownership of or an interest in a vessel, or
- (d) a transfer of an interest in a corporation or partnership (general or limited) or joint venture owning a vessel, by which agreement lessee or permittee attempts to give, sell, sublease, assign, or to otherwise transfer the lease or permit and interest therein, or the right to use the designated slip, shall make the lease void and shall constitute grounds for the cancellation of the lease.

90.6 **Sale of Vessel.**

(a) A lessee or permittee may retain his or her designated slip for a period of thirty (30) days after transferring title to or agreeing to sell his or her vessel provided:

(1) The lessee or permittee shall notify the Marina Manager in writing of the sale of the vessel and his or her intent to acquire another vessel of appropriate length for the occupancy of the slip within five (5) days of the date the agreement for the sale of the vessel is entered into, and

(2) The lessee or permittee shall pay slip fees equal to the amount specified in the lease or permit for the vessel sold pending the acquisition of another vessel.

(b) An extension of an additional period may be granted at the discretion of the Marina Manager upon presentation of proof of a contract to purchase or construct another vessel.

as a place of abode, as defined in Section 30.2(a), while in Smiling Cove Marina, unless permitted by the Director of Fish & Wildlife or his designee.

70.3 **Fees for Visiting Vessels.** The following fees shall be collected daily from visiting vessels for berthing in Smiling Cove Marina:

(a) First three (3) days in one month: Free;

(b) Every day, or a fraction of a day, thereafter:

(1) Vessels 29.0 feet or less in length: \$4.00 per day

(2) Vessels 29.1 feet to 44.0 feet in length: \$8.00 per day

(3) Vessels 44.1 feet or greater in length: \$12.00 per day

70.4 **Maximum Stay Permitted.** A visiting vessel may stay only as long as permitted by the Marina Manager and in no event longer than 13 days per month.

**PART VIII.**  
**SECTION 80.0**  
**SPECIAL EVENTS**

80.1 **“Special Events” defined.** “Special Events” include use of the Smiling Cove Marina facilities for events including, but not limited to, fishing derbies and holiday celebrations, hosted by a person, a company, a non-profit organization, or a government agency. Marina facilities include, but are not limited to, berthing docks, launching ramp, trash bins, weigh station, convenience dock, parking area, water facilities and channel access.

80.2 **Permit required.** Sponsors of special events are required to apply for a permit from the Marina Manager for the special event. Application will be made in writing, on a form supplied by the Marina Manager. A non-refundable fee of \$50.00 will be charged for the use of the marina facilities for the special event. No special event will be allowed to occur in Smiling Cove Marina without a permit approved by the Marina Manager and full payment of the special event fee.

**PART IX.**  
**SECTION 90.0**  
**LEASES & PERMITS**

90.1 **Cancellation.** The Director of Fish & Wildlife may cancel and terminate any lease or permit upon five (5) days written notice to the lessee or permittee for failure to comply with:

- (a) any provision of the lease or permit, including without limitation, nonpayment of lease rent or permit fees,
- (b) the Smiling Cove Marina rules and regulations, or
- (c) the Boating Safety rules and regulations.

In addition, if there is any change of circumstances that causes a vessel to come within Sections 30.2 or 30.3, the lease or permit may be canceled. Notice shall be deemed served within twenty-four hours of the time said notice is deposited in the United States Postal Service, if mailed by first-class mail, postage prepaid, to the lessee's or permittee's address as designated on the lease or permit. In case of personal service, notice shall be effected upon such service. The notice shall specify the applicable provision of the lease or permit, Marina regulations or Boating Safety regulations with which the lessee or permittee has failed or refused to comply, the date and time on or before which the slip must be vacated, and the cancellation date. The lessee or permittee shall be liable for all berthing or mooring fees accruing prior to the date of cancellation.

- 90.2 **Impoundment of Vessel upon Cancellation of Lease or Permit.** If the lessee or permittee shall fail or refuse to remove his or her vessel from a slip on or before the date of cancellation of the lease or permit, the Director or his designee shall impound the vessel at the lessee's or permittee's risk and expense. Impoundment shall consist of chaining the vessel to the dock and placing a dated sign upon the vessel explaining the reasons for impoundment. The Director or his designee may also impound a vessel by removing it from the slip. Neither the Division nor the Commonwealth government nor any of its officers or employees shall be liable for any such actions and all lessees and permittees waive all claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this provision. The lessee or permittee shall reimburse the Division for costs incurred in moving and storing the vessel. Fines may be assessed as well.
- 90.3 **Reconsideration of Evicted Lessees or Permittees.** Any lessee or permittee evicted from the marina under this section who wishes to berth again at Smiling Cove Marina must make a new application and must wait for a space on the waiting list, if any. Any such new application made by an evicted lessee or permittee will be considered only after all delinquent berthing fees are paid, and any other violations or lease or permit provisions are cured. The Marina Manager is authorized to require an advance deposit of six months' rental fees for any such new application.
- 90.4 **Reassignment of Slips.** The Marina Manager shall have the right to temporarily or permanently reassign berthing slip spaces and to move or cause to be moved any vessel so reassigned. A lessee or permittee, by applying for and accepting the use of a slip, shall be deemed to have consented to the reassignment and movement of the vessel to another slip:
- (a) for the proper operation, maintenance and repair of Smiling Cove Marina,
  - (b) for the convenience of the Commonwealth,
  - (c) for a special event, or



(c) If the lessee or permittee does not acquire and accept delivery of another vessel of appropriate length for the assigned slip within the thirty (30) day period or any extension thereof, the lease or permit shall be canceled. The lessee or permittee shall remain liable for all fees accruing prior to cancellation.

(d) A lessee or permittee shall notify the Marina Manager in writing within five (5) days of any change of ownership in his or her vessel resulting from a gift, sale, lease, withdrawal, addition or substitution of partners, the sale or transfer of stock in a closely held corporate ownership of the vessel or a change of officers or directors of a closely held corporation owning the vessel. If a lessee or permittee fails or refuses to notify the Marina Manager within five (5) days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

90.7 **Partnerships and Corporations.** No lease will be issued in the name of a partnership, corporation, joint venture or other legal entity. A lease or permit for a vessel which is registered or documented by a partnership, corporation, joint venture, or other legal entity will be issued only to a sole natural person whose name appears on the Smiling Cove Marina waiting list and whose interest in the vessel is equal to or greater than that of each of the other partners, stockholders, members or associates. An application for a berthing lease for a vessel owned by a partnership, corporation, joint venture or other legal entity shall submit to the Director of the Division of Fish and Wildlife a fully executed Marine Bureau Statement of Ownership. If a lessee or permittee fails or refuses to notify the Director of a change to any of the information contained in the Marine Bureau Statement of Ownership within five (5) days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

90.8 **Absence from Slips.**

(a) In the event of an absence from a slip of more than seven (7) days, the Marina Manager shall be notified of the intended length of absence so that the slip may be made available to other vessels under a temporary permit.

(b) In the event that the planned absence is greater than ninety (90) days, then a leave of absence must be requested from the Marina Manager. The manager may grant a leave of absence for a reasonable period. If the period is deemed to not be reasonable, then the lease or permit shall be canceled.

90.9 **Temporary Slip Permit.** The Marina Manager may issue temporary permits to occupy and use vacant or unassigned slips upon such terms and conditions as may be required for the efficient operation of Smiling Cove Marina.

90.10 **Waiver of Claims.** Neither the Commonwealth of the Northern Mariana Islands government nor any of its officers or employees shall be liable to a lessee or permittee *and their guests* for any damages to persons or property within Smiling Cove Marina.

**PART X**  
**SECTION 100.0**  
**GENERAL REGULATION.**

- 100.1 **Application.** These regulations shall control the conduct of all lessees and permittees of Smiling Cove Marina and shall be incorporated as a part of any berthing lease or temporary slip permit. These regulations may be changed from time to time and shall apply prospectively as changed or amended to all existing lessees and permittees.
- 100.2 **No Commercial Use of Slips.** No slip or dock structure within the Smiling Cove Marina shall be used for commercial purposes.
- 100.3 **Storage on Docks.** Nothing shall be stored on the dock by any lessee or permittee. Each lessee or permittee is responsible for keeping the adjacent dock area clean and free of litter. A lessee or permittee shall not place items on the dock except for short periods of time, and at such times shall place the items in such a manner so as to not obstruct free passage along the dock.
- 100.4 **Fenders on Dock.** No lessee or permittee shall install fender material, dock wheels, or carpet on the docks without the express permission of the Marina Manager. Upon installation, title to said fender or dock wheels shall be vested in the Commonwealth.
- 100.5 **Movement of Vessels in Marina.** Movement of Vessels within Smiling Cove Marina shall be for the purpose of entering or leaving a slip only.
- 100.6 **Speed within the Marina.**
- (a) **Basic Speed Law:** No vessel shall be operated at such a speed in the Smiling Cove Marina and its channel that a wake is created that will disturb other vessels docked or moored or cause destruction of the shoreline. This shall apply to all vessels for the full length of the channel.
  - (b) **Heavy Displacement Vessels:** Heavy displacement vessels, greater than twenty tons are particularly prone to causing destructive wakes at slow speeds. Operators of these vessels shall maintain their speeds at less than 3 mph while traveling within Smiling Cove Marina.
  - (c) **All Other Vessels:** All vessels not specified in subsection (b) shall observe a 5 mph speed limit within Smiling Cove Marina for the full length of the channel, subject at all times to the Basic Speed Law.
  - (d) **Complaints:** Lessees and permittees are encouraged to report incidents of vessels traveling in excess of any of the above subsections.
  - (e) If the Marina Manager finds a violation of this Section, a lessee or permittee shall have its right to berth or moor in the marina canceled.

100.7 **Toilet Usage.** Toilets or marine heads shall not be used aboard a vessel in Smiling Cove Marina unless waste removal from vessel toilets or marine heads are conducted pursuant to a process approved in writing by the Director of Fish & Wildlife or his designee.

100.8 **Mooring of a Vessel.** A lessee or permittee shall, at all times, ensure that his or her vessel is safely moored with lines adequate for the weather conditions.

100.9 **Maintenance Work on Vessel.**

(a) Major repair or reconstruction work shall not be performed in or at any slip.

(b) No repair or other work on a vessel shall be performed before 8:00 a.m. nor after sunset, except in the case of emergency repairs to keep a vessel afloat. The Marina Manager may provide written authorization to have a vessel repaired after sunset in the marina if the repairs require a longer period of time provided that the repairs do not infringe upon the safety and welfare of the tenants of Smiling Cove Marina. Such authorization must state a "start" and "ending" time and date for the repairs.

(c) Tools and equipment must not be placed on the dock in a manner that will obstruct free passage along the dock. The dock area must be kept in a neat, clean and orderly condition.

(d) No material of any type resulting from maintenance work, such as solvents, paints, sandpaper, and other non-biodegradable materials shall be allowed to enter the water of Smiling Cove Marina.

(e) Spray painting, welding, burning, and other hazardous activities are strictly prohibited in the marina.

100.10 **Garbage and Littering.**

(a) No lessee or permittee shall have or keep on a vessel or on the adjacent dock any garbage or decaying matter. Trash bins are provided at the Smiling Cove Marina parking area for proper disposal of trash & other disposable materials.

(b) No lessee or permittee shall throw, place, leave, deposit or abandon, or cause to be thrown, placed, deposited or abandoned, any litter within the Smiling Cove Marina and the adjacent areas of American Memorial Park except in receptacles designated by the Division of Fish & Wildlife for the disposal of such materials. A lessee or permittee shall place only that garbage or litter within such receptacles as is generated during and results from a vessel's voyage.

(c) No lessee or permittee shall place, throw, deposit or discharge or cause to be placed, thrown, deposited, or discharged into the waters of Smiling Cove Marina any litter,

sewage, garbage, gaseous liquid or solid materials which render the water unsightly, noxious, or unclean so as to be detrimental to the public health and welfare.

**100.11 Fire Safety.**

(a) Basic Rule: No lessee permittee shall use or permit his or her vessel to be used or maintained in a manner as to create or constitute a potential fire hazard.

(b) Fire Extinguishing Equipment: Any vessel berthed in the Smiling Cove Marina shall have at least two (2) operable hand portable fire extinguishers containing ten pounds of dry chemicals. This requirement is waived if the vessel has a current safety inspection by the local boating safety office, Coast Guard or a Vessel Safety Check that has passed the Coast Guard Auxiliary inspection criteria.

(c) Fueling: No fueling of vessels, whatsoever, shall be permitted within Smiling Cove Marina.

(d) LPG: Any vessel equipped with liquid propane gas for cooking shall also be equipped with a solenoid or a warning indicator for detecting LPG leaks.

**100.12 Dumping of Hazardous Substances.** No lessee or permittee shall dump, discharge or pump oil, spirits, gasoline, diesel, distillate, any petroleum product, any other flammable materials, detergent, cleaning solutions or any substance that violates CNMI Water Quality Standards into the waters of Smiling Cove Marina, upon any of the docks, or on any land adjacent to the marina. Combustible materials shall not be placed in trash receptacles, but only in receptacles specially marked for combustibles and petroleum products. In the absence of such a receptacle, a lessee or permittee shall remove the substances for disposal at a site other than the marina or American Memorial Park.

**100.13 Swimming.** No person shall swim in the Smiling Cove Marina, except as necessary to moor or anchor a vessel, clear a fouled propeller, assist a vessel in clearing another vessel's mooring lines, or remove a vessel that is aground.

**100.14 Fishing.** No person shall fish from any docks of the marina and adjacent locations. No shoreline or fishing from the banks within Smiling Cove Marina is permitted beginning westward from the Convenience Dock to the South end of the marina ending at the last slip at Dock G. Fishing in Smiling Cove Marina is strictly prohibited.

**100.15 Visitors.** Visitors, unless accompanied by a lessee or permittee, or designated by the lessee or permittee in writing, shall not be permitted on the docks after sunset.

**100.16 Small Children on Docks.** Children under ten years of age are not permitted on the docks without the immediate presence of their parents or other responsible adults.

**100.17 Obstructions Placed in Water.** No float, pier, dock, pile, ramp or other obstruction may be placed in the Smiling Cove Marina without the prior authorization of the Marina Manager.

- 100.18 **Signs.** No lessee or permittee shall place, erect or maintain any sign, display or notice on any property, structure, or improvement within the Smiling Cove Marina, without the prior written authorization of the Marina Manager. A lessee or permittee may place one (1) sign on the exterior of a vessel advertising the sale or offering for sale of said vessel; provided however, the size of any such sign shall not exceed nine inches (9") by twelve inches (12") and the lettering thereon shall not exceed four inches (4") in height. Such a sign shall be displayed on the vessel for seven (7) consecutive calendar days that is written on the authorization. Application for another week to post a sign shall be made again to the Marina Manager. The Marina Manager may direct the removal of any nonconforming or unauthorized sign, display, or notice. In the event that a lessee or permittee refuses to remove it, such shall constitute grounds for cancellation of the lease or permit.
- 100.19 **Maintenance of Marina.** A lessee or permittee shall immediately notify the Marina Manager of the need for repairs to the docks or any dangerous conditions in the marina requiring attention.
- 100.20 **Alteration of Docks.** A lessee or permittee shall not alter any dock in any way without the prior written consent of the Marina Manager.
- 100.21 **Nuisance.** No lessee or permittee shall use their vessel in such a manner or maintain it in such a condition that its presence in the marina is a nuisance. A "nuisance" is defined as when the health or safety of others is threatened or their quiet and peaceful use of the marina is interfered with.
- 100.22 **Guests Aboard at Night.** A lessee or permittee shall not have more than five (5) guests aboard his or her vessel while at its berthing space between the hours of 8:00 p.m. and 4:00 a.m. The exception to this rule shall be when a vessel is departing or arriving at its berth space. In such an event, any guests may remain only as long as engaged in performing any acts necessary for the departure or arrival, such as the loading and unloading of the vessel.
- 100.23 **Noise.** A lessee or permittee shall not create, or allow to be created by any person, animal, machinery, hardware, sound system, radio, television, or any form of device, any sound which may be considered offensive or a nuisance to any other users of the marina, taking into consideration the circumstances of the time, place, and nature of the sound.

**PART XI.  
SECTION 110.  
PARKING AREA**

- 110.1 **"Parking Lot" Defined.** The paved parking area adjacent to and immediately south of the docks at Smiling Cove Marina is referred to herein as the "parking lot".

110.2 **Use Restrictions.**

- (a) A lessee or permittee is entitled to leave one vehicle in the parking lot while aboard his or her vessel. Two additional vehicles of guests of a lessee or permittee may be left in the parking lot while the guests are aboard the lessee's or permittee's vessel.
- (b) Buses and mini-buses shall be permitted to load and unload passengers in the parking lot, and park at the designated bus parking location.
- (c) No person shall sleep or cook in a vehicle while it is in the parking lot.
- (d) Trailers shall be permitted in the parking lot in the area that is marked and designated for "trailers".
- (e) No vehicle or trailer may be left in the parking lot for more than seventy-two (72) hours without the written authorization of the Marina Manager. Any vehicle that does not belong to a tenant of the marina or his/her guest, and that remains in the parking lot after 8:30 p.m., shall be towed away at the owner's expense. A parking fine will also be assessed.
- (f) No person shall remain, stay, or loiter in the parking lot between the hours of 8:30 p.m. and 5:00 a.m.

110.3 **Risk of Use.** The parking lot is maintained by the government for the gratuitous use of boat owners. Any person who parks a vehicle in the parking lot does so at his or her own risk.

**PART XII.  
SECTION 120.  
ENFORCEMENT**

120.1 **Effect of Regulations on Lease and Permits.**

- (a) These rules and regulations, as stated herein, and as they may be amended from time to time, are express conditions of every lease and permit.
- (b) A violation of these rules and regulations may result in the cancellation of a lease or permit by the Director of Fish & Wildlife.

120.2 **Enforcement of Regulations.**

- (a) These rules and regulations may be enforced against persons who are not lessees or permittees by an action for specific performance and/or damages.

(b) No action for legal or equitable relief may be filed for enforcement except by the government. However, any lessee may file an action in his or her own name against any person who places or maintains a vessel at the lessee's berthing slip or without the consent of the lessee.

(c) The Secretary of Lands & Natural Resources is hereby empowered to deputize marina enforcement personnel for the issuance of citations in violation of these regulations.

(d) The Marina Manager is directed to instruct and train the marina enforcement personnel in the proper procedures for the issuance of citations and/or notices pursuant to these regulations.

(e) Marina enforcement personnel must be attired in identifiable uniforms and must carry identification cards in the performance of their duty.

120.3 **Discretion of the Marina Manager in Removing Applicants from Waiting List.** The Marina Manager may remove an applicant for a berth lease from the waiting list for failure to comply with these regulations or to obey the directives of the Director of Fish & Wildlife. No application will be accepted if that person has an unpaid debt to Smiling Cove Marina for prior usage of the facility. Upon complete payment of all debts in arrears, the Marina Manager may consider including the applicant on the waiting list.

120.4 **Nature of Lease and Permit.** No person has a right to a lease or a permit or the use of the government's docks or the Smiling Cove Marina. Upon execution of a lease agreement or a permit, a holder obtains certain rights to the extent provided in the agreement.

**PART XIII**  
**SECTION 130.**  
**FINES.**

130.1 **Fines.** Assessment of fines for violation of Smiling Cove Marina Rules and Regulations are as follows:

- |                                |   |
|--------------------------------|---|
| (a). Illegally berthed vessel: | \$4.00 per linear foot per day.                                     |
| (b). Impounded vessel:         | \$25.00 per week for vessels from 20 feet to 30 feet in length;     |
|                                | \$50.00 per week for vessels from 31 feet to 45 feet in length; and |
|                                | \$75.00 per week for vessels over 45 feet in length.                |

- (c). Trailer removal: \$25.00 per trailer.
- (d). Vessel removal: \$50.00 per vessel from 20 feet to 30 feet in length;  
\$100.00 per vessel from 31 feet to 45 feet in length; and  
\$250.00 per vessel over 45 feet in length.
- (e). Illegal parking: \$25.00 per day.
- (f). Unauthorized signs: \$10.00 per sign after warning to remove it.
- (g). Unauthorized persons on dock: \$10.00 per person after warning to leave.
- (h). Articles and equipment on dock: \$50.00 per occurrence after warning to remove it.
- (i). Dumping of hazardous substances: \$500.00 per occurrence.

**PART XIV.  
SECTION 140.  
SEVERABILITY.**

140.1 **Severability.** If any section or portion of a section herein is invalid, it shall be deleted from these regulations and shall not invalidate the remaining sections of these regulations.

**PART XV.  
SECTION 150.  
SUPERSEDURE.**

150.1 **Supercedure.** The Smiling Cove Marina Rules and Regulations contained herein supercede all other rules and regulations regarding Smiling Cove Marina previously promulgated, including but not limited to those published in the Commonwealth Register:

- (a) on July 15, 1992 at pages 9327 through 9334;
- (b) on July 15, 1992 at pages 9338 through 9380;
- (c) on September 15, 1992 at pages 9633 through 9636;
- (d) on June 15, 1995 at pages 13515 through 13517; and
- (e) on September 15, 1995 at page 13723.



**Commonwealth of the Northern Mariana Islands**  
**Commonwealth Utilities Corporation (CUC)**  
Anthony C. Guerrero, Executive Director  
PO Box 501220, Saipan, MP 96950  
(Joeten Commercial Complex, Dandan, 3<sup>rd</sup> Floor)  
tel: (670) 235-7025 fax: (670) 235-5131

## **PUBLIC NOTICE**

### **PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF ELECTRIC REGULATIONS WITH MODIFICATIONS THAT ARE AMENDMENTS TO THE REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS  
PROPOSED REGULATIONS:  
Volume 28, Number 9, page 26156, September 27<sup>th</sup>, 2006

#### **Part 24. Rate Schedules of the Regulations Governing the Use of the CUC Electric System.**

Please take notice that I, Anthony C. Guerrero, Executive Director of the Commonwealth Utilities Corporation (CUC), hereby adopt as permanent, the referenced Proposed Regulations. I also certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted with modifications and amendments. I further request and direct that this notice be published in the Commonwealth Register.

**Effective Date of Regulations.** Pursuant to 1 CMC sec. 9105(b), these adopted regulations are effective ten (10) days after compliance with 1 CMC subsection 9102 and 9104(a) or (b), which, in this instance, is ten (10) days after publication in the Commonwealth Register.

**Prior Publication.** The prior publication was stated above.

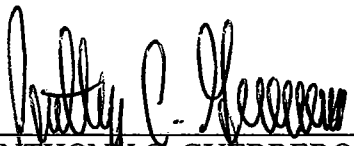
**Comments and agency concise statement.** Pursuant to 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see

the following pages for this agency's concise statement, if any, in response to filed comments and related to any and all modifications to the proposed regulations.

**Attorney General approval.** The adopted regulations were reviewed and approved for promulgation by the CNMI Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e), as amended by Public Law 10-50, for legal sufficiency.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 27<sup>th</sup> day of October, 2006, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
ANTHONY C. GUERRERO  
Executive Director, Commonwealth Utilities Corporation

Date: 10/27/06

Filed and  
Record by:

  
\_\_\_\_\_  
BERNADITA B. DELA CRUZ  
Commonwealth Registrar

Date: 10/30/06

Reviewed and  
Approved by:

  
\_\_\_\_\_  
MATTHEW T. GREGORY  
Attorney General

Date: 10/30/06

Commonwealth I Sankattan Siha Na Islas Mariana  
Commonwealth Utilities Corporation  
Anthony C. Guerrero, Eksekatibu na Direktot  
P.O. Box 501220 CK  
Mina Tres na Bibienda, Joeten Dandan Building  
Saipan, MP 96950-1220  
Numirun Tilifon: (670) 235-7025 Facsimile: (670) 235-5131

## NOTISIAN PUPBLIKU

### NOTISIAN PUPBLIKU POT SETIFIKASION YAN INADOPTASION POT REGULASION SIHA YAN TINILAIKA SIHA NI MAN MA'AMENDA PARA I REGULASION I COMMONWEALTH UTILITIES CORPORATION

***SIGUN I HALACHA NA PUPBLIKASION GI REHISTRAN I COMMONWEALTH  
KUMO MAN MAPROPONE NA REGULASION SIHA:***  
BALUMA 28, NUMIRU 09, PÁHINA 26156, GI Septiembre 27, 2006

#### **PÁTTE 24, Areklon Ápas gi Regulasion siha ni ginibebietna I Ma'usan Sistemán Elektrisidát**

Pot fabot chule' este na notisia na, guáhu as Anthony C. Guerrero, I Eksekatibu na Direktot gi Commonwealth Utilities Corporation (CUC) este na momento hu adopta petmanente, I mamensiona na Regulasion siha ni Man Mapropone. Hu setifika lokkue ginen I fitmá-ku gi san papa na, u mapupblika I mamensiona na regulasion siha ni man ma'adopta na man magáhet yan dinanche na kopian I tinilaika siha yan I man ma'amenda. Hu gágagão mäs yan ditetmina na este na notisia u mapupblika gi Rehistran I Commonwealth.

**Fechan I Efektibun I Regulasion Siha.** Sigun I lai 1 CMC Seksiona 9105 (b), este siha na regulasion ni man ma'adopta man efektibu dies (10) diha siha despues I makumple ni lai 1 CMC Seksiona 9102 yan 9104 (a) yan (b), gi este na situasion, I dies (10) diha siha despues di I pupublikasion gi I Rehistran I Commonwealth.


**Sigun I halacha na Pupublikasion:** Sigun I halacha na Pupublikasion esta mamensiona gi san hilo'.

**Opinion yan Kada'da' Na Mensáhen Ahensia:** Kininsiste I Lai 1 CMC Seksiona 9104 (a)(2), I ahensia a konsidera enteru I tinige' yan opinion siha ni marespepetá I man mapropone na regulasion siha. Gi inadoptasion este na regulasion siha, I ahensia, yanggen marekuesta para u machogue ni I enteresáo na petsona, maseha antes di I inadoptasion osino gi hálom trenta (30) diha siha despues, siempre man laknos kada'da' na mensáhe pot I prinsipát na rason para u hinilat I konsiderasion siha ni masohyo kontra I inadoptasion. Pot fabot ina I sigente siha na páhina para este kada'da' na mensáhen ahensia, yanggen guaha, gi ineppen I man marespondo na opinion siha ya man a'achule ni maseha háfa osino todú I man matulaika para I man mapropone na regulasion siha.

**Inapruedan I Abugâdu Henerât.** I man ma'adopta na regulasion siha man ma'ina yan ma'aprueda para u ma'establesi ni Abugâdu Henerât I CNMI ni man mamensiona gi sanhilo gi pâhinan I Rehistran I Commonwealth, sigun I lai 1 CMC Seksiona 2153 (e), ni ma'amenda gi Lai Puplicu 10-50, para u suficiente ligât.

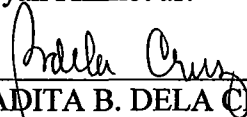
Hu deklarâna papa I chatmahula na hâfa mamensiona man magâhet yan dinanche ya pot este na deklarasion u malaknos gi mina 27<sup>th</sup> na diha gi Oktubre, 2006, giya Saipan, I Commonwealth I Sankattan Siha Na Islas Mariana.

Masetifika ya ma'otden as:

  
\_\_\_\_\_  
ANTHONY C. GUERRERO  
Eksekutibu Na Direktot, Commonwealth Utilities Corporation


10/27/06  
Fecha

Pinelo' yan Rinikot as:

  
\_\_\_\_\_  
BERNADITA B. DELA CRUZ  
Rehistran I Commonwealth

10/20/06  
Fecha

Maribisa yan Ma'aprueda as:

  
\_\_\_\_\_  
MATTHEW T. GREGORY  
Abugâdu Henerât

10/30/06  
Fecha

**ARONGORONGOL TOULAP  
ARONG REEL ALÚGHÚLÚGHÚL (CERTIFICATION) ME FILLÓÓL  
ALLÉGHÚL DENGKI FENGAL ME SSIWELÓÓL IKKA E LLIWEL MELLÓL  
ALLÉGHÚL COMMONWEALTH**

**UTILITIES CORPORATION**

**MMWAL AKKATÉ REEL POMWOL ALLÉGH KKAAL MELLÓL  
COMMONWEALTH**

Volume 28, Numero 9, peigh 26156, Maan 27<sup>th</sup> 2006

**Peigh ruweigh me faawu (24). Ammwelil llapal óbwos (Rate schedules) mellól Allégh ye e lemeli Yááyál CUC Electric System.**

Óutu ghal soong amweri fischiy bwe ngaang, Anthony C. Guerrero, Samwoolul Commonwealth Utilities Corporation (CUC), ibwe fillóóy, kkapasal Pomwol Allégh kkaal. Ibwal alúghúlúgh sáangi yááy mákk iye elo faal bwe , aa akkatééló, sibwe ira fillóól allégh kkaal nge e wel, atakk me tilighial Pomwol Allégh kkaal, me raa fillóóy fengáilil fféer sefál kkaal me lliwel kkaal. I tittingór me afalafal bwe arong yeel ebwe akkatééló llól Commonwealth Register.

**Schéschéél Ótol Allégh Kkaal.** Sáangi allégh ye 1 CMC táilil. 9105(b), allégh kka raa fillóóy nge ebwe fisch llól seigh (10) ráálil ngáre schagh aa mwir sáang 1 CMC táilil 9102 me 9104(a) me ngáre (b), sibwe ira llól seigh (10) ráálil yaal akkatééló llól Commonwealth Register.

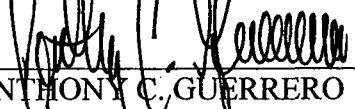
**Mmwal Akkatéél:** Mmwal akkaté iye ekke apasa me weilang.

**Mángemáng me aweweel agency.** áangi allégh ye 1 CMC táilil. 9104(a)(2), sangi agency nge e ghi tipeli bwe alongal ischil me kkapasal ikka ebwe atotoolong bwelle pomwol allegh kkaal. Sáangi fillóól allégh kaal, agency, ngáre eyoor le e tipeli, e weewe schagh igha mmwal fillóól me ngáre llól eliigh (30) ráálil mwete ló mmwal, ay bwe atotoowow aweweel me aingiingil filló yeel, atotoolongol aweewe kka re aingiing reel sangi filló yeel. Óutu ghal soong ów amweri aweweel agency, ngáre eyoor, sáangi aghiyegh kka raa fillóóy me milikka e fillong me allongal lliwel kkaal ngágli pomwol allégh kkaal.

**Alúghúlúghúl Sów Bwungul Allégh:** Pomwol allégh kkaal nge raa takkal amweri fischiy me allégheló, akkaté sáangi CNMI Sów Bwungul Allégh Lapalap bwe aweewe kka weiláng mellól Commonwealth Register, bwelle allegh ye 1CMC táilil. 2153(e), iye aa ssiwel mereel Alléghúl Toulap 10-50, bwe ebwe allégh ghatch.

I akkapaló bwe allégh kkaal ighila nge e welewel me e ffat me bwelle igha  
appelúghúlúgh yeel aa fféerló ótol 2-1<sup>th</sup> Ilól Sarobwel, 2006 mewóól Seipél,  
Commonwealth Téél Falúwasch Marianas.

Alúghúlúgh me afal:

  
\_\_\_\_\_  
ANTHONY C. GUERRERO  
Samwoolul, Commonwealth Utilities Corporation

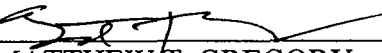
Rál 10/27/06

Ammwel sangi:

  
\_\_\_\_\_  
BERNADITA DELA CRUZ  
Commonwealth Registrar

Rál 10/30/06

Alúghúghúl:

  
\_\_\_\_\_  
MATTHEW T. GREGORY  
Sów Bwungul Allégh Lapalap

Rál 10/30/06

**I. MODIFICATIONS AND AMENDMENTS TO PROPOSED REGULATIONS AS PUBLISHED IN THE COMMONWEALTH REGISTER: Volume 28, Number 9, pages 26156 through 26184, September 27<sup>th</sup>, 2006.**

**A. Public Hearings & Receipt of Written Comments:** Pursuant to 1 CMC § 9104(a)(2) of the CNMI Administrative Procedure Act (APA), the Commonwealth Utilities Corporation (CUC) has considered fully all written and oral submissions respecting the proposed regulations. Public Hearings were held on October 17, 2006 in the Second Senatorial District, October 18, 2006 in the Third Senatorial District and October 19, 2006 in the First Senatorial District in compliance with 4 CMC § 8142, as amended by Executive Order 2006-4. The time and place of these Public Hearings were duly noticed and all comments were recorded and received for the official record of proceedings. In addition, written comments were solicited in accordance with the CNMI APA.

The CUC Executive Director, pursuant to the provisions of Executive Order 2006-4, has the authority to promulgate regulations respecting the utility rates charged to CUC customers and is mandated to ensure that such rates ensure the recovery of the actual costs of producing electricity. The CUC Executive Director, as noted, caused Public Hearings to be held on such rate regulations in accordance with 4 CMC § 8142, as amended by Executive Order 2006-4. The provisions of the CNMI APA were also followed to ensure that the public had full access and knowledge of the rate changes, as well as the legal and economic reasons that necessitated such changes.

The CUC Executive Director, upon publication of these final amendments to the Electric Service Regulations hereby also submits these regulations to the Public Utilities Commission in accordance with Public Law 15-35. The rates as published herein shall be in effect until such time that the Public Utilities Commission is duly constituted and reviews the rates in accordance with the procedures set forth in Public Law 15-35.

**B. Modifications and Amendments.** The following identifies the modifications and amendments that the CUC has made to the proposed regulations as published in the September, 27, 2006 Commonwealth Register. CUC's concise agency statement, in response to the oral and written comments submitted to CUC which concern the modifications and amendments made to the proposed regulations are also set forth herein. Written responses to additional oral and written comments will be published in the November, 2006 Commonwealth Register in accordance with 1 CMC §§ 9104-9105 of the CNMI APA.

**1. Part 24.4 is hereby amended and modified as follows:**

24.4 If a customer elects to change to another appropriate **customer classification** and applicable rate schedule, the change shall be **made-allowed** provided:

24.4.1 A change has not been **made-allowed** within the past twelve (12) month period; or

24.4.2 ~~The A change is made to, or from, a new or revised rate schedules, for purposes of Part 24, monthly changes in the "electric fuel rate," as set forth in Section 24.6.3.3, shall not constitute a "new or revised rate schedule";~~ or

24.4.3 ~~There has been a A change has occurred in the customer's operating conditions-principal activities and or functions for that service, which, in the opinion of the CUC, justifies a change and:in the customer classification, if such a change has not been allowed within the past twelve (12) months.~~

~~24.4.3.1 The change is not made more often than once in twelve (12) months; and~~

~~24.4.3.2 The customer has made the request by written notice to the CUC. The change shall become effective for the billing period during which the customer has requested the change.~~

**24.4.4 All requests for change must be by written notice to the CUC. The change shall become effective for the billing period during which the customer requested the change.**

**24.4.5 No changes will be made retroactively unless it can be ascertained that the CUC did not promptly act on a written notice for change.**



**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection in response to oral and written comments received regarding CUC's proposed regulations. The amendments and modifications are intended to provide clarity to the regulations, which will assist in the proper application of the regulations. Specifically, these amendments will ensure that CUC's customers who qualify for residential rates can take advantage of the Inverted Block Rate Schedule and thereby decrease their utility costs in relation to the amount of their monthly consumption of electricity, in kWh. In addition, these amendments provide that CUC customers who qualify for commercial rates under these regulations will be accurately metered and charged for their monthly consumption of electricity, in kWh, based on the applicable commercial rate.

**2. Parts 24.5.1 to 24.5.4 are hereby amended as follows:**

- 24.5.1 Residential customers are those who purchase power for use in a ~~single-family~~ **single-family** house or an apartment. ~~In the case of a~~ **An apartment house building used solely for residential purposes,** which has only one meter for the entire building ~~or has one service for the entire building which is on a flat rate schedule, the building is considered a residential building and qualifies for the customer shall be classified as residential rate.~~
- 24.5.2 ~~If a~~ **An apartment** building, **which** has separately metered apartments, ~~and part of the building is commercial which is separately metered or on a flat rate schedule, the apartments~~ **those customers** shall be classified as residential. **If a part of the building is for commercial purposes, which is separately metered, those customers shall be classified as commercial.**
- 24.5.3 An apartment building, ~~with which has only one service entrance meter serving the entire building, whether the building is metered or on a flat rate schedule,~~ where there is a commercial business located in the building, ~~the entire building is~~ **customer shall be classified as commercial.**
- 24.5.4 Buildings, which are used for housing workers (barracks, ~~or houses, or~~ **apartments**), where the power is purchased and paid for by a commercial business for profit, shall be classified as commercial. ~~Buildings used by non-profit charitable corporations or organizations, except in the case of a commercial, for profit business owned or operated by a religious organization, shall be classified as residential. (Part 24.5.4 Amended August 16, 1996)~~

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection in response to oral and written comments received regarding CUC's proposed regulations and to correct typographical/clerical errors. The amendments and modifications are intended to provide clarity to the regulations, which will assist in the proper application of the regulations. Specifically, these amendments will ensure that CUC's customers, who reside or operate commercial facilities in

different building types, including apartment buildings and barracks, can qualify for residential rates and take advantage of the Inverted Block Rate Schedule and thereby decrease their utility costs in relation to the amount of their monthly consumption of electricity, in kWh. In addition, these amendments provide that CUC customers who meet the requirements for commercial rates under these regulations will be accurately metered and charged for their monthly consumption of electricity, in kWh, based on the applicable commercial rate. CUC also amended the language in subsection 24.5.4 to eliminate a redundant provision in the Electric Service Regulations. The purposes of the language that was stricken from Part 24.5.4 is addressed and fulfilled by the language/provisions set forth at Part 24.5.7 and Part 24.6.2 of the Electric Service Regulations.

**3. Part 24.5.7. is hereby amended as follows:**

24.5.7 A non-profit organization is defined as such if it provides CUC with written determination of tax exempt status from the Commonwealth Division of Revenue and Taxation that it qualifies as a charitable organization under Sections 501 and 503(c) of the Northern Marianas Territorial Income Tax or proof that it is not required to file for such a determination. **A non-profit organization has the option to be billed as either residential or commercial for each service location as allowed under Part 24.6.2 of these Regulations. However, non-profit organizations that operate a for profit business, that business shall be classified as commercial.**

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection in response to oral and written comments received regarding CUC's proposed regulations. The amendments and modifications are intended to provide clarity to the regulations, which will assist in the proper application of the regulations as they pertain to non-profit organizations. These amendments will ensure that non-profit organizations, including religious and/or charitable organizations and non-profit educational institutions can be classified at the residential or commercial rate.

**4. Part 24.6.2 is hereby amended as follows:**

24.6.2 Non-profit organizations, as defined by CUC Electric Service Regulations, **paragraph Part 24.5.7**, shall have the option to consult with CUC and elect to be billed at either the residential or commercial rates **for each service location**, whichever is more beneficial to the organization. Changes between customer classification rate schedules shall be made in accordance with CUC Electric Service Regulations, Part 24. Rate Schedules.

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection in response to oral and written comments received regarding CUC's proposed regulations. The amendments and modifications are intended to provide clarity to the regulations, in particular Part 24.5.7 of the regulations, as previously noted in CUC's concise agency response/reasons for the amendments and modifications to Part 24.5.7.

5. **Part 24.6.3.1.1 is hereby amended as follows:**

24.6.3.1.1 CUC shall institute a monthly customer charge schedule for each customer classification as a minimum monthly flat-rate charge, with no credit for usage. **The monthly customer charge was determined by the electric rate study conducted by Economists.com (see EXHIBIT 1, "SCHEDULE OF ELECTRIC CHARGES AND RATES", Page 1 of 2).**

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection in response to oral and written comments received regarding CUC's proposed regulations. The amendments and modifications are intended to provide clarity to the regulations, which will assist in the proper application of the regulations. Specifically, the amendments reflect that the monthly customer charge was calculated based on the comprehensive electric rate study conducted by Economists.Com utilizing its expertise in utility industry ratemaking principles and standards.

6. **Part 24.6.3.2.1 is hereby amended as follows:**

24.6.3.2.1 CUC shall institute an electric non-fuel rate schedule for each customer classification, under which consumers shall be billed based on the number of kilowatt-hours (kWh) of electricity consumed during a billing period **The electric non-fuel rates were determined by the electric rate study conducted by Economists.com (see EXHIBIT 1, "SCHEDULE OF ELECTRIC CHARGES AND RATES", Page 1 of 2). So as not to create a financial hardship or adversely affect the amount billed, a billing period shall contain not less than 28 days nor more than 32 days. If the billing period is outside these parameters, CUC shall compute a prorated bill based on a 30-day billing period. This provision shall supersede those in subsection 15.4 of these Electric Service Regulations pertaining to billing period.**

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection to address oral and written comments received during the Public Hearings concerning the proposed regulations. Specifically, these amendments address written comments related to concerns that the beneficial aspects of the Inverted Block Rate Schedule for residential customers was adversely impacted by inconsistent billing periods. These amendments and modifications will help to assure that CUC customers are accurately billed and can take advantage of the Inverted Block Rate Schedule and thereby decrease their utility costs in relation to the amount of their monthly consumption of electricity, in kWh. The amendments also reflect that the electric non-fuel rates were calculated based on the comprehensive electric rate study conducted by Economists.Com utilizing its expertise in utility industry ratemaking principles and standards.

7. **Part 24.6.3.3.2 is hereby amended as follows:**

24.6.3.3.2 The electric fuel rate shall take effect on the date that this regulation becomes effective and shall remain in effect through August 31, 2006. The interim electric fuel rate shall be \$0.215 per kWh, as determined by the ~~recent~~ electric rate study **conducted by Economists.Com (see EXHIBIT 1, "SCHEDULE OF ELECTRIC CHARGES AND RATES", Page 1 of 2).** Thereafter, the CUC Chief Financial Officer shall calculate an initial electric fuel rate for September 2006 and for each month thereafter, compute the subsequent months' electric fuel rate.

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended this subsection to address oral and written comments received during the Public Hearings concerning the proposed regulations. Specifically, these amendments address oral comments related to the economic basis and analysis utilized by CUC for the application of the initial non-electric and electric fuel rates in July 2006. The initial electric fuel rate was calculated based on the comprehensive electric rate study conducted by Economists.Com utilizing its expertise in utility industry ratemaking principles and standards. Further agency responses and comments related to the changes in CUC's monthly electric-fuel rate and CUC's regulations concerning the over-under cost recovery of electric-fuel rate charges are set forth in more detail herein.

8. **Parts 24.6.3.3.6 to 24.3.3.9 are hereby amended as follows:**

24.6.3.3.6 The methodology in this regulation provides for the computation of the initial and **all** subsequent **target** months' electric fuel rates (see EXHIBIT 3).

24.6.3.3.7 The initial, **and the first subsequent, target month's** electric fuel rate shall be computed as follows (see **Formula No. 1 (EXHIBIT 3, Formula No. 1 Page 1 of 2),** and Example of Computation of Initial **and First Subsequent Target Month's** Fuel Rate **(EXHIBIT 3, Page 2 of 2)**):

- Projected fuel costs for ~~September 2006~~ **the target month.**
- Divided by projected sales, in kWh, for ~~September 2006~~ **the target month.**

**For purposes of Part 24, the initial target month shall be September 2006 and the first subsequent target month shall be October 2006.**

24.6.3.3.8. **Because CUC billing periods generally overlap portions of two (2) months, e.g. September 12 through October 13, the second, and each successive, The-subsequent months' target month's** electric fuel rate shall be computed as follows (see Formula No. 2 (EXHIBIT 3, page 1 of 2) and

Example of Computation for Second, and Each Successive, Subsequent Target Months' Month's Fuel Rate (EXHIBIT 3, page 2 of 2)):

- Projected fuel costs for the target month.
- Plus or minus any adjustment for the third preceding month's under- or over-recovery of fuel costs.
- Divided by projected sales, in kWh, for the target month.

For purposes of Part 24, the second subsequent target month shall be November 2006; each successive subsequent target month shall be the consecutive months that follow.

24.6.3.3.9 Computation of the under- or over-recovery of fuel costs shall be as follows: ~~Previous target month's actual fuel costs minus (previous target month's actual sales, in kWh, multiplied by the previous target month's fuel rate per kWh) (see Formula No. 2 (EXHIBIT 3, page 1 of 2) and Example of Subsequent Months' Fuel Rate (EXHIBIT 3, page 2 of 2)).~~

- Third preceding month's actual fuel costs.
- Minus total of third preceding month's actual sales, in kWh, multiplied by the third month's fuel rate per kWh.

See Formula No. 2 (EXHIBIT 3, Page 1 of 2) and Example of Computation for Second, and Each Successive, Subsequent Target Month's Fuel Rate (EXHIBIT 3, Page 2 of 2).

For purposes of Part 24, the third preceding month shall be the third month prior to the target month. For example, if the target month is November 2006, the third preceding month is August 2006.

Concise Agency Response/Reasons for Amendment or Modification: CUC amended subsections 24.6.3.3.6 through 24.6.3.3.9 so that the required computations of the "electric fuel rates" would coincide with the availability of the data needed to make those computations and implement CUC regulations concerning the under- or over-recovery of fuel costs. CUC billing periods generally overlap portions of two (2) months, e.g. September 12 through October 13. As such, the early September usage is reflected in the September billing while the later usage that month is reflected in the October billing. Further, CUC's last (fifth) billing cycle of a month generally occurs on or about the last day of the month. Therefore, all sales for September are not available until the last day of October, which is the day that CUC must submit for publication the electric fuel rate for November. Accordingly, the publication of the November electric fuel rate will be the first month to include the under- or over-recovery of fuel costs, which is for the month of August, the third preceding month to November. In addition,

amendments to these subsections are to provide clarity to the Regulations, which should assist in their proper implementation, as intended.

These amendments were also made in response to oral and written comments received during the Public Hearings on the proposed regulations concerning the reasons why CUC's electric fuel rate seemed to be decreasing at a lesser rate than that reflected in the world prices for crude oil. CUC's electric-fuel-rates will decrease or increase based on the price of its fuel and lubricants, including the price of Low Sulfur Automotive Diesel Oil (LSADO), also known as Diesel No. 2. These amendments and modifications show that the increase or decrease in prices of fuel and lubricants and the under – or over-recovery of fuel costs must be calculated utilizing a three-month analysis, for the reasons set forth herein, which will be implemented and reflected in customer billings in November, 2006.

9. **Amendments and Modifications to Exhibits:** The Exhibits published in the original proposed regulations have been amended and modified.

**Concise Agency Response/Reasons for Amendment or Modification:** CUC amended the Exhibits to address oral and written comments received during the Public Hearings concerning the proposed regulations. Specifically, these amendments address oral and written comments related to the complexity of the formulae used by CUC in which the charges/rates are calculated. The amended Exhibits are intended, therefore, to set forth these formulae and examples of the manner in which the rates/charges are calculated in a straightforward manner that also accurately reflects the amendments and modifications made to the CUC's Electric Service Regulations in their final form as set forth herein.

## **II. PERMANENT AND FINAL AMENDMENTS TO REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION:**

### **AMENDMENTS TO PART 24 of the ELECTRIC SERVICES REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION**

**Part 24, *Rate Schedules*, is hereby amended and shall now read as follows:**

#### **Part 24. Rate Schedules**

24.1 CUC shall establish rates and charges for electric service in a fair and rational manner for all consumers of electricity so that CUC will be financially independent of all appropriations by the Commonwealth Legislature as required by 4 CMC § 8140, as amended by Executive Order 2006-4. Electric rates and charges established by CUC shall be sufficient to recover all costs associated with the administration, operation, maintenance, transmission, generation, and delivery of electric service as required 4 CMC § 8141(c), as amended by Executive Order 2006-4. The term “costs” shall include adequate financial reserves for any debt associated with electric service and for the replacement of obsolete, worn-out, or damaged equipment as required 4 CMC § 8141, as amended by Executive Order 2006-4. These electric rates and charges shall take effect immediately upon compliance with the Administrative Procedures Act, 1 CMC § 9101 *et. seq.*

24.2 The CUC’s rate schedules shall be interpreted and applied by the CUC for each customer’s service requirements in accordance with the terms and conditions of such rate schedules and the size and characteristic of such service requirements, as these are determined from time to time.

24.3 A customer who is adversely affected by the application of any rate or charge for electric service may challenge the rate or charge, and if the customer and the CUC do not reach agreement, the matter shall be adjudicated in accordance with Administrative Procedures Act (1CMC 9108 *et. seq.*).

24.4 If a customer elects to change to another appropriate customer classification and applicable rate schedule, the change shall be allowed provided:

24.4.1 A change has not been allowed within the past twelve (12) month period; or

24.4.2 A change is made to a new or revised rate schedules, for purposes of Part 24, monthly changes in the “electric fuel rate,” as set forth in Section 24.6.3.3, shall not constitute a “new or revised rate schedule”; or

24.4.3 A change has occurred in the customer’s principal activities and or functions for that service, which, in the opinion of the CUC, justifies a change in the customer classification, if such a change has not been allowed within the past twelve (12) months.

24.4.4 All requests for change must be by written notice to the CUC. The change shall become effective for the billing period during which the customer requested the change.

24.4.5 No changes will be made retroactively unless it can be ascertained that the CUC did not promptly act on a written notice for change.

24.5.1 Residential customers are those who purchase power for use in a single-family house or an apartment. An apartment building used solely for residential purposes, which has only one meter for the entire building, the customer shall be classified as residential.

24.5.2 An apartment building, which has separately metered apartments, those customers shall be classified as residential. If a part of the building is for commercial purposes, which is separately metered, those customers shall be classified as commercial.

24.5.3 An apartment building, which has only one meter serving the entire building, where there is a commercial business located in the building, the customer shall be classified as commercial.

24.5.4 Buildings, which are used for housing workers (barracks, houses, or apartments), where the power is purchased and paid for by a commercial business for profit, shall be classified as commercial.

24.5.5 A residence which includes a commercial business shall be classified as commercial.

24.5.6 A commercial customer is defined as such if a business license is required for the business operation.

24.5.7 A non-profit organization is defined as such if it provides CUC with written determination of tax exempt status from the Commonwealth Division of Revenue and Taxation that it qualifies as a charitable organization under Sections 501 and 503(c) of the Northern Marianas Territorial Income Tax or proof that it is not required to file for such a determination. A non-profit organization has the option to be billed as either residential or commercial for each service location as allowed under Part 24.6.2 of these Regulations. However, non-profit organizations that operate a for profit business, that business shall be classified as commercial.

24.6 Customer Classifications: These regulations develop and implement rate and charge schedules segregated into the following customer classifications:

- Residential.
- Commercial.
- Government.
- Non-Conforming Load.

24.6.1 The Non-Conforming Load classification is defined as any customer with a maximum demand of at least 3,000 kilowatts (kW) in the preceding twelve (12) calendar months and daily operations where the ration of the maximum demand to the minimum demand exceeded three (3), three times in any 30-day period during the preceding 12 calendar months.

24.6.2 Non-profit organizations, as defined by CUC Electric Service Regulations, Part 24.5.7, shall have the option to consult with CUC and elect to be billed at either the residential or commercial rates for each service location, whichever is more beneficial to the



organization. Changes between customer classification rate schedules shall be made in accordance with CUC Electric Service Regulations, Part 24. Rate Schedules.

24.6.3 Rates and Charges: CUC costs shall be recovered through the following rates and charges: Monthly Customer Charges; Electric Non-Fuel Rates; and Electric Fuel Rates.

24.6.3.1 Monthly Customer Charges.

24.6.3.1.1 CUC shall institute a monthly customer charge schedule for each customer classification as a minimum monthly flat-rate charge, with no credit for usage. The monthly customer charge was determined by the electric rate study conducted by Economists.com (see EXHIBIT 1, "SCHEDULE OF ELECTRIC CHARGES AND RATES", Page 1 of 2).

24.6.3.1.2 The monthly customer charge shall recover a portion of the costs directly associated with serving customers, irrespective of the amount of electric usage. Such costs are for meter reading, billing, accounting, and collecting and for maintaining and providing capital costs related to meters, equipment, and associated services.

24.6.3.2 Electric Non-Fuel Rates.

24.6.3.2.1 CUC shall institute an electric non-fuel rate schedule for each customer classification, under which consumers shall be billed based on the number of kilowatt-hours (kWh) of electricity consumed during a billing period. The electric non-fuel rates were determined by the electric rate study conducted by Economists.com (see EXHIBIT 1, "SCHEDULE OF ELECTRIC CHARGES AND RATES", Page 1 of 2). So as not to create a financial hardship or adversely affect the amount billed, a billing period shall contain not less than 28 days nor more than 32 days. If the billing period is outside these parameters, CUC shall compute a prorated bill based on a 30-day billing period. This provision shall supersede those in subsection 15.4 of these Electric Service Regulations pertaining to billing period.

24.6.3.2.2 The electric non-fuel rates shall pass through monthly, to all consumers of CUC electricity, approximately one-twelfth (1/12) of all CUC annual operating costs associated with electric service; excluding the cost of production fuel and lubricating oils and those costs that are recovered through the monthly customer charge.

24.6.3.2.3 For residential customers, an inverted block rate schedule, with four (4) rate levels, shall be established. Each successive rate level shall have a higher rate per kWh than the previous level, as distinguished by ascending levels of consumption. Total usage will be applied first to the lowest level of the block rate (001 to 500 kWh). For any usage that is above 500 kWh and up to 1,000 kWh shall be billed at the second rate level. Any usage that is above 1,000 kWh and up to 2,000 kWh shall be billed at the third rate level. Any

and all usage above 2,000 kWh shall be billed at the fourth level. The inverted block method provides an effective means of promoting conservation when CUC lacks sufficient generating capacity to provide constant reliable electric service to all of its customers. Further, the first (lowest) rate level within the schedule provides a lifeline rate for consumers that use 500 kWh or less of electricity during a billing period. Refer to EXHIBIT 1, Pages 2 and 2, for examples of how CUC would compute the monthly non-fuel charges for residential customers.

- 24.6.3.2.4 For commercial, government, and non-conforming load customers, separate rate schedules shall be established having only one (1) rate level for each customer classification. Customers within these three (3) classifications shall be charged at the respective rates per kWh. Refer to EXHIBIT 1, Page 2 of 2, for examples of how CUC would compute the monthly non-fuel charges for commercial customers.
- 24.6.3.2.5 The charges based on electric non-fuel rate(s) and the monthly customer charge shall be combined and appear as a separate item, "electric non-fuel charges," on the monthly customer billing statement.
- 24.6.3.2.6 The non-fuel rates and monthly customer charges shall remain in effect for approximately one (1) year from the date of this regulation, unless unanticipated circumstances warrant the need to adjust the rates and charges sooner. Prior to the expiration of the one (1) year period, and each year thereafter, CUC shall commission a review to determine if the non-fuel rates and monthly customer charges should increase or decrease or remain the same.
- 24.6.3.2.7 The CUC Chief Financial Officer shall provide public notice of any adjustments to the electric non-fuel rates and the monthly customer charges, maintain on file the methodology used to determine the rates and charges, take comments, and arrange for public hearings and workshops, as needed, which may be attended by the customers and other members of the public.
- 24.6.3.3 Electric Fuel Rate: CUC shall institute an electric fuel rate schedule, under which all consumers shall be billed based on the number of kilowatt-hours (kWh) of electricity consumed during the billing period (see EXHIBIT 1, Page 1 of 2). The charge per kWh will be the same for all customer classifications, regardless of the level of consumption.
  - 24.6.3.3.1 The electric fuel rate shall pass through to all consumers of CUC electricity, the monthly fuel costs for generating electricity. Fuel costs subject to cost recovery shall include only production fuel and lubricating oils. Accordingly, the electric fuel rate may increase or decrease or remain the same from month-to-month.
  - 24.6.3.3.2 The electric fuel rate shall take effect on the date that this regulation becomes effective and shall remain in effect through August 31, 2006. The

interim electric fuel rate shall be \$0.215 per kWh, as determined by the electric rate study conducted by Economists.Com (see EXHIBIT 1, "SCHEDULE OF ELECTRIC CHARGES AND RATES", Page 1 of 2). Thereafter, the CUC Chief Financial Officer shall calculate an initial electric fuel rate for September 2006 and for each month thereafter, compute the subsequent months' electric fuel rate.

24.6.3.3.3 On the first day of each month, CUC shall announce the electric fuel rate that will be in effect for that month. If the first day of the month falls on a Saturday, Sunday, or holiday, the new fuel rate will be announced on the first business day thereafter. Regardless of when announced, the rate shall be in effect from the first day through the last day of each month.

24.6.3.3.4 Because CUC monthly billing periods generally overlap portions of two (2) months, e.g. September 12 through October 13, the fuel rate shall be applied on a pro rata basis according to the number of days each month's usage (September and October) is to the total number of days in the billing period. In the example above, the billing period consists of 31 days, of which 18 days (rounded to 58 percent or .58) are in September and 13 days (rounded to 42 percent or .42) are in October. For illustration purposes, assume that electric consumption for the 31-day period is 2,345 kWh and electric fuel rates were \$0.222 per kWh for September and \$0.216 for October. Thus, the electric fuel charges for the billing period would be \$514.68, which is computed as follows:

For September, multiply 2,345 kWh times .58 times \$0.222, which equals \$301.94. For October, multiply 2,345 kWh times .42 times \$0.216, which equals \$212.74. Next, add the two amounts (\$301.94 plus \$212.74) for the total charges, which equals to \$514.68. (see EXHIBIT 2)

Computations:

2345	x	.58	x	.222	=	\$301.94
2345	x	.42	x	.216	=	<u>\$212.74</u>
301.94	+	212.74			=	\$514.68

24.6.3.3.5 The charges based on the electric fuel rate shall appear as a separate item, "electric fuel charges" on the monthly customer billing statement.

24.6.3.3.6 The methodology in this regulation provides for the computation of the initial and all subsequent target months' electric fuel rates (see EXHIBIT 3).

24.6.3.3.7 The initial, and the first subsequent, target month's electric fuel rate shall be computed as follows (see Formula No. 1 (EXHIBIT 3, Page 1 of 2), and Example of Computation of Initial and First Subsequent Target Month's Fuel Rate (EXHIBIT 3, Page 2 of 2)):

- Projected fuel costs for the target month.
- Divided by projected sales, in kWh, for the target month.

For purposes of Part 24, the initial target month shall be September 2006 and the first subsequent target month shall be October 2006.

24.6.3.3.8 Because CUC billing periods generally overlap portions of two (2) months, e.g. September 12 through October 13, the second, and each successive, subsequent target month's electric fuel rate shall be computed as follows (see Formula No. 2 (EXHIBIT 3, page 1 of 2) and Example of Computation for Second, and Each Successive, Subsequent Target Month's Fuel Rate (EXHIBIT 3, page 2 of 2)):

- Projected fuel costs for the target month.
- Plus or minus any adjustment for the third preceding month's under- or over-recovery of fuel costs.
- Divided by projected sales, in kWh, for the target month.

For purposes of Part 24, the second subsequent target month shall be November 2006; each successive subsequent target month shall be the consecutive months that follow.

24.6.3.3.9 Computation of the under- or over-recovery of fuel costs shall be as follows:

- Third preceding month's actual fuel costs.
- Minus total of third preceding month's actual sales, in kWh, multiplied by the third month's fuel rate per kWh.

See Formula No. 2 (EXHIBIT 3, Page 1 of 2) and Example of Computation for Second, and Each Successive, Subsequent Target Month's Fuel Rate (EXHIBIT 3, Page 2 of 2).

For purposes of Part 24, the third preceding month shall be the third month prior to the target month. For example, if the target month is November 2006, the third preceding month is August 2006.

24.6.3.3.10 Any difference between the actual fuel costs and the electric fuel rate revenues shall be accumulated in a deferred account and shall be subject to annual reconciliation. No interest shall be charged or paid on any under- or over-recovery balance in the deferred account.

- 24.6.3.3.11 The CUC Chief Financial Officer shall be responsible for calculating the initial and subsequent months' electric fuel rates; maintain on file the methodology used to determine the fuel rates; prescribe the accounts, forms, and details of the calculations; and provide public notice of the monthly electric fuel rates.
- 24.6.3.3.12 The CUC Executive Director or designated representative shall approve the initial and all subsequent months' electric fuel rates before they are published and implemented.

**COMMONWEALTH UTILITIES CORPORATION  
SCHEDULE OF ELECTRIC CHARGES AND RATES**

CUSTOMER CLASSIFICATIONS	MONTHLY CUSTOMER CHARGES (FIXED)	RATES PER KILOWATT-HOUR (kWh)		
		NON-FUEL RATES (FIXED)	FUEL RATES (FLUCTUATES)	TOTAL RATES PER kWh
<b>RESIDENTIAL</b>	\$ 5.60			
1) First 500 kWh (1 To 500)		\$ 0.016	\$ 0.215	\$ 0.231
2) Second 500 kWh (501 To 1,000)		0.066	0.215	0.281
3) Next 1,000 kWh (1,001 To 2,000)		0.086	0.215	0.301
4) All kWh Over 2,000		0.127	0.215	0.342
<b>COMMERCIAL</b> (All kWh Billed)	7.67	0.086	0.215	0.301
<b>GOVERNMENT</b> (All kWh Billed)	7.67	0.091	0.215	0.306
<b>NON-CONFORMING LOAD</b> (All kWh Billed)	\$ 56.00	\$ 0.222	\$ 0.215	\$ 0.437

**COMPUTATIONS OF MONTHLY BILLINGS FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS:**

**Assume RESIDENTIAL CUSTOMER consumed 2,345 kWh during a billing period.**

**Electric Non-Fuel (Monthly Customer Charge and Electric Non-Fuel):**

<b><u>Monthly Customer Charge</u></b>			<b>\$ 5.60</b>
<b><u>Non-Fuel Rate Charges:</u></b>	<b><u>Rate per kWh</u></b>	<b><u>Usage</u></b>	
1) First 500 kWh (1 To 500)	\$ 0.016	500	8.00
2) Second 500 kWh (501 To 1,000)	0.066	500	33.00
3) Next 1,000 kWh (1,001 To 2,000)	0.086	1,000	86.00
4) All kWh Over 2,000	0.127	345	43.82
<b>Electric Non-Fuel Charges (as shown on billing)</b>			<b>\$ 176.42</b>
<b><u>Electric Fuel Charges</u> (prorated, EXHIBIT 2)</b> (as shown on billing)	<b>\$0.222 / \$0.216</b> (see EXHIBIT 2)	<b>2,345</b>	<b>514.68</b>
<b>TOTAL ELECTRIC CHARGES (NON-FUEL CHARGES &amp; FUEL CHARGES)</b>			<b>\$ 691.10</b>

**Assume COMMERCIAL CUSTOMER consumed 2,345 kWh during a billing period.**

**Electric Non-Fuel (Monthly Customer Charge and Electric Non-Fuel):**

<b><u>Monthly Customer Charge</u></b>			<b>\$ 7.67</b>
<b><u>Non-Fuel Rate Charges:</u></b>	<b><u>Rate per kWh</u></b>	<b><u>Usage</u></b>	
All kWh used during a billing period	\$ 0.086	2,345	201.67
<b>Electric Non-Fuel Charges (as shown on billing)</b>			<b>\$ 209.34</b>
<b><u>Electric Fuel Charges</u> (prorated, EXHIBIT 2)</b> (as shown on billing)	<b>\$0.222 / \$0.216</b> (see EXHIBIT 2)	<b>2,345</b>	<b>514.69</b>
<b>TOTAL ELECTRIC CHARGES (NON-FUEL CHARGES &amp; FUEL CHARGES)</b>			<b>\$ 724.03</b>

**COMPUTATION OF MONTHLY ELECTRIC FUEL CHARGES  
PRORATING CHARGES BETWEEN MONTHS  
REFERENCE REGULATIONS, PART 24.6.3.3.4**

**EXAMPLE FOR A THEORETICAL BILLING PERIOD AND ELECTRIC FUEL RATES FOR THE PERIOD OF SEPTEMBER 12 TO OCTOBER 13.**

	<u>READING DATES</u>	<u>BILLING PERIOD NO. DAYS PER MONTH</u>	<u>MONTHLY PERCENT (Rounded)</u>	<u>METER READING</u>
<b>PREVIOUS READING</b>	12-Sep	18 days (September)	58	71606
<b>CURRENT READING</b>	13-Oct	13 days (October)	42	73951
<b>TOTAL</b>		31	100	

**TOTAL MONTHLY USAGE (Current minus Previous Reading)** **2,345 kWh**

**TOTAL MONTHLY USAGE (Current minus Previous Reading)** **2,345 kWh**

<u>MONTH</u>	<u>MONTHLY ELECTRIC FUEL RATE (per kWh)</u>	<u>MONTHLY PERCENT (Rounded)</u>	<u>PRO RATA USAGE (kWh)</u>	<u>MONTHLY ELECTRIC FUEL CHARGES</u>
<b>SEPTEMBER</b>	\$0.222	58	1,360	<b>\$301.94</b>
<b>OCTOBER</b>	\$0.216	42	985	<b>212.74</b>
<b>TOTAL</b>		100	2,345	<b>\$514.68</b>

**ELECTRIC FUEL CHARGES (as shown on billing)** **\$514.68**



**FORMULAE FOR THE COMPUTATION OF  
MONTHLY ELECTRIC FUEL RATE  
REFERENCE REGULATIONS, PART 24.6.3.3.7 THROUGH 24.6.3.3.9**

**Formula No. 1:**

The initial, and first subsequent, target month's Electric Fuel Rate shall be computed as follows:

$$\text{Electric Fuel Rate (Initial \& 1st Subsequent Month)} = \frac{A}{B}$$

A = Projected fuel costs for the target month.

B = Projected sales, in kilowatt-hours (kWh), for the target month.

For purposes of Formula No. 1, the initial target month shall be September 2006 and the first subsequent target month shall be October 2006 (see Part 24.6.3.3.7 of these Regulations).

**Formula No. 2:**

The second, and each successive, subsequent target month's Electric Fuel Rate shall be computed as follows:

$$\text{Electric Fuel Rate (2nd \& Successive Subsequent Months)} = \frac{C \ +/- \ D}{E}$$

C = Projected fuel costs for the target month.

D = Under- or over-recovery of fuel costs for the third preceding month.

(Calculation: The third preceding month's actual fuel costs minus (the third preceding month's actual sales, in kWh, multiplied by the third preceding month's electric fuel rate per kWh).)

E = Projected sales, in kWh, for target month.

For purposes of Formula No. 2:

- the second subsequent target month shall be November 2006 and, each successive subsequent target month shall be the consecutive months that follow (see Part 24.6.3.3.8 of these Regulations).

- the third preceding month shall be the third month prior to the target month. For example, if the target month is November 2006, the third preceding month is August 2006 (see Part 24.6.3.3.9 of these Regulations).

**COMPUTATION OF MONTHLY ELECTRIC FUEL RATE  
INITIAL AND SECOND SUBSEQUENT TARGET MONTHS  
REFERENCE REGULATIONS, PART 24.6.3.3.7 THROUGH 24.6.3.3.9**

Example of how the initial and the first subsequent, target month's Electric Fuel Rate would be computed based on the following assumptions:

Assume: September 2006 projected fuel costs of \$7,100,000 and projected electric sales of 32,000,000 kWh.

Electric Fuel Rate = (Initial & 1st Subsequent Target Month)	$\frac{\$7,100,000}{32,000,000 \text{ kWh}}$	or	$\$0.222 \text{ per kWh}$ (rounded to nearest 1/10 cent)
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Example of how a second, and each successive, subsequent target month's Electric Fuel Rate would be computed for any subsequent (target) month after October 2006:

Assume: Subsequent target month (November 2006) projected fuel costs of \$7,200,000 and electric sales of 32,500,000 million kWh.

Assume: The third preceding month's (August 2006) actual fuel costs of \$7,040,000, actual electric sales of 32,500,000 kWh, and fuel recovery charge \$0.222 per kWh.

Electric Fuel Rate = (2nd & Successive Subsequent Months)	$\frac{\$7,200,000 - \$175,000^*}{32,500,000 \text{ kWh}}$	or	$\$0.216 \text{ per kWh}$ (rounded to nearest 1/10 cent)
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\* For August 2006, actual fuel costs of \$7,040,000 minus (actual sales of 32,500,000 kWh multiplied by Electric Fuel Rate of \$0.222 per kWh). This results in an over-recovery of fuel costs in the amount of \$175,000, which then must be subtracted from the projected fuel costs for the target month (November 2006). Conversely, had an under-recovery of fuel costs occurred, this amount would be added to the projected fuel costs for the target month.)



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

STATE BOARD OF EDUCATION  
PUBLIC SCHOOL SYSTEM  
P.O. BOX 501370  
SAIPAN, MP 96950



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## PUBLIC NOTICE

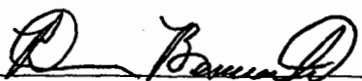
### NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO BOARD OF EDUCATION REGULATIONS REGARDING TEACHER CERTIFICATION AND COMPENSATION

I, Roman C. Benavente, the Chairman of the Board of Education for the Commonwealth of the Northern Mariana Islands ("Board") pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10 hereby adopt as permanent the proposed amendments to PSS Regulations as published in Volume 28, Number 8 of the Commonwealth Register dated August 24, 2006 (pages 026104-26127) with minor modifications as set forth below. A final copy of the regulations as amended is attached.

1. The Highly Qualified Teacher (HQT) Requirements and Compensation Plan (p. 26127) was amended as follows:
  - a. The BA degree option was removed from the Professional Certification section and placed in the Standard (HQT) section because only MA degree holders are eligible for professional certification.
  - b. Additional categories compensation levels based on years of experience were inserted in the Standard (HQT) category.
  - c. The Classification and Pay/Level Step Columns on the right side of the document were inserted.

I hereby certify that these amendments have been adopted after the appropriate time for public comment. Accordingly, I request that this Notice and Certification of Adoption be published in the Commonwealth Register. Pursuant to 1 CMC sec. 9105(b), these amended regulations are effective 10 days after publication.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 13th day of October 2006, on Saipan, CNMI.

By:   
ROMAN C. BENAVENTE  
BOARD OF EDUCATION CHAIRMAN

Approved By:  M.T.G.  
MATHEW T. GREGORY  
ATTORNEY GENERAL, CNMI

Date: 10/30/06

Filed By: Bernadita B. Dela Cruz  
BERNADITA B. DELA CRUZ  
COMMONWEALTH REGISTER

Date: 10/30/06

**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**

1. "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 the provision of 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

Proposed 1/22/04; Adopted 3/23/04; Proposed Amendment 8/26/04; Amendment Adopted 10/25/04; Amendment Effective 11/5/04; Amendment Proposed 7/20/05; Amendment Adopted 9/22/05; Amendment Proposed 4/17/06; Amendment Adopted 8/24/06; Proposed Amendment 8/24/06; Amendment Adopted 10/\_\_\_/06..

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, Behavior Specialist and any other area needed to comply with the Individual with Disabilities Education Act (IDEA).
10. "Professionally Licensed Related Services Provider" means any related services provider who is licensed by any state or appropriate professional board.
11. "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.
12. "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.
13. "Non-Education Degree" means any B.A., B.S., Master, or Doctoral Degree that is in any field area other than Education.

14. "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 Freely Associated States (Federated States of Micronesia; Republic of the Marshall Islands; Republic of Palau).
15. "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 Basic I, Specialized, Basic II, Standard Certificate with 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 compensation plan for teachers as set forth in Attachment #1.

**(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, co-

workers, or others and such risk that cannot be eliminated or reduced by reasonable accommodation.

4. Core Knowledge Examination: All certification applicants, excluding professionally licensed related services providers, must take and pass PRAXIS exams starting August 1, 2006. Specialized certification applicants must take and pass PRAXIS I. All Basic I, Basic II, Standard and Professional certification applications must take and pass PRAXIS I and II.

**(f) Types of Certification and Requirements**

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

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

**A. Eligibility Requirements:**

- i. The Basic I 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 college or university recognized by U.S. accreditation commissions approved by PSS. An applicant who possesses a baccalaureate, masters or doctoral degree resulting from a course of instruction of at least three and one-half years length at a college or university not accredited from an approved commission shall have his/her transcript of courses evaluated and certified to be equivalent to a degree conferred by accredited schools. The certification and evaluation of program equivalency shall only be conducted by the agencies identified and approved by PSS. The applicant is responsible for the cost of the program equivalency certification. Failure to obtain such certification shall render an applicant disqualified for failure to meet the education requirement(s) of the position.
- ii. A "Basic Instructor" Certificate may be provided to Instructor applicants in specialized areas who submit required documentation below (subsections iii(a)(b)(e)(f)) and meet the minimum requirements as set forth in the PSS classification guidelines.
- iii. Submittal of documentation requirements prior to effective date of employment. Requirements include:

Proposed 1/22/04; Adopted 3/23/04; Proposed Amendment 8/26/04; Amendment Adopted 10/25/04; Amendment Effective 11/5/04; Amendment Proposed 7/20/05; Amendment Adopted 9/22/05; Amendment Proposed 4/17/06; Amendment Adopted 8/24/06; Proposed Amendment 8/24/06; Amendment Adopted 10/\_\_\_/06..



- 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.
- g. Effective August 1, 2006: Test Result showing that an applicant has taken and passed PRAXIS I and II exams, excluding professionally licensed related services providers.

**B. Education: Certification Course Requirements**

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

**C. Term:** The Basic I 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:**

- i. Meet eligibility requirements for Basic Instructor Certificate.
- ii. 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.
- iii. Submit receipt of payment from PSS Treasurer for certification processing fee within the first quarter of employment.
- iv. Test Result showing that an applicant has taken and passed PRAXIS I.

## **B. Education: Certification Course Requirements**

Prior to the two-year expiration date of the Basic I 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 II Certificate** is a three-year certificate for teachers, librarians, school counselors, and related service providers. Basic II Certificate will be issued upon submission of completed requirements. If the applicant has met all the requirements for both the Basic II Certificate and Standard Certificate with Endorsement, then the Standard Certificate will be issued.

**A. Eligibility Requirements:**

- i. Applicant must meet eligibility requirements for Basic I 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 II 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.
- iv. Test Result showing that the applicant, excluding professionally licensed related services providers, has taken and passed PRAXIS I and II exams.

**B. Education: Certification Course Requirements**

- i. Any teacher or librarian applying for the Basic II 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 Basic I Certificate and before issuance of the Basic II 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 II 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 Basic I Certificate and before the issuance of the Basic II 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 II Certificate shall be issued and valid for a period of three (3) years. The Basic II 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 meet eligibility requirements for the Basic I Certificate and the Basic II Certificate.
- 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. 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.

- v. 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.

iii. 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 Basic I 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 per year 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. Meet the eligibility requirements of a Standard Certificate with Endorsement.
- ii. A signed application form.
- iii. 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.
- iv. Proof of current membership of professional education association and specialized endorsement.
- v. 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
  
- ii. 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 Basic I 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 Professional 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) per year of seminars, workshops, or in-service 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).

**(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 II, 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 Basic I, Specialized, Basic II, 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

Proposed 1/22/04; Adopted 3/23/04; Proposed Amendment 8/26/04; Amendment Adopted 10/25/04; Amendment Effective 11/5/04; Amendment Proposed 7/20/05; Amendment Adopted 9/ 22/05; Amendment Proposed 4/17/06; Amendment Adopted 8/24/06; Proposed Amendment 8/24/06; Amendment Adopted 10/ /06..

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 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/Designee 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).

# HIGHLY QUALIFIED TEACHERS (HQT) REQUIREMENTS and COMPENSATION PLAN

APPROVED by Board Fiscal, Personnel and Administration Committee June 7, 2006 (amended July 20, 2006)

COMMONWEALTH REGISTER VOLUME 28 NUMBER 10 OCTOBER 30, 2006 PAGE

Type of Certification	Requirements (Degree and Praxis)	Required Yrs of Experience	Renewable Certification	Salary	Classification	Pay Level/Step
<b>Non-HQT*</b> For Current Employees prior to August 1, 2006 Only						
	BA/BS or MA/MS Degree or higher, <b>Taken either Praxis I or Praxis II before July 31, 2006.</b>	N/A	NO	\$ 27,911.46	Classroom Teacher (NHQT I-C)	V/01
	BA/BS or MA/MS Degree or higher, <b>Taken Praxis I and Praxis II before July 31, 2006.</b>	N/A	NO	\$ 28,884.60	Classroom Teacher (NHQT II-C)	V/02
<b>Non-HQT*</b> For New Employees beginning August 1, 2006 or later						
	BA/BS or MA/MS Degree or higher, <b>Praxis II Only Certified</b>	N/A	NO	\$ 27,911.46	Classroom Teacher (NHQT I-N)	V/01
	BA/BS or MA/MS Degree or higher, <b>Praxis II Only Certified and proof of taking Praxis I</b>	N/A	NO	\$ 28,884.60	Classroom Teacher (NHQT II-N)	V/02
<b>Basic I** (HQT)</b> For Current Employees prior to August 1, 2006						
	Basic I CNMI Certificate, BA/BS, Praxis I & II	up to 2 yrs	NO	\$ 30,976.96	Classroom Teacher (BI/BS or BA)	VI/03
	Basic I CNMI Certificate, MA/MS or higher, Praxis I & II	up to 2 yrs	NO	\$ 33,289.35	Classroom Teacher (BI/MA or MS)	VIII/03
<b>Basic I** (HQT)</b> For New Employees Beginning Aug 1, 2006 or later						
- BA/BS Degree	BA/BS, Praxis I & II	0-4 yrs	NO	\$ 30,976.96	Classroom Teacher (BI/BS or BA<5)	VI/03
- BA/BS Degree	BA/BS, Praxis I & II	5+ yrs	NO	\$ 33,289.35	Classroom Teacher (BI/BS or BA>5)	VI/05
- MA/MS Degree	MA/MS or higher, Praxis I & II	0-4 yrs	NO	\$ 33,289.35	Classroom Teacher (BI/MA or MS<5)	VIII/03
- MA/MS Degree	MA/MS or higher, Praxis I & II	5+ yrs	NO	\$ 35,837.44	Classroom Teacher (BI/MA or MS>5)	VIII/05
<b>Basic II*** (HQT)</b>						
- BA/BS Degree	Basic II Certificate, BA/BS + 2yrs experience, Praxis I & II	2 to 5 yrs	NO	\$ 35,837.44	Classroom Teacher (BII/BA or BS)	VI/07
- MA/MS Degree	Basic II CNMI Certification, MA/MS or higher, Praxis I & II	up to 2 yrs	NO	\$ 38,646.74	Classroom Teacher (BII/MA or MS)	VIII/07
<b>Standard (HQT)</b>						
- BA/BS Degree	Standard Certificate with Endorsement, BA/BS, Praxis I & II	2 to 5 yrs	YES	\$ 35,837.44	Classroom Teacher (S/BA or BS<5)	VI/07
		6 to 10 yrs	YES	\$ 38,646.74	Classroom Teacher (S/BA or BS<10)	VI/09
		10+ yrs	YES	\$ 43,412.57	Classroom Teacher (S/BA or BS>10)	VI/12
- MA/MS Degree	Standard Certificate with Endorsement, MA/MS or higher, Praxis I & II	up to 3 yrs	YES	\$ 38,646.74	Classroom Teacher (S/MA or MS<3)	VIII/07
		4 to 6 yrs	YES	\$ 41,745.42	Classroom Teacher (S/MA or MS<6)	VIII/09
		7 to 10 yrs	YES	\$ 45,163.20	Classroom Teacher (S/MA or MS<10)	VIII/11
<b>Professional (HQT)</b>						
- MA/MS Degree	Professional Certificate with Endorsement, MA/MS Degree or higher, Praxis I & II	10+ yrs	YES	\$ 47,001.36	Classroom Teacher (P/MA or MS)	VIII/12

\* Non-Highly Qualified Teachers pursuant to PSS and BOE regulations (no proof in passing Praxis exams; however, submitted proof in taking required exams.)

\*\* Formerly Provisional Certificate

\*\*\* Formerly Basic Certificate

**PLEASE NOTE THE FOLLOWING:**

For new employees beginning after August 1, 2006 or later: After two (2) years of consecutive service in PSS, and upon satisfying certification requirements, Employee will be classified under PSS Highly Qualified Teachers (HQT) Requirements and Compensation Plan.

Any Employee separated from PSS for more than two (2) years will be placed accordingly under *Basic I For New Employees Beginning August 1, 2006 or later*, regardless of valid PSS Certification upon rehire. Employees returning within the two (2) year anniversary date of separation will be placed at the appropriate Certification and Salary level.

Due to budgetary constraints, PSS will no longer implement annual step or within grade increases. Teachers will stay at the salary level set forth in the employment contract for the term of the contract unless the teacher submits proof showing full qualification at a different level. However, PSS will not adjust the salary in the initial two year HQT contract term. Any other change in salaries or Certification Type during a contract term will be completed at the discretion of PSS subject to the availability of funds. PSS will not grant salary increases for partial work on a Master's or Doctorate degree. Teachers, who are currently earning more than the above schedule, will maintain their current salary level if they are PRAXIS I and II qualified. This HQT Salary Schedule is subject to change based upon the availability of funds.

For specific certification requirements, please contact HRD.

26303





## GROUP HEALTH & LIFE INSURANCE TRUST FUND

### NMI RETIREMENT FUND

P.O. Box 501247 C.K., Saipan, MP 96950

Phone: (670) 664-8026 / Fax: (670) 664-8070

Website: [www.nmiretirement.com](http://www.nmiretirement.com) / Email: [ghli@nmiretirement.com](mailto:ghli@nmiretirement.com)



### NOTICE AND CERTIFICATION OF ADOPTION OF THE PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE GROUP HEALTH INSURANCE PROGRAM

I, Oscar C. Camacho, Vice Chairman of the Northern Mariana Islands Retirement Fund, Commonwealth of the Northern Mariana Islands, which is promulgating the amended Rules and Regulations Governing the Group Health Insurance Program published in the Commonwealth Register, Volume 28, Number 08, on August 24, 2006, at pages 26029 through and including 26103, by signature below hereby certify that the Regulations as modified are a true, complete, and correct copy of the Rules and Regulations Governing the Group Health Insurance Program now adopted by the Board of Trustees, with the exception of the proposed increase of an additional \$1.10 of premium contributions paid by employees under Article 10, Section 10.15, as published at page 26035 of the Commonwealth Register, Volume 28, Number 08, on August 24, 2006. 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 5<sup>th</sup> day of October, 2006, at Saipan, Commonwealth of the Northern Mariana Islands.

**OSCAR C. CAMACHO**

Vice Chairman, Board of Trustees

Northern Mariana Islands Retirement Fund




COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
 Office of the Governor  
 Military/Veteran Affairs



NOTICE AND CERTIFICATION OF ADOPTION  
 OF THE  
 PROPOSED VETERANS CEMETERY REGULATIONS

I, Martin C. Sablan, Director, Office of Veterans Affairs, Commonwealth of the Northern Mariana Islands, which is promulgating the Rules and Regulations Governing the Veterans Cemetery published in the Commonwealth Register, Volume 28, Number 09, on September 27, 2006 at pages 26140 through and including 26155, by signature below hereby certify that the Regulations are a true, complete, and correct copy of the Rules and Regulations Governing the Veterans Cemetery, as published at pages 26140 of the Commonwealth Register, Volume 28, Number 09, on September 27, 2006. I further request 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 30<sup>th</sup> day of October, 2006, at Saipan, Commonwealth of the Northern Mariana Islands.

  
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 MARTIN C. SABLAN  
 Director, Office of the Veterans Affairs