

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



---

COMMONWEALTH REGISTER  
VOLUME 29  
NUMBER 11

NOVEMBER 19, 2007

# **COMMONWEALTH REGISTER**

**VOLUME 29  
NUMBER 11  
NOVEMBER 19, 2007**

## **TABLE OF CONTENTS**

### **EMERGENCY DECLARATION:**

Extension of Emergency-Volcanic Activity on Anatahan Office of the Governor/Emergency Management Office.....	27157
---	-------

### **EMERGENCY REGULATIONS:**

Public Notice of Findings and Statement of Reasons for Emergency Adoption of Amendments to the Electric Service Regulations of the Commonwealth Utilities Corporation. Commonwealth Utilities Corporation.....	27158
Public Notice of Emergency Regulations and Notice of Intent to Adopt Amendments to Rules and Regulations Governing the Group Health Insurance Program Group Health Life Insurance Trust Fund-NMI Retirement Fund.....	27179

### **PROPOSED RULES AND REGULATIONS:**

Public Notice of Proposed Amendments to the Taxi Regulations NO. 1500 Department of Commerce.....	27202
Public Notice of the Department of Labor Proposed New Regulations Under PL 15-108 Department of Labor.....	27213
Public Notice of Proposed Air Quality Regulations and Repeal of Air Pollution Control Regulations CNMI Division of Environment Quality.....	27297
Public Notice of Proposed Amendments to the Rules and Regulations Governing the Northern Mariana Islands Retirement Fund NMI Retirement Fund.....	27408

# ***COMMONWEALTH REGISTER***

**VOLUME 29  
NUMBER 11  
NOVEMBER 19, 2007**

## **TABLE OF CONTENTS**

### **NOTICE AND CERTIFICATION ON ADOPTION OF REGULATIONS:**

Public Notice of Certification and Adoption of Regulations of the Commonwealth Board of Accountancy <b>CNMI Board of Accountancy.....</b>	<b>27416</b>
Public Notice of Certification and Adoption of Regulations of the Commonwealth Board of Nurse Examiners <b>Commonwealth Board of Nurse Examiners.....</b>	<b>27460</b>
Notice and Certification of Adoption of Amendments to the Medical Profession Licensing Board Regulations <b>CNMI Medical Profession Licensing Board.....</b>	<b>27474</b>
Notice of Adoption of Regulations for Garapan Street Market <b>Department of Community and Cultural Affairs Office.....</b>	<b>27475</b>
Notice and Certification of Adoption of the Proposed Regulations to the Municipal Park Ranger Act-Tinian Local Law 15-08 <b>Office of the Mayor/Tinian.....</b>	<b>27490</b>



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Timothy P. Villagomez**  
Lieutenant Governor

## EXTENSION OF EMERGENCY Volcanic Activity on Anatahan

WHEREAS, On May 13, 2003, 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, BENIGNO R. FITIAL, by the authority vested in me as 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 26<sup>th</sup> day of October 2007.

A handwritten signature in black ink, appearing to read "Benigno R. Fitial".

BENIGNO R. FITIAL

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)  
Special Asst. for Programs and Legislative Review (Fax: 664-2313)  
Press Secretary (Fax: 664-2290)

Commonwealth of the Northern Mariana Islands  
Commonwealth Utilities Corporation

Anthony C. Guerrero, Executive Director  
P.O. Box 501220, Saipan MP 96950-1220  
3<sup>rd</sup> Floor, Joeten Dandan Building  
telephone: (670) 235-7025 facsimile (670) 235-5131

**PUBLIC NOTICE**

**NOTICE OF FINDINGS AND STATEMENT OF REASONS FOR  
EMERGENCY ADOPTION OF AMENDMENTS TO THE ELECTRIC SERVICE  
REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION**

(Amendments to Part 24 of the CUC Electric Service Regulations: Rate Schedules)

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth of the Northern Mariana Islands, COMMONWEALTH UTILITIES CORPORATION, by and through the Executive Director, Anthony C. Guerrero, finds that, (1) pursuant to 1 CMC § 9104(b), the public interest and the need to prevent imminent peril to the public health, safety or welfare requires the adoption of the attached regulations without prior notice or hearing, and (2) that pursuant to 1 CMC § 9105(b)(2) the public interest and the need to prevent imminent peril to the public health, safety or welfare requires that the amended regulations be effective upon filing with the Registrar of Corporations and mailing, and as the Governor concurs.

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

**AUTHORITY:** CUC is empowered and required to review and establish utility rates and other fees for water, sewer, and electrical power (4 CMC § 8123(m) and (o), as amended by Executive Order 2006-4), as amended by Public Law 15-94. CUC is further empowered and required to adopt regulations to carry out CUC's purposes (4 CMC § 8157, as amended by Executive Order 2006-4); *see also* Section 2 of Public Law 15-94 ("[T]he electric fuel rates may fluctuate depending on the actual cost of fuel.") The adoption of emergency regulations is further authorized by the CNMI Administrative Procedure Act (APA) (1 CMC § 9105(b)(2)).

**SUMMARY:** The amendment to the CUC Electric Service Regulations, Part 24 Rate Schedules, as set forth herein, implement an adjustment of the utility rate structure as allowed and required by 4 CMC § 8143(b), as amended by Executive Order 2006-4, and Public Law 15-94 and pursuant to 1 CMC § 9105(b)(2) of the CNMI APA. The amendment of CUC's rate structure is necessary to recover the actual fuel costs associated with the delivery of utility services as mandated by 4 CMC § 8123 (m)-(o), as amended by Executive Order 2006-4 and Section 2 of Public Law 15-94.

Pursuant to Section 2 of Public Law 15-94, the electric charges and rates set forth therein shall supersede and replace the residential rates previously dated September 27, 2006 as set forth in the Commonwealth Register on October 30, 2006, beginning on October 4, 2007. The amendments set forth herein pertaining to recovery of actual cost of fuel, therefore, shall take effect on November 1, 2007 pursuant to Public Law 15-94.

These Regulations shall be amendments to the CUC Electric Service Regulations. They shall be included in the Electric Service Regulations as amendments to Part 24: "Rate Schedules" (Vol. 28, No. 9, Commonwealth Register (September 27, 2006), p. 26156 *et seq.*

The emergency regulations set forth herein shall also be published as proposed regulations, and public hearings will be scheduled and held in each senatorial district in accordance with the procedural requirements of 1 CMC § 9104 and 4 CMC § 8142 as amended by Executive Order 2006-4 and Public Law 15-94 during this time and prior to the publication of a Notice of Final Adoption and Certification of Amendments to Part 24 of the CUC Electric Service Regulations.

**REASONS FOR EMERGENCY ADOPTION:** The public interest requires adoption of these regulations on an emergency basis for the following reasons:

CUC's annualized cost for No. 2 Diesel fuel increased from \$27.5 Million in Fiscal Year 2002 to \$75 million in Fiscal Year 2006, an increase of One Hundred Sixty-Five percent (165%). These costs have increased even further in Fiscal Year 2007 as the price of oil and the price of No. 2. Diesel fuel continues to rise. The cost of a barrel of oil has gone up from twenty dollars (\$20) in 2002 to over eighty-six dollars (\$86) a barrel in 2007. The cost of production of electricity currently exceeds revenue generated from the sale of electricity to customers.

In July 2006, CUC promulgated Emergency Regulations amending Part 24 of its Electric Service Regulations: "Rate Schedules." These regulations were subsequently submitted as proposed regulations in August 2006 and adopted as final regulations, with amendments on September 27, 2006 as published in the October 2006 Commonwealth Register. These amendments allowed CUC to recover the actual costs of producing and delivering utility services to the people of the Commonwealth.

On October 4 2007, House Bill 15-246 became Public Law 15-94, immediately eliminating the electric non-fuel rate for a majority of residential customers and decreasing the electric rate schedule for residential customers to a rate far below the actual cost of producing the electricity consumed.

CUC is currently unable to pay the costs of operating, maintaining, and delivering utility services. Without an adjustment of its utility rate structure based on an accurate analysis of the actual costs of fuel, CUC will be unable to provide power for such necessary services as water pumping and treatment, sewage pumping and treatment, electric service to CHC, to schools, clinics and homes, and to companies that produce drinking water. CUC will also be unable to provide electricity to public safety facilities, to communications facilities, and to its business customers. These conditions present an extreme, immediate and imminent peril to the public health, safety and welfare. The adjustment of the utility rate structure is necessary to allow CUC to recover that portion of the costs incurred due to the cost of fuel, as is permissible under Public Law 15-94. This will allow CUC to continue to provide power to critical CNMI public health and safety facilities, to schools, homes, and work places, and to the CNMI's water and wastewater systems.

Thus, it is in the public interest to implement these regulations as emergency regulations. It is also necessary to implement these regulations as emergency regulations to avoid an imminent peril to the public health, safety or welfare.

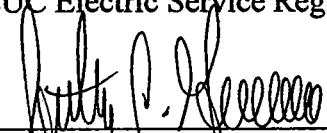
**INTENT TO ADOPT AS PERMANENT:** It is the intent of CUC, pursuant to 1 CMC § 9104(b), to adopt these Emergency Regulations as permanent regulations, pursuant to the procedures of 1 CMC § 9104(a)(1) and (2), with publication in the Commonwealth Register. An appropriate Notice shall be published. Public hearings will be held in each of the respective senatorial districts prior to the final adoption of these regulations as required by 4 CMC § 8142, as amended by Executive Order 2006-4 and Public Law 15-94 ("Any proposed changes to the regulations shall be subject to the review of the Public Utilities Commission.")

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


**FOR FURTHER INFORMATION CONTACT:** Anthony C. Guerrero, Executive Director, Commonwealth Utilities Corporation, P.O. Box 501220, Saipan, MP 96950-1220, 3rd Floor Joeten Dandan Building, Telephone (670) 235-7025, Facsimile (670) 235-5131.

**CITATION of RELATED and/or AFFECTED STATUTES, REGULATIONS and ORDERS:**

Part 24 of the CUC Electric Service Regulations shall be repealed and replaced.

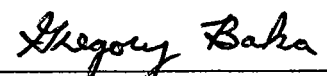
Submitted by:  10/30/07  
ANTHONY C. GUERRERO Date  
Executive Director, Commonwealth Utilities Corporation

Concurred by:  11/02/07  
BENIGNO R. FITIAL Date  
Governor, CNMI

Filed and Recorded by:  11/02/07  
BERNADITA B. DE LA CRUZ Date  
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the emergency regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published pursuant to 1 CMC § 2153(f) in the Commonwealth Register.

Dated the 2 day of November 2007

  
GREGORY BAKA  
Acting Attorney General

Commonwealth I Sankattan Siha Na Islan Marianas  
Commonwealth Utilities Corporation

Anthony C. Guerrero, Executive Director  
P.O. Box 501220, Saipan MP 96950-1220  
Mina Tres na Bibienda, Joeten Dandan Building  
Numirun Tilifon: (670) 235-7025 facsimile (670) 235-5131

**NOTISIAN PUPBLIKU**

**NOTISIA POT SINEDDA SIHA YAN TESTIMONIO POT RASON  
SIHA PARA ENSIGIDAS NA INADOPTASION I AMENDASION  
SIHA PARA I REGULASION SETBISIUN ILEKTRISIDÁT GI  
COMMONWEALTH UTILITIES CORPORATION (CUC)**

(Amendasion siha para Pátte 24 gi Regulasion Setbisiun Ilektrisidát: Masifñala na Listan  
Ápas)

**ENSIGIDAS NA INADOPTASION YAN EFEKTIBU IMIDIAMENTE: I**

Commonwealth I Sankattan Siha na Islan Marianas, gi COMMONWEALTH UTILITIES CORPORATION, ginen I Executive Director, as Anthony C. Guerrero, a sodda na, (1) sigun I lai 1 CMC Seksiona 9104(b), I enteres pupbliku yan I nisisidát para u pribeni I adet na sinisedi gi I hinemlo, sináfu osino minaolek I pupbliku a rekomenda I inadoptasion I man che'che'ton na regulasion siha sin notisia yan dinanña pupbliku, yan (2) sigun I lai 1 CMC Seksiona 9105 (b)(2) I enteres pupbliku yan I nisisidát para u pribeni I adet na sinisedi gi I hinemlo, sináfu osino I minaolek I pupbliku a rekomenda na I amendasion I regulasion siha para u efektibu yanggen mapolu gi Rehistran I Koporasion yan lökkue yanggen para u manahãnao (mail), yan asi kumo I kininfotmen I Gubietno.

Sigun I sinedda siha ni mamensiona yan I direksion I mapolo'-ña gi sanpapa, este siha na regulasion siempre u efektibu imidiamente, sigun I lai 1 CMC Seksiona 9105(b)(2).

**ÁTURIDÁT:** Ma'otden ya marekomenda I CUC para u ina yan establesi listan ápas yan palu siha na peña para I hanom, sewer, yan ilektrisidát (4 CMC Seksiona 8123(m) yan (o), ni inamenda ni I Otden Eksekatibu 2006-4), ni inamenda ni Lai Pupbliku 15-94. I CUC ma'otden yan marekomenda mäs para u adopta regulasion siha para u asigurão I responsabilidát-ña (4 CMC Seksiona 8157, ni inamenda ni Otden Eksekatibu 2006-4): *atan lökkue* Seksiona 2 gi Lai Pupbliku 15-94 (“Sifña matulaika I listan ápas gasilinan ilektrisidát (electric fuel rates) depende gi I spesifiku na ápas gasilina.”) I inadoptasion I ensigidas na regulasion mäs ma'aturisa ni I Ákton I Areklamenton I Atministrasion (APA) (1 CMC Seksiona 9105(b)(2)).



**SUMÁRIA:** I amendasion para I Regulasion Setbisiun Ilektridát CUC, Pátte 24 Masifñála na Listan Ápas, ni mamensiona, a tutuhon I tinilaika gi I listan ápas ilektridát ni masedi ya marekomenda ni 4 CMC Seksiona 8143(b), ni inamenda ni Otden Eksekatibu 2006-4, yan Lai Pupbliku 15-94 yan sigun I lai 1 CMC Seksiona 9105(b)(2) gi I CNMI APA. I amendasion I Listan Ápas CUC nisisário para u chule' tatte I spesifiku na ápas gasilina dumadanña yan I linaknos I setbisiun ilektridát ni ginagagão ni lai 4 CMC Seksiona 8123 (m)-(o), ni inamenda ni Otden Eksekatibu 2006-4 yan Seksiona 2 gi Lai Pupbliku 15-94.

Sigun I Seksiona 2 gi Lai Pupbliku 15-94, I peñan ilektridát yan listan ápas ni mamensiona siempre a diroga yan tulaika I listan ápas residente siha ni mafecha gi halacha Septembre 27, 2006 ni ma'entrega gi Rehistran I Commonwealth gi Oktubre 30, 2006, matutuhon gi Oktubre 4, 2007. Este na amendasion ni che'che'ton tineteka para u chule' tatte' I spesifiku na ápas gasilina, enao na, debi di u efektibu gi Nubiembre 1, 2007 sigun I Lai Pupbliku 15-94.

Este na Regulasion siha siempre I amendasion para I Regulasion Setbisiun Ilektridát CUC. Debi di u ma'enklusu gi Regulasion Setbisiun Ilektridát kumo amendasion siha para Pátte' 24: "Listan Ápas" (Baluma 28, Numiru 9, gi Rehistran I Commonwealth (Septembre 27, 2006), pãhina 26156 *et seq.*

I ensigidas na regulasion ni man che'che'ton debi di u mapupblika kumo man mapropone na regulasion siha, ya I inekungog pupbliku siempre u masifñála ya u masusedi gi kada distritun senadot ya u konsiste ni I areklamento ni marekomenda gi lai 1 CMC Seksiona 9104 yan 4 CMC Seksiona 8142 ni inamenda ni Otden Eksekatibu 2006-4 yan Lai Pupbliku 15-94 durãnten este na momento ya sigun I publikasion I Notisian Uttimo na Inadoptasion yan Setifikasion I Amendasion siha para Pátte 24 gi Regulasion Setbisiun Ilektridát CUC.

**RASON SIHA PARA I ENSIGIDAS NA INADOPTACION:** I enteres pupbliku a rekomenda I inadoptasion este na regulasion siha gi ensigidas na manera pot I sigente na rason siha:

I kada sakkan na gãstun CUC para I gasilinan diso gi Numiru 2 kumahulo' ginen bente siette kinentus miyon pesos (\$27.5 million) gi fisikát na sakkan 2002 para sitientai-singko miyon pesos (\$75 million) Fisikát na sakkan 2006, kumahulo' siento sisientai-singko pot siento (165%). Este siha na gãsto kumaholu mãs gi Fisikát na sakkan 2007 asi kumo I presiun I lãña yan I Numiru 2 na gasilinan diso sigi kumahulo'. I presiun I bariles (barrel) lãña kumahulo ginen bente pesos (\$20) gi 2002 esta ochientai-sais pesos (\$86) kada bariles gi 2007. I gãstun I produkton ilektridát gi presente hu upus I marikokohi na salãpe' ginen I man mabebende na ilektridát para I kometsiãnte siha.

Gi Julio 2006, I CUC a establese Ensigidas na Regulasion siha ni a amemenda Pátte' 24 pot I Regulasion Setbisiun Ilektridát: "Listan Ápas." Este siha na regulasion mana fan hãlom kumo man mapropone na regulasion siha gi Agostu 2006 ya man ma'adopta kumo

uttimo na regulasion siha, ni gai amendasion siha gi Septiembre 27, 2006 ni mapublika gi Oktubre 2006 gi Rehistran I Koporasion. Este siha na amendasion a sedi I CUC para u machule' tatte I spesifiku na gastu pot para u maprodudusi ya malalaknos na setbisiun ilektrisdât para I tâotâo I Commonwealth.

Gi Oktubre 4, 2007, House Bill 15-246 humuyong Lai Publiku 15-94, imidiamente a laknos I âpas ilektrisdât non-fuel para mayoria I kometsiânten residente siha ya a ribâha I listan âpas ilektrisdât para I kometsiânten Residente siha para I âpas ni takpapa-ña kini I spesifiku na gâstun I maprodudusi na ilektrisdât ni ma'usa.

Gi presente I CUC ti siña para u apâsi I gâstu siha para u mana kalamten, kontinua U ma'adahi, ya u malaknos I setbisiun ilektrisdât. Sin u matulaika I listan âpas ilektrisdât sigun I dinanche na ma'analisa na spesifiku na âpas gasilina, siempre I CUC ti a na pusipble u probeniyi ilektrisdât para I man nisisârio na setbisiu para I bomba yan trâtamenton I hanom, bomba yan trâtamenton I sewer, setbisiun I ilektrisdât guatu gi CHC, guatu I eskuela siha, clinic yan guma siha, yan para guatu gi kompania siha ni maprobeninyi hanom magimen. Siempre lokkue I CUC ti u probeniyi ilektrisdât guatu gi fasilidât sinâfu pupbliku siha, guatu gi fasilidât komunikasion siha, yan para guatu gi kometsiânte ni man gai bisnis. Este siha na kondision a na guaha adet, imidiamente yan I para u masusedi na piniligro gi hinemlo, sinâfu yan minaolek I pupbliku. I tinilaikan I listan I âpas nisisârio para u sedi I CUC para u machule' tatte palu gi gâstu siha ni sigi a omenta ginen I gâstun I gasilina, ni a petmiti gi papa I Lai Publiku 15-94. Siempre este a sedi I CUC para u kontinua para u probeniyi ilektrisdât guatu I man kritikât na fasilidât hinemlo yan sinâfu pupbliku, guatu gi eskuela siha, guma siha, yan lugât cho'chu' siha, yan guatu gi sisteman hanom yan wastewater gi CNMI.

Enao na, I enteres pupbliku para u matutuhon este siha na regulasion kumo ensigidas na regulasion siha. Nisisârio lokkue para u matutuhon este siha na regulasion kumo ensigidas na regulasion para u mapribeni I para u masusedi na piniligro gi hinemlo' sinâfu yan minaolek I pupbliku.

**INTENSION PARA U MA'ADOPTA KUMO PETMANENTE:** Intension I CUC, sigun I lai 1 CMC Seksiona 9104(b), para u adopta este ensigidas na regulasion kumo petmanente na regulasion siha, sigun I areklamento gi lai 1 CMC Seksiona 9104(a)(1) yan(2), yan I puplikasion gi Rehistran I Commonwealth. I Propio na Notisia siempre u malaknos. I inekungok pupbliku siempre u mana guaha gi kada distriton senadot antes diu ma'adopta este siha na regulasion ni marekomenda ni lai 4 CMC Seksiona 8142, ni inamenda ni Otden Eksekatibu 2006-4 yan Lai Publiku 15-94 (" Maseha hâfa mapropone na tinilaika gi regulasion siha siempre ma'ina ni Komision Ilektrisdât Publiku.")

**DIREKSION PARA MAPOLU' YAN I PUPBLIKASION:** Este siha na Regulasion siempre mapolu gi I Rehistran I Koporasion, ya u mahãnao (mail) papa marehistra guatu gi Gubietno u tatiyi I probension I lai 1 CMC Seksiona 9105(b)(2). Este na notisia yan I sinedda siha debi di u mapolu yan I regulasion siha, ya debi di I CUC u na asiguro na infotma I man tineteka na petsona siha anai siña u inafekta ni este ensigidas na regulasion ni ma'otden ni lai 1 CMC Seksiona 9105(b)(2), a enklusu I pupublikasion gi I mamaila na edition gi I Rehistran I Commonwealth.

**PARA MÃS INFOTMASION ÅGANG:** Si Siñot Anthony C. Guerrero, Executive Director, gi Commonwealth Utilities Corporation, gi P.O. Box 501220, giya Saipan, MP 96950-1220, gi mina tres bibienda, gi Joeten Dandan Building, Numirun Tilifon (670) 235-7025, facsimile (670) 235-5131.

**ANNOK I MAN ACHULE' yan/pat INAFEKTA NA LAI, REGULASION yan OTDEN SIHA:** Pãtte' 24 GI Regulasion Setbisiun Ilektridat CUC debi di u madiroga yan matulaika.

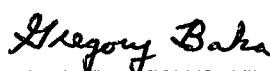
Ninahalom as:   
ANTHONY C. GUERRERO  
Executive Director, Commonwealth Utilities Corporation  
Fecha 11/16/07

Kinonfotme as:   
BENIGNO R. FITIAL  
Gubietno, CNMI  
Fecha 11/19/07

Pinelo' yan Marikot as:   
BERNADITA B. DELA CRUZ  
Rehistran I Commonwealth  
Fecha 11-14-07

Sigun I lai 1 CMC Seksiona 2153(e) yan 1 CMC Seksiona 9104(a)(3) I ensigidas na regulasion siha ni man che'che'ton guine esta man ma'ina yan ma'aprueba pot para u fotma yan ligat suficiente ginen I Abugadu Henerat I CNMI ya debi di u mapublika sigun I lai 1 CMC Seksiona 2153(f) gi Rehistran I Commonwealth.

Mafech este gi segundo na ha'ane gi Nubiembre 2007.

  
GREGORY BAKA  
Acting Attorney General  
Segundon i Abugadu Henerat

19 Nubiembre 2007,  
nunc pro tunc  
2 Nubiembre 2007.

## ARONGOL TOULAP

### ARONG REEL SCHUNGIYEER ME BWULUL AWEWEEL KKAAL REEL GHITIPWOTCHOL FILL LLIWEL KKAAL NGALI ALLÉGHÚL DENGKKI MELLÓL COMMONWEALTH UTILITIES CORPORATION

(SSiwel kkaal llól Peigh ye 24 mellól Alléghul CUC Electric Service Regulations: Reel Obwos)

**GHITIPWOTCHOL FILLO ME SCHESCEEL KKAMALLO:** Sáangi Samwool ye, Anthony C. Guerrero, e schungi bwe, (1) mellól allégh ye 1 CMC Tálil 9104(b), bwe tipeer toulap me e pirisisu rebwe atippa weires ye ebwe ghulaar toulap, allégh me ngáre alillis kka rebwe fillóoy allégh kka e appasch sáangi mmwal arong me ngáre ammataf, me (2) bwelle igha allégh ye 1 CMC Tálil 9105(b)(2) tipeer toulap me e pirisisu rebwe atippa weires kka ebwe ghulaar toulap, allegh me ngare alillis kka ebwe mweiti igha ssiwelóól allégh kkaal ebwe fis ótol isisilongol llól Commonwealth Registrar of Corporations me mailing me yaal Sów Lemelem alúghúlúgh.

Bwelle igha eyoor schungiyeer ighila me ammwelil iye elo faal, Allégh kkaal ebwe kkamalló, bwelle reel allégh ye 1 CMC Tálil 9105(b)(2).

**BWÁNGIL:** CUC nge eyoor bwangil me mweiti ngáli igha ebwe amweri fischi me ayoorá méél dengkki ( utility rates) me akkáaw óbwossul schaal, sewer, me dengkki (4 CMC Tálil 8123(m) me (c), iye aa ssiwel mereel Sów Lemelem 2006-4), iye aa lliwel mereel Alléghúl Toulap ye 15-94 (“Emmwel bwe méél dengkki ebwe lliwel dependi reel schéschéél méél fuel”) Fillóól ghitipwotchol allégh kkaal ebwe sóbwósóbw sáangi bwáng ye tooto mereel CNMI Administrative Procedure Act (APA) (1 CMC Tálil 9105(b)(2)).

**EGHÚS AWEWE:** Lliwel ngáli Alléghúl CUC Electric Service Regulations, Peigh 24 Reel Óbwos kkaal, ekke bwáari, ayoorá me tilifischi ghatchuw óbwóssul dengkki ye fil me yááyá sáangi 4 CMC Tálil 8143(b), iye aa ssiwel mereel Sów Lemelem 2006-4, me Allúghúl Toulap ye 15-94 me sáangi 1 CMC Tálil 9105(b)(2) mellól CNMI APA. Lliwel kka e toowow mellól aweewel CUC reel óbwos nge e ghatch rebwe awelaló schéschéél méél fuel ye e fil ngáli mwoghutughutul dengkki iye e aa alléghewow mereel 4 CMC Tálil 8123 (m)(o), igha aa ssiwel mereel aileewal Sów Lemelem 2006-4 me Tálil 2 mellól Alléghúl Toulap ye 15-94.

Sáangi Tálil ruwoow (2) mellól Alléghúl Toulap ye 15-94, mwuttal dengkki me méél ikka ighila ebwe bwughi nge aa ssiweli fasúl residential rates iye e fféeló ótol Maan 27, 2006 mellól Commonwealth Register Ótol Sarobwel 30, 2006, e bweletá wóól Sarobwel 4, 2007. Lliwel kka ighila ebwe ammwela fischi schéschéél méél fuel, bwelle reel milleel, ebwe kkamalló ótol Aremwoy 1, 2007 sáangi Alléghúl Toulap ye 15-94.

Allégh kkaal ebwe siweli Alléghúl Dengkki. Ebwe atotoolong llól Alléghúl Dengkki igha aa ssiwel ngáli Peigh 24: “ Reel Óbwos” (Vol. 28, No. 9, Commonwealth Register (Maan 27, 2006), p. 26156 et seq.

Ghitipwotchol allégh kka ighila ebwe arongowow igha raa pomwoli allégh kkaal, me rebwe ayoora ammataf, ótol mellól senatorial district bwelle tittingór ye e tooto mereel 1 CMC Tálil 9104 igha aa ssiwel mereel Sów Lemelem 2006-4 me Alléghúl Toulap ye 15-94 ighila me mmwal akkatéél arong ye raa schéschéél fillóoy me alúghúlúghúw LLiwel ngáli Peigh 24 mellól Alléghúl CUC yeel.

**BWULÚL GHITIPWOTCHOL ALLÉGH YEEL:** Tipeer toulap bwe rebwe Yááyá ngáli fillóól allégh kkaal ngáli aweweel ghitipwotchol kkaal:

Sángi yaal CUC tilifischi méél, sangi No. 2 Diiso igha e sássaréta sáangi \$27.5 Ssel llól Fiscal Year 2002 ngáli \$75 ssel (million) llól Fiscal year 2006, yoor Ebwughúw Oleigh me limwoow percent (165%) téétaál. Méél kkaal nge ebwe sássaréta llól Fiscal Year 2007 igha méél oil me méél No. 2. Deisel fuel nge e lool me sássaréta. Méél oil nge aa tééta reweigh dóola (\$20) llól 2002 mwet ngáli waliigh me oleigh dóola (\$86) eew barrel llól 2007. Méél dengkki nge e aluuló mmwal igha rebwe améew ngáliir customers.

Llól Wuun 2006, CUC ekke akkaté Ghitipwotchol Allégh kkaal iye e siweli Peigh 24 mellól Alléghúl Dengkki: “Reel Óbwós.” Allégh kkaal nge e ghilaal akkatééló ótol Elúwel 2006 me rebwe schéschéél fillóoy, fengál me ssiwel kkewe e fféérló ótol Sarobwel Maan 27, 2006 iye aa akkateelo otol Sarobwel 2006 mellól Commonwealth Register. Sangi lliwel kkaal nge emmwel bwe CUC ebwe afataalo schescheel llapal dengkki igha re yaaya me alillisil dengkki ye e mwet ngaliir toulapeer armas mellól Commonwealth.

Llól Sarobwel (October) 4 2007, House Bill 15-246 iye aa allégheló mellól Alléghúl Toulap 15-94, schéschéél e atoowowu méél non-fuel rate ngáliir toulapeer aramas me aghitighitáatiw yaar dengkki aramas mmwal dengkki ye rekke yááli.

Ese mmwel bwe CUC ebwe óbwóssuw mwóghutul dengkki, ammwelil, me atoowul dengkki, Ngáre rese awela ghatchúw méél dengkki sáangi aweewe ye ebwe fisch reel méél fuel, Ese mmwel bwe CUC ebwe ayoora dengkki (power) ngáli water pumping me treatment, sewage pumping me (safey) treatment, Ese mmwel bwe CUC ebwe ayoora dengkki ngáli public safety facilities, ngáli communications facilities, me alongal business kkaal. Aweewe nge ebwe aweiresi toulapeer aramas, ammwelil me yaal welfare. Alúghúlúghúl utility rate yeel nge ebwe alisi CUC igha ebwe bwughi eghús salaapi ye e fitighoghólo ngáli méél fuel, iye e tooto mereel Alléghúl Toulap 15-94. Emmwel ebwe alisi CUC igha ebwe sóbweey yaal ebwe ayoora aweeweel dengkki ngáli CNMI limifichiir toulap me ammwelil me safety facilities, ngáli gakkó, leimw, me leliyal angaang, me ngáli schalul CNMI me wastewater systems.

Bwal eew, Tipeer toulap rebwe ghitipwotchow allégh kkaal. E welepakk rebwe ghitipwotchow allégh kkaal bwelle ressóbw aweiresi limifischil toulap, allégh me welfare.

**AGHIYEGH IGHÁ EBWE SCHÉSCHÉÉL FILLÓ:** Mángemángil CUC, sáangi allégh ye 1 CMC Tálil 9104(b), rebwe schéschéél fillóoy ghitipwotchol allégh kka bwelle mwóghutul 1 CMC Tálil 9104(a)(1) me (2), reel akkatéél llól Commonwealth Register. Rebwe amatafaawow arong yeel. Arongol Toulap rebwe ayoora mellól senatorial districts mmwal igha rebwe fillóoy allégh igha re mweiti ngáli allégh ye 4 CMC Tálil 8142, iye aa ssiwelló mereel Sów Lemelem 2006-4 me Alléghúl Toulap 15-94 (“ Alongal pomwol kka e ssiwel ngáli allégh kkaal ebwe mwir sáangi igha e ammwello mereel Public Utilities Commission.”)

**AFALAFAL REEL AMMWELIL ME AKKATÉÉL:** Allégh kkaal ebwe ammwel ghatch mellól Registrar of Corporations, me tilighial ye ebwe mwet ngáli Sów Lemelem bwelle tingór ye tooto mereel allégh 1 CMC 9105(b)(2). Arong yeel me schungiyeer ebwe ammwelo fenga'l alleghúl kkaal me ghitipwotch alléghúl CUC kkaal ngáliir schóókka ebwe aweiresiir iye e alleghewow mereel 1 CMC 9105(b)(2), e toolong akkatéél llól eew mwóghutul Commonwealth Register.

**REEL AMMATAF FAINGI:** Anthony C. Guerrero, Samwool, Commonwealth Utilities Corporations, P.O. Box 501220, Ailuwal pwo Joeten Dandan Building, Tilifoon (670) 235-7025, Facsmile (670) 235-5131.

**AKKATÉÉL AKKÁÁW POMWOL ALLÉGH ME TINGÓR:**

Peigh 24 mellól Alléghúl CUC ebwe allégh sefál me alusu:

Isaliyalong:

  
ANTHONY C. GUERRERO

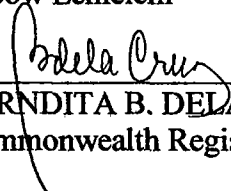
11/16/07  
Rál

Alúghúlúgh sáangi:

  
BENIGNO R. FITIAL  
Sow Lemelem

11/19/07  
Rál

Ammwel sáangi:

  
BERNDITA B. DELA CRUZ  
Commonwealth Register

11-16-07  
Rál

Sáangi allégh ye 1 CMC Tálil 2153(e) me 1 CMC Talil 9104(a)(3) ghitipwotchol allégh kkaal nge raa takkal amweri fischi me allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééló bwelle 1 CMC Tálil 2153(f) mellól Commonwealth Register.

Ráálil ye 2 maramal Aremwoy 2007

*Gregory Baka*

GREGORY BAKA

Acting ngáli Sów Bwungúl Allégh Lapalap

*19 Aremwoy 2007,*

*nunc pro tunc*

*2 Aremwoy 2007.*

# 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 as follows:**

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

**A. Part 24.1 shall be repealed and a new Part 24.1 shall be added as follows:**

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, provided however, that the electric rates for residential customers shall be in accordance with Public Law 15-94, notwithstanding the actual costs of providing services to residential customers. 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., provided that the electric fuel rate provided for herein shall take effect in the first billing cycle of November 2007.

**B. Part 24.5.7 shall be 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.~~

**C. Part 24.6 shall be repealed in its entirety and a new Part 24.6 shall be added as follows:**

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 is defined as any customer with a maximum demand of at least 3,000 kilowatts in the preceding twelve calendar months and daily operations where the ratio of the maximum demand to the minimum demand exceeded 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, paragraph 24.5.7, shall have the option to consult with CUC and elect to be billed at either the residential or commercial rates, 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. 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 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 partial usage. (see EXHIBIT 1, 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 the billing period. (see EXHIBIT 1, Page 1 of 2). ~~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. Pursuant to Public Law 15-94, a billing period shall not exceed thirty-two (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, except residential customers

who shall not pay an electric non-fuel rate for the first 1,000 kwh; 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 Residential customers shall pay \$0.000 for each kwh hour consumed for the first 1,000 kwh in a billing period. Residential customers shall pay a flat electric non-fuel rate of \$0.044 for each kwh consumed in excess of 1,000kwh in a billing period. ~~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, Page 2 of 2, for an 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) electric non-fuel 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 12 of 2, for an 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 electric non-fuel rates and monthly customer charges, except for residential customers, 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 or designated representative 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, 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. The charge per kWh will be the same for all customer classifications, except residential customers who will start out at a rate of \$0.176 per kwh from the effective date of Public Law 15-94 until the publication of the November 2007 electric fuel rate and thereafter, regardless of the level of consumption. See Exhibit 1, Page 1 of 2.

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~~ October 31, 2007. The interim electric fuel rate shall be ~~\$0.2152.228~~ per kWh as ~~determined~~ published on October 1, 2007 by the CUC Chief Financial Officer or designated representative. ~~the recent electric rate study.~~ The interim electric fuel rate of \$0.176 for residential customers shall be in effect from October 4, 2007 through October 31, 2007 pursuant Public Law 15-94. The CUC Chief Financial Officer or designated representative shall calculate an electric fuel rate for ~~September 2006~~ November 2007 that is applicable to all CUC customers regardless of classification 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 ~~\$0.216228~~ for October. Thus, the electric fuel charges for the billing period would be \$514.68526.50, which is computed as follows:

For September, multiply 2,345 kWh times .58 times \$0.222, which equals \$301.94301.92. For October, multiply 2,345 kWh times .42 times ~~\$0.216228~~, which equals \$212.76224.58. Next,

add the two amounts (\$301.94301.92 plus \$212.74224.58) for the total charges, which equals to \$514.68526.50. (See EXHIBIT 2.)

Computations:

$$\begin{array}{rclcl} 2345 & \times & .58 & \times & .222 & = & \$301.94301.92 \\ 2345 & \times & .42 & \times & .216228 & = & \underline{\$212.74224.58} \\ 301.94301.92 & + & 212.74224.58 & = & & & \$514.68526.50 \end{array}$$

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) A 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.
- Plus the under-recovery or minus the over-recovery of fuel costs.

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 or designated representative 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> 1) First 1,000 kWh (1 To 1,000) 2) All kWh Over 1,000	\$ 3.50	\$ 0.000 0.044	\$ 0.176 0.176	\$ 0.176 0.220
<b>COMMERCIAL</b> (All kWh Billed)	7.67	0.086	0.228	0.314
<b>GOVERNMENT</b> (All kWh Billed)	7.67	0.091	0.228	0.319
<b>NON-CONFORMING LOAD</b> (All kWh Billed)	\$ 56.00	\$ 0.222	\$ 0.228	\$ 0.450

<b>COMPUTATIONS OF MONTHLY BILLINGS FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS; (FOR ILLUSTRATION PURPOSES ONLY)</b>			
<b>Assume RESIDENTIAL CUSTOMER consumed 2,345 kWh during a billing period.</b>			
<b>Electric Non-Fuel (Monthly Customer Charge and Electric Non-Fuel):</b>			
<b><u>Monthly Customer Charge</u></b>			<b>\$ 3.50</b>
<b><u>Non-Fuel Rate Charges:</u></b>	<b><u>Rate per kWh</u></b>	<b><u>Usage</u></b>	
1) First 1,000 kWh (1 To 1,000)	\$ 0.000	1,000	0.00
2) All kWh Over 1,000	0.044	1,345	59.18
<b>Electric Non-Fuel Charges (as shown on billing)</b>			<b>\$ 62.68</b>
<b><u>Electric Fuel Charges</u> (prorated, EXHIBIT 2) (as shown on billing)</b>	<b>\$0.222 / \$0.228 (see EXHIBIT 2)</b>	<b>2,345</b>	<b>526.50</b>
<b>TOTAL ELECTRIC CHARGES (NON-FUEL CHARGES &amp; FUEL CHARGES)</b>			<b>\$ 589.18</b>
<b>Assume COMMERCIAL CUSTOMER consumed 2,345 kWh during a billing period.</b>			
<b>Electric Non-Fuel (Monthly Customer Charge and Electric Non-Fuel):</b>			
<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) (as shown on billing)</b>	<b>\$0.222 / \$0.228 (see EXHIBIT 2)</b>	<b>2,345</b>	<b>526.50</b>
<b>TOTAL ELECTRIC CHARGES (NON-FUEL CHARGES &amp; FUEL CHARGES)</b>			<b>\$ 735.84</b>

EXHIBIT 2

**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>
PREVIOUS READING	12-Sep	18 days (September)	58	71606
CURRENT READING	13-Oct	13 days (October)	42	73951
<b>TOTAL</b>		<b>31</b>	<b>100</b>	

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>
SEPTEMBER	\$0.222	58	1,360	\$ 301.92
OCTOBER	\$0.228	42	985	224.58
<b>TOTAL</b>		<b>100</b>	<b>2,345</b>	<b>\$ 526.50</b>

ELECTRIC FUEL CHARGES (as shown on billing)

**\$ 526.50**



EXHIBIT 3

**FORMULAE FOR THE COMPUTATION OF  
MONTHLY ELECTRIC FUEL RATE  
REFERENCE REGULATIONS, PART 24.6.3.3.6 THROUGH 24.6.3.3.7**

**Formula:**

Subsequent months Electric Fuel Rate shall be computed as follows:

$$\text{Electric Fuel Rate} = \frac{C \text{ +/- } D}{E}$$

C = Projected fuel costs for the target month.

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

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

**COMPUTATION OF MONTHLY ELECTRIC FUEL RATE  
FOR SUBSEQUENT MONTHS  
REFERENCE REGULATIONS, PART 24.6.3.3.6 THROUGH 24.6.3.3.7**

**EXAMPLE of how subsequent months Electric Fuel Rate would be computed for any subsequent month after October 2007:**

**Assume: Subsequent month (November 2007) projected fuel costs of \$7,200,000 and electric sales of 32,500,000 million kWh.**

**Assume: The third preceding month's (August 2007) 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 =  $\frac{\$7,200,000 - \$175,000^*}{32,500,000 \text{ kWh}}$  or \$0.216 per kWh  
(rounded to nearest 1/10 cent)

\* For August 2007, 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 2007). Conversely, had an under-recovery of fuel costs occurred, this amount would be added to the projected fuel costs for the target month.



## **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 OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE GROUP HEALTH INSURANCE PROGRAM**

#### **EMERGENCY:**

The Board of Trustees, tasked with administration of the Group Health Insurance Program, finds that, pursuant to 1 CMC § 9104(b), the public interest and imminent peril to the public welfare requires the adoption, on an emergency basis, of amendments to the Rules and Regulations Governing the Group Health Insurance Program, as published in the Commonwealth Register Volume 28, Number 08, at pages 26029-103, on August 24, 2006, and as amended and published in the Commonwealth Register Volume 29, Number 07, at pages 26657-26665, on July 18, 2007, and adopted as published in the Commonwealth Register Volume 29, Number 08, at page 26692, on August 17, 2007 (effective date August 27, 2007).

The Board finds that the public interest and this imminent peril to the public welfare mandates adoption of these amendments to the Rules and Regulations Governing the Group Health Insurance Program upon fewer than thirty (30) days notice, and that these amendments shall become effective immediately after filing with the Commonwealth Register, subject to the approval of the Attorney General and the concurrence of the Governor and shall remain effective for a period of 120 days, unless sooner adopted as permanent regulations.

#### **REASONS FOR EMERGENCY:**

Pursuant to Public Law 10-19, codified at 1 CMC § 8421-27, and Article 16 of the Rules and Regulations Governing the Group Health Insurance Program, the Board of Trustees of the Northern Mariana Islands Retirement Fund has the legal authority to promulgate regulations to facilitate the proper administration of the health insurance program. The consequent privatization of this Program requires promulgating rules and regulations necessary for the proper notice to the members in order to facilitate the proper administration of the Program.

1. Pursuant to authority granted in 1 CMC §§ 8814, 8424 and Article 16 of the Rules and Regulations governing the Program, the Board of Trustees awarded, on September 4, 2007, through competitive bidding, Aetna Global Benefits as the Carrier of the Fully Insured Health Program. The implementation of this Fully Insured Program, originally scheduled for October 1, 2007, has been deferred until November 1, 2007 in order to maximize the available amount of potential members in an Open Enrollment Period. Nevertheless, the normal Notice and Comment Period for promulgation of regulations is unavailable, as the earliest possible regulatory adoption would be November 26, 2007—fully 25 days following the requisite implementation of the Fully Insured Program, and risks the health, safety, and welfare of thousands of members at risk for being potentially uninsured during that 25 day period. This “window of uninsurable risk,” will dissipate upon promulgation of these Emergency Regulations. Additional concerns are the consistent mounting of health care costs which would normally arise during the requisite period of time incumbent with the normal Notice and Comment Period for promulgation of regulations. Along with privatization, a concomitant increase in Premiums, as well as

Enhanced Medical Coverage, under the Fully Insured Program arises, as the Board of Trustees aware that this emergency exists, acts immediately to address the situation.

II. Failure to immediately implement these Rules and Regulations will result in:

- Medical Providers denying enrollees treatment and necessary prescription drugs;
- Confusion to enrollees regarding premiums;
- Confusion in accounting of government agencies and entities regarding the amounts to be deducted for employee premiums;
- Confusion in accountability of government agencies and entities regarding the enrollment procedures of existing and new enrollees;
- Duplication of efforts should the Rules and Regulations be implemented at a later date, resulting in additional costs and **further deterioration of the fragile financial condition of the Program** and **risk of jeopardizing privatization**;
- Enrollees risking the inability to receive the proper and necessary medical treatment for which the Program was designed to provide; and
- Potential Liability for the Program and Government for failing to act.

III. These amendments to the Rules and Regulations Governing the Group Health Insurance Program will implement an Enhanced Medical Coverage, Revised Premium Rates, and the Administration of the Group Health Insurance Program by Aetna Global Benefits as a Fully Insured Health Program. ***The Board intends to transfer the Program to Aetna Global Benefits to secure the viability and stability of the Program by having Aetna Global Benefits administer the Program as a Fully Insured Health Plan effective November 1, 2007.***

**CONTENTS:**

The adoption of these amendments to the Rules and Regulations Governing the Group Health Insurance Program will **effectuate critical changes** to the Group Health Insurance Program, **crucial to the proper operation and survival of the Program**, the public interest, and serve the best interests of the members and the public.

**NOTICE OF INTENT TO PERMANENTLY ADOPT:**

It is the intention of the Board of Trustees to adopt these emergency amendments as permanent amendments to the Rules and Regulations Governing the Group Health Insurance Program with such adoption pursuant to 1 CMC §§ 9104(a)(1) and (2). Therefore, publication in the Commonwealth Register of these amendments, this Notice, and an opportunity for public comment pursuant to the requirements of the CNMI Administrative Procedures Act are hereby provided.

- Copies of the Rules and Regulations will be available at the Group Health and Life Insurance Trust Fund office, located on the 2<sup>nd</sup> Floor of the Retirement Fund Building, Capital Hill, Saipan, MP 96950;
- Written comments on the Rules and Regulations should be addressed and submitted to the Administrator, Northern Mariana Islands Retirement Fund ("NMIRF"), P.O. Box 501247 CK, Saipan, MP 96950-1247, or may be delivered to the Administrator at the Retirement Fund office on Capital Hill, Saipan, MP 96950; and
- Written comments must be received by the Administrator of the NMIRF not later than thirty (30) days from the date of this publication.

Enrollees will be given the opportunity to:


- Comment on and ask questions about the Rules and Regulations and changes in premiums and the fully insured health program;
- Attend public meetings, which will be properly noticed and scheduled during the thirty (30) day comment period on Saipan, Tinian and Rota; and
- Review the new Plan Document relating to these amendments, which will be available for viewing at the Group Health and Life Insurance office on the 2<sup>nd</sup> Floor, Retirement Fund Building, on Capitol Hill, Saipan, MP 96950.

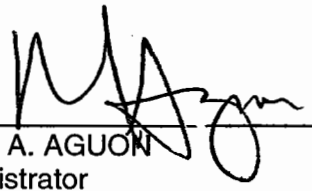
**AUTHORITY:**

The Board of Trustees of the Northern Mariana Islands Retirement Fund ("Fund"), is authorized to promulgate, publish and adopt these regulations pursuant to Public Law 10-19, codified at 1 CMC § 8424.

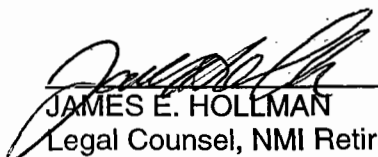
By signature below, we certify that the Rules and Regulations Governing the Group Health Insurance Program attached hereto are the true, correct, and complete Rules and Regulations Governing the Group Health Insurance Program hereby adopted as emergency regulations by the Board of Trustees, and further request and direct that this Notice of Adoption be published in the Commonwealth Register.

Dated this 25<sup>th</sup> day of September 2007.

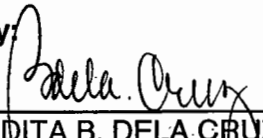
  
\_\_\_\_\_  
JUAN T. GUERRERO  
Chairman, Board of Trustees  
NMI Retirement Fund / Group Health & Life  
Insurance Trust Fund

  
\_\_\_\_\_  
MARK A. AGUON  
Administrator  
NMI Retirement Fund / Group Health & Life  
Insurance Trust Fund

**Reviewed as to form and legal sufficiency on behalf of NMIRF/GHLITF:**

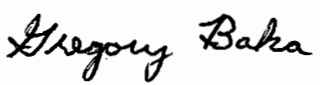
  
\_\_\_\_\_  
JAMES E. HOLLMAN  
Legal Counsel, NMI Retirement Fund

Date: 9/25/07

Filed by:   
\_\_\_\_\_  
BERNADITA B. DELA CRUZ  
Secretary, Commonwealth Register


Date: 11/1/07

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

  
\_\_\_\_\_  
MATTHEW T. GREGORY BAKA  
CNMI Attorney General (Acting)  
COMMONWEALTH REGISTER

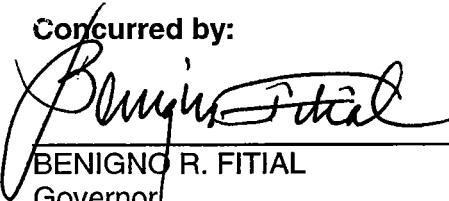
Date: 31 Oct 07

Received by the Office of the Governor by:

  
\_\_\_\_\_  
ESTHER S. FLEMING  
Special Assistant for Administration

Date: 11/01/07

Concurred by:

  
\_\_\_\_\_  
BENIGNO R. FITIAL  
Governor

Date: 11/01/07

**PROPOSED AMENDMENTS  
TO THE RULES AND REGULATIONS  
GOVERNING THE GROUP HEALTH INSURANCE PROGRAM**

**Citation of Statutory Authority:** The Board of Trustees ("Board") of the Northern Mariana Islands Retirement Fund ("Retirement Fund") has statutory power to promulgate and effect the CNMI Group Health and Life Insurance Rules and Regulations (Plan Description) pursuant to 1 CMC § 8424.

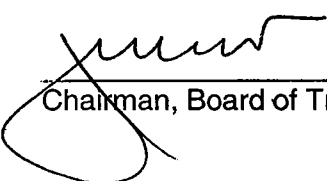
**Statement of Goals and Objectives:** The Program is underwritten exclusively by the CNMI Government to provide an affordable health insurance plan for the benefit of CNMI government employees. The Program is designed to be self sufficient, and therefore, must establish rates sufficient to pay for administration of the Program and particularly claims incurred by Enrollees in the Plan.

**Summary of Amendments:** These proposed amendments to the Rules and Regulations would modify the premium contribution rates for the government and both active government employees and retirees. Additionally, the proposed amendments would also transfer the health insurance program to Aetna Global Benefits, which would administer it as a fully insured program, and thereby, privatizing the CNMI Group Health Insurance Program.

**For Further Information:** Contact Mark A. Aguon, Administrator, NMI Retirement Fund, by telephone (670) 322-3863 or facsimile (670) 664-8080.

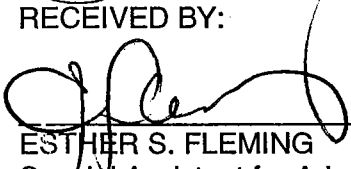
**Citation of Related and/or Affected Statutes, Regulations, and Orders:** Article 10 – Section 10.15; Article 5 – Section 5.02; Rules and Regulations as published in the Commonwealth Register, Volume 28, Number 08, dated August 24, 2006, and as amended and adopted as published in the Commonwealth Register Volume 29, Number 07, dated July 18, 2007 and Volume 29, Number 08, dated August 17, 2007 (effective August 27, 2007), respectively.

Dated this 25<sup>th</sup> day of September 2007.


  
\_\_\_\_\_  
Chairman, Board of Trustees, NMIRF

  
\_\_\_\_\_  
Administrator, NMIRF

RECEIVED BY:

  
\_\_\_\_\_  
ESTHER S. FLEMING  
Special Assistant for Administration  
Date: 11/01/07

FILED AND RECORDED BY:

  
\_\_\_\_\_  
BERNADITA B. DELA CRUZ  
Secretary, Commonwealth Register  
Date: 11/11/07

**NOTISIA POT INSIGIDAS NA REGULASION YAN NOTISIAN  
INTENSION PARA U MA'ADOPTA I AMENDASION SIHA PARA I  
AREKLAMENTO YAN REGULASION SIHA NI GINIBEBIETNA I  
GROUP HEALTH INSURANCE**

**Ensigidas:**

I Kuetpon I Trustees, ma'otden yan I atministrasion I Programan I Group Health Insurance, masodda na, sigun I lai 1 CMC Seksiona 9104(b), I enteres pupbliku yan I ariesga para I minaolek I pupbliku marekomenda I inadoptasion, gi insigidas na manera, I inadoptasion I areklamento yan regulasion siha ni ginibiebetna I Programan Group Health Insurance, anai mapupblika gi Rehistran I Commonwealth Baluma 28, Numiru 08, gi páhina 26029-103, gi Agostu 24, 2006, yan ni ma'amenda yan pupblika gi Rehistran I Commonwealth Baluma 29, Numiru 07, gi páhina 26657-26665, gi Julio 18, 2007, yan ma'adopta anai mapupblika gi Rehistran I Commonwealth Baluma 29, Numiru 08, gi páhina 26692, gi Agostu 17, 2007 (ha'áne anai efektibu Agostu 27, 2007).

I Kuetpo a sodda na I enteres pupbliku yan I ariesga para I minaolek I pupbliku a otden I inadoptasion este na amendasion siha para I Areklamento yan Regulasion siha ni Ginibiebetna I Programan Group Health Insurance menos di trenta (30) diha siha na notisia, ya este siha na amendasion debi di u efektibuin insigidas despues di mapolu gi Rehistran I Commonwealth, sigun I inapruebasion I Abugádu Henerát yan I kininfotmen I Gubietnu ya debi di u efektibu esta sientu bente (120) diha siha, solu ma'adopta la'taftaf kumo petmanente.

**Rason siha para Ensigidas:**

Sigun I Lai Pupbliku 10-19, ni makodigu gi 1 CMC Seksiona 8421-27, I Atikulu 16 I Areklamento yan Regulasion siha ni Ginibiebetna I Prográman I Group Health Insurance, I Kuetpon I Trustees I Fondun Ritiráo gi Sankattan Siha Na Islan Marianas gai áturidát ni ligát para u establese regulasion siha para u alibia (facilitate) I propio na atministrasion pot I prográman health insurance. I hiniyong I privatization este na prográma a nisisita para u ma'establese I nisisário na areklamento yan regulasion siha para I propio na notisia para I membru siha pot para u alibia I propio na atministrasion I prográma.

1. Sigun I áturidát ni ma'entrega gi lai 1 CMC Seksiona 8814, 8424 yan Atikulu 16 gi I Areklamento yan Regulasion siha ni Ginibiebetna I Prográma, I Kuetpon I Trustees ni mapremiu, gi Septiembre 4, 2007, ginen I man akontra na bidding siha, I Aetna Global Benefits kumo I Carrier para I Prográman I Fully Insured Health. I tinituhon este na Prográman Fully Insured Health, masiñála oriyinát para Oktubre 1, 2007, makana esta Nubembre 1, 2007 pot para u lameggai na membru siha gi Tiempon I Open Enrollment. Sinembátgo, I regulát na notisia yan tiempon opinion para u ma'establese I regulasion siha ti muteru (available), kumo I lataftaf na inadoptasion siempre gi Nubembre 26, 2007 --- enteru I bente-singko (25) diha siha manisita para u matutuhon I Prográman Fully Insured, ya a ariesga I hinemlo, sináfu, yan minaolek I mit siha na membru gi piniligro pot ti man

ma'insure durânten I tiempon I bente-singko (25) diha siha. Este na estâo I "Opottunidât para Ariega ni ti man ma'insure) siempre mumalingo yanggen ma'establesi I Insigidas na Regulasion siha. Guaha mâs opinion ni man konsiste pot I omentasion I gâstun I inadahen I hinemlo' ni tumatakhilo durânten I manisisita na tiempo gi presente I regulât na notisia yan Opinion para u ma'establesi I regulasion siha. Gi I kininsisten I Privatization, I masusesedi na omentasion I Premiums, parehu ha' yan I Enhanced Medical Coverage, papa I Progrâman I Fully Insured tumatakhilo, mientras I Kuetpon I Trustees matungo' na eksiste este insigidas, mana guaha imidiamente pot para I kubre I situasion.

ii. Yanggen ti mana guaha este na Areklamento yan Regulasion siha imidiamente siempre humuyong-ña:

- I Medical Providers ti man ma'aksepta I man ma'enroll siha para u fan riseta yan I man nisisârio na âmot ni man mapreskribi ni doktu.
- Man kubukâo I hinasson niha I man ma'enroll siha na petsona gi bandan premiums;
- Man kubukâo I hinasson niha gi bandan I kontadot I sistema yan ahensian I gubietnamento ni tineteka I tutât ni para u malaknos gi suetdun I I empleâo para I premium siha;
- Man kubukâo I hinasson niha gi bandan I kontadot I sistema yan ahensian I gubietnamento ni tineteka I areklamenton I enrollment para I man presente yan nuebo siha na membru.
- Duplikasion I empeñu pot para u matutuhon este na Areklamento yan Regulasion siha gi mamaila na diha, rinisutta ni mâs gâsto ya *siempre adumidide' sumusuha I itmâs dilikâo na kondision fainansiât I progrâma yan I ariega para u maprivatize.*
- I ariega I enrollees para u fan tai abilidadâ para u maresibe' I propio yan nisisârio na marisetan medikât ni madesigna I Progrâma para u maprobeniyi; yan
- Posipble na u guaha liability para I Progrâma yan I Gubietnamento yanggen ti ma'establesi I aksion.

iii. Este na amendasion siha para I Areklamento yan Regulasion siha ni Ginibiebetna I Progrâman I Group Health Insurance siempre a tutuhon I Enhanced Medical Period, Maribisa na Premium Rates, yan I Atministrasion I Progrâman I Group Health Insurance ginen I Aetna Global Benefits kumo I Progrâman I Fully Insured Health. *I Kuetpo a intensiona para u transferi I progrâma guatu gi Aetna Global Benefits para u asigura kapasidât yan minetgot I progrâma mientras I Aetna*



*Global Benefits a atministreha I progrâma kumo I Plânun I Fully Insured Health u efektibu gi Nubembre 1, 2007.*

**Sinaguan siha:**

I inadoptasion este na amendasion siha para I Areklamento yan Regulasion ni Ginibiebetna I Progrâman I Group Health Insurance siempre u *efektibu i kritikât na tinilaika siha* para I Progrâman I Group Health Insurance, *prisiso para I propio na kinalamten yan I lina'la I progrâma*, ya u setbi maolek I membru siha yan pupbliku.

**Notisian Intension para u Ma'adopta Petmanente:**

Intension I Kuetpon I Trustees para u adopta este na amendasion insigidas kumo petmanente na amendasion siha para I Areklamento yan Regulasion ni Ginibiebetna I Progrâman I Group Health Insurance ni este na inadoptasion sigun I lai 1 CMC Seksiona 9104(a)(1) yan (2). Enoa na, I publikasion gi Rehistran I Commonwealth ni este na amendasion siha, este na notisia, yan I opottunidât I opinion I pupbliku sigun I nisisidât I Akton I Areklamenton Atministrasion I CNMI man maprobeniyi este na momento:

- \* Kopian I Areklamento yan Regulasion siha siempre man guaha gi Ofisinan I Group Health and Life Trust Fund, ni gaige gi mina dos bibienda gi I Retirement Fund Building, gi Capitol Hill, giya Saipan, MP 96950.
- \* Tinige' opinion pot I Areklamento yan Regulasion siha debi di u matugi'e' ya ma'entrega guatu I Atministradot, gi Northern Marianas Retirement Fund ("NMIRF"), gi P.O. Box 501247 CK, Saipan, MP 96950-1247, osino siña machule' guatu para I atministradot gi Ofisinan I Retirement Fund gi Capitol Hill, giya Saipan, MP 96950; yan
- \* I tinige' na opinion debi di u fan maresibe' ni I Atministradot I NMIRF menos di trenta (30) diha siha ginen I ha'ânen I mapupblika este na notisia.

Siempre I Enrollees man manâ'I' opottunidât para:

- \* U fan gai opinion yan fan mamaisen kuestion pot I Areklamento yan Regulasion siha yan tinilaika siha pot I premium yan I Progrâman I Fully Insured Health.
- \* U ma'atiende I dinanña pupbliku, ni debi di u manotisia propio ya masifâla durânten I trenta (30) diha siha na tiempon opinion giya Saipan, Tinian yan Luta; yan
- \* Marebisa I nuebo na Plânun Documento ni tineteka este na amendasion siha, ni debi di u muteru para u ma'ina gi Ofisinan I Group Health and Life Insurance gi I mina dos bibienda, gi Retirement Fund Building, gi Capitol Hill, giya Saipan, MP 96950.

**Åturidåt:**

I Kuetpon I Trustees I Fondun Ritiråo gi Sankattan Siha Na Islan Marianas ("Fund"), ma'åturisa para u establesi, pupblika yan aopta este na regulasion siha sigun I Lai Pupbliku 10-19, ni makodigu gi 1 CMC Seksiona 8424.

Gi finitma siha gi sanpapa, en setifika na I Areklamento yan Regulasion siha ni Ginibiebetna I Progråman Group Health Insurance ni man che'che'ton guine man magåhet, dinanche, yan kabåles na Areklamento yan Regulasion siha ni Ginibiebetna I Progråman Group Health Insurance este na momento man ma'adopta kumo ensigidas na regulasion siha ginen I Kuetpon I Trustees, ya marikuesta yan otden na este na Notisian Inadaptasion u mapupblika gi Rehistran I Commonwealth.

Mafecha este gi mina 9th na diha gi Novembre, 2007.

\_\_\_\_\_  
Juan T. Guerrero  
Kabesiyo, Kuetpon I Trustees,  
NMI Retirement Fund / Group Health & Life  
Insurance Trust Fund

\_\_\_\_\_  
Mark A. Aguon  
Atministradot  
NMI Retirement Fund / Group  
Health & Life Insurance Trust  
Fund

Marebisa para u ligåt sufisiente enkuenta ni I NMIRF/GHLITF:

\_\_\_\_\_  
James E. Hollman  
Konseherun Ligåt, NMI Retirement Fund

Fecha: 11-9-07

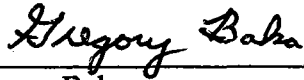
PINELO' AS:

\_\_\_\_\_  
Bernadita B. Dela Cruz  
Sekretåria, Rehistran I Commonwealth

Fecha: 11-9-07

**Setifikasion ginen I Ofisinan I Abugádu Henerát**

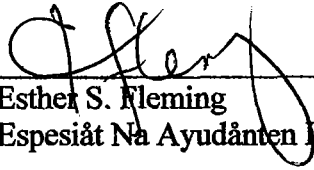
Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Pupbliku 10-50, I Insigidas na Areklamento yan Regulasion ni man che'che'ton guine esta man ma'ina yan ma'apueba pot para u fotma yan ligát sufisiente ginen I Ofisinan I Abugádu Henerát.



Gregory Baka  
Acting CNMI Attorney General  
Segundon i Abugádu Henerát

Fecha: 10 Nobiembre 2007  
nunc pro tunc 31 Oktubre 2007

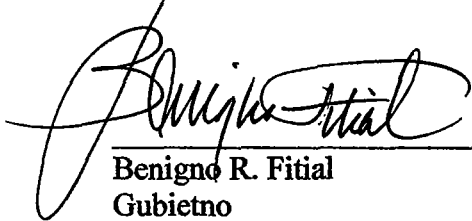
Maresibe gi I Ofisnan I Gubietno as:



Esther S. Fleming  
Espesiát Na Ayudánten I Atministrasion

Fecha: 11/15/07

Kininfotme as:



Benigno R. Fitial  
Gubietno

Fecha: 11/19/07

**MAN MAPROPONE NA AMENDASION  
PARA I AREKLAMENTO YAN REGULASION SIHA NI  
GINIBIEBETNA I PROGRAMAN I GROUP HEALTH INSURANCE**

**Annok I Áturidát I Lai:** I Kuetpon I Trustees (“Board”) gi I Fundon Ritiráo gi I Sankattan Siha Na Islan Marianas gai áturidát para u establesi ya u na efektibu I Areklamento yan Regulasion siha ni Ginibiebetna I Group Health Insurance (Diskripsion I Plánu) sigun I lai 1 CMC Seksiona 8424.

**Mensáhe pot Finiho** Pot rason na matuge’ este na Prográma ginen I Gubietnamenton I CNMI para u probeniya la’barátu na plánun group health insurance para I benifisiun I empleáon I gubietnamento gi CNMI. Madesigna este na prográma para u suficiente, ya enao na, debi di u ma’establesi suficiente na listan ápas siha (rates) para u ma’apási I atministrasion I Prográma yan I patikulát na claims ni man marikohi ni I Enrollees gi plánu.

**Mensáhe pot I Amendasion siha:** Este man mapropone na amendasion siha para I Areklamento yan Regulasion siempre a tulaika I listan ápas kontribusion I premium para I gubietnamento yan parehu ha’ I man empleáo siha gi presente yan I ritiráo siha. Adimás, I man mapropone na amendasion siha siempre lokkue matransferi I prográman health insurance para I Aetna Global Benefits, ni siempre a atministreha kumo prográman fully insured, ya ginen eyu, siempre I privatizing I Prográman Group Health Insurance.

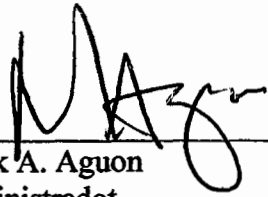
**Para Más Infotmasion:** Ágang si Mark A. Agoun, I Atministradot, gi Fundon Ritiráo, gi numirun tilifon (670) 322-3863 osino facsimile gi numiru (670) 664-8080.

**Annok I Man Achule’ Yan/pat Inafekta na Lai Regulasion yan Otden siha:** Attikulu 10 – Seksiona10.15; Attikulu 5.02; Areklamento yan Regulasion anai mapupblika gi Rehistran I Commonwealth, Baluma 28, Numiru 08, ni mafecha gi Agosto 24, 2006, ya ma’amenda, ma’adopta yan mapupblika gi Rehistran I Commonwealth, Baluma 29, Numiru 07, ni mafecha gi Julio 18, 2007 yan Baluma 29, Numiru 08, ni mafecha gi Agosto 17, 2007 (ni efektibu gi Agosto 27, 2007).

Mafecha este gi mina 9 na diha gi Novembre 2007.

---

Juan T. Guerrero  
Kabesiyo, Kuetpon I Trustees,  
NMI Retirement Fund / Group Health & Life  
Insurance Trust Fund



---


Mark A. Aguon  
Atministradot  
NMI Retirement Fund / Group  
Health & Life Insurance Trust  
Fund

MARESIBE AS:

---

Esther S. Fleming  
Espesiât Na Ayudânte Para I Atministrasion

PINELO' YAN MARIKOT AS:



---

Bernadita B. Dela Cruz  
Sekretâria, Rehistran i  
Commonwealth

**ARONG REEL GHITIPWOTCHOL ALLÉGH KKAAL ME ARONG IGH  
EBWE FILLÓÓY LLIWEL KKAAL NGÁLI ALLÉGH KKA EBWE LEMELI  
PROGROOMAL GROUP HEALTH INSURANCE**

**GHITIPWOTCHOL**

Mwiischil Trustees, sáangi administration reel Progróomal Group Health Insurance, e schungi bwe, sáangi allégh ye 1 CMC Tálil 9104(b), bwe llól tipeer toulap me weires iye ebwe ghulaar toulap reel alillis kka yaar rebwe fillóoy, ngáre ghitipwotchol, sáangi lliwelil Allégh kka e lemeli Prgróomal Group Health Insurance, iye aa akkatéélong llól Commonwealth Register Volume 28, Numero 08, reel peigh 26029-103, ótol Elúwel 24. 2006. me aa akkatééló llól Commonwealth Register Volume 29. Numero 07 reel peigh 26657-26665, ótol Wuun 18, 2007 me ebwe filló igha ebwe akkatééló llól Commowealth Register Volume 29, Numero 08 llól peigh 26692, ótol Eluwel 17, 2007 (schéschéél ótol Elúwel 27, 2007).

Schóoy mwiisch (Board) e schungi bwe llól tipeer toulap me weires ye ebwe toori toulap ekke tingór ebwe fillóoy lliwel kkaal ngáli Alléghúl kkaal me Alléghúl ye e lemeli Progróomal Group Health Insurance ótol eliigh (30) ráálil arong yeel, me lliwel kkaal ebwe schéschéél allégheló ngáre schagh e ammweló llól Commonwealth Register, kkapasal igha ebwe alúghúlúgh mereel Sów Bwungul Allégh Lapalap me Sów Lemelem ebwe kkamalló llól ebwughúw reweigh ráálil (120), ngáre re kkáyil fillóoy bwe ebwe schéschéél allégh.

**BWULUL GHITIPWOTCH:**

Sáangi Alléghúl Toulap ye 10-19, iye e ghil llól 1 CMC Tálil 8421-27, me Artice 16 mellól Allégh ye lemeli Progróomal Group Health Insurance. Schóoy board of Trustees mellól Northern Marianas Islands Retirement Fund nge eyoor bwángiir rebwe akkaté allégh kka rebwe mwóghut ágheli Progróomal Group Health Insurance. Sáangi aweweel privatization reel Progróoma yeel ebwe akkaté allégh kkaal igha ebwe ffat ngáliir membro bwelle rebwe bwunguw fischiy Progróoma.

1. Sáangi bwáng ye e tooto 1 CMC Talil 8824, 8424 me Article 16 llól allégh kka e lemeli Progróoma, Schóoy mwiisch mellól Trustees e premiyoor, ótol Maan 4, 2007, sáangi competitive bidding, Aetna Global Benefits ngáre carrier ebwe yááli progrómal Fully insured Health Program. Reel atoolongol Progróoma yeel, nge schéschéél ótol Sarobwel 1, 2007, iye raa weti ngáli Aremoy 1, 2007 bwelle rebwe ayoora schéschéél membro llól ótol Enrollment. Bwal eew, ammataf yeel me ótol aghiyegh reel akkatéél allégh kkaal nge esáál yoor, ngáre re kkeyil fillóoy otol Nobembre 26, 2007 schescheel llool reweigh me limiral mwiril schagh atotoolong Fully Insured Program, me aweiresi (limifischil) health, ammwelil, me welfare (alillis) ngáliir fitangaras aramas ikka rese insured otol reweigh me limiral (25 day period). Mille “window of uninsurable risk.” Ebwe mwalischiló ótol akkatéél ghitipwotchol Allégh kkaal. Akkáaw aghiyegh kka ekke bwáari llapal méél health care iye eghal sássátá méél otol akkayúúlóól aweewee yeel me ótol aghiyeghil reel akkateel allegh kkaal. Fengal me privatization, lapelool premium, me bwal Enhanced Medical Coverage, sáangi toowowul Fully Insured Program, igha Mwiischil Trustees re ghuley bwe eyoor ghitipwotchol, mwóghut kkáy bwe ubwe bwaari aweewe yeel.

2. Ngáre rese kkeyil ayoora Allágh kkaal emmwel ebwe toowow bwe:

- Schóoy Medical Providers ressobw bwughi treatment me safey kka e pisisu;
- Schóoy toolong llól progróoma kka re fitighogho bwelle reel premium;
- Fitighogho reel accounting mellól government agencies me bwulasiyool atotoolong me schóoy fféelong;
- Apeyowul Allégh kka rebwe ayoora mwirilóól, ótol, eghús óbwos me sóbwol aweewel salapial progróoma ikka rebwe ayoora; me
- Emmwel ubwe fitighogho sáangi Progróoma me Government igha ese fféér allégh kkaal.

3. Lliwel kkaal ngáli Allégh kkaal ikka e lemeli Group Health Insurance ebwe ayoora Ghatchul Medical Coverage. Siweli Premium Rate, me Ammwelil Group Health Insurance Program mereel Aetna Global Benefits igha aa toolong llool fully insured Health Program. Schóoy mwiisch re mángi rebwe alusu progróoma yeel ngáli Aetna Global Benefits ebwe ammwela meeta ebwe yoor me ye e mwóghut agheli Progróoma bwe ebwe Fully insured Health Plan schéschéél Aremwoy 1, 2007.

## ÓUTOL:

Fillóól liiwel kkaal ngáli Allégh kka e lemeli Group Health Insurance Program ebwe ghitipwotchuw ssiwel kka e weires ngáli Alléghúl me Ammwelil ye e lemeli Group Health Insurance Program, aghatchuwuló mwóghutul me toowowul Progróma, tipeer toulap, me alisiir membro me toulap.

## ARONG IGHA E MÁNGI EBWE SCHÉSCHÉÉL FILLÓÓY:

Schóóy mwiisch (board) mellól Trustees rebwe fillóóy ghitipwotchol liiwel kkaal igha ebwe schéschéél liiwel Alleghul me Ammwelil Group Health Insurance Program bwelle fillóól mereel 1 CMC Tálil kka 9104(a)(1) me (2). Bwal eew, akkatéél llól Commonwealth Register, arong yeel, me eyoor bwángiir toulap rebwe aghiyeghi bwelle yááyál ngáli CNMI Administrative Procedures Act ikka raa ayoora.

- Tilighial Allégh kkaal me Ammwelil iye rebwe ayoora llól Group Health me Life Insurance Trust Fund office. Iye elo 2<sup>nd</sup> Floor mellól Retirement Fund Building. Capitol Hill. Seipel MP 96950.
- Ischil mángemáng reel Alléghúl me Ammwelil rebwe addressed ngáli me isisilong reel samwool (administrator). Northern Mariana Islands Retirement Fund (“NMIRF”), P.O. Box 501247 CK, Seipel, MP 96950-1247, me emmwel ubwe afanga ngáli Samwool mellól Bwulsiyool Retirement Fund me Capitol Hill, Seipél, MP 96950; me
- Samwoolul NMIRF ebwe bwughil ischil mángemáng ótol eliigh (30) ráálil ngáre schagh aa akkatééló.

Schóóy toolong (enrollees) nge eyoor bwángiir reel:

- Mángemáng reel me ayegh reel Alléghúl me ssiwel mellól premium me fully insured health program.
- Tabweey schulapal, igha ebwe fil iye me ótol eliigh (30) ráálil igha re ghiyeghi mellól Seipél. Tchúlúyól: Luuta; me
- Amweri fisci plóónol dokkomento yeel iye e ghil llól ssiwel kkaal, iye rebwe ngáli Group Health me Bwulsiyool Life Insurance mellól 2<sup>nd</sup> Floor, Retirement Fund Building, llól Capitol Hill, Seipel, MP 96950.



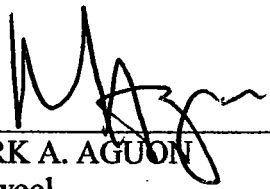
**BWÁNGIL:**

Board of Trustees mellól Northern Marianas Islands Retirement Fund ("Fund"), eyoor bwángil ebwe akkaté, ayoora me fillóoy allegh kkaal bwelle reel Alléghúl Toulap 10-19, iye e ghil llól 1 CMC Talil 8424.

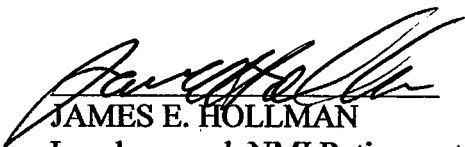
Sáangi makk ye faal, ay alúghúlúgh bwe Allégh kka e lemeli Progróomal Group Health Insurance ikka e appasch nge e wel, ffat, me aa takk Ammwel me Alléghél kka e lemeli Progróomal Group Health Insurance igha ebwe fillóoy ghitipwotchol allégh kkaal sáangi Board of Trustees, me e sóbwósobw yaal tittingór me afal igha akkatéél arong yeel ebwe isisilong llól Commonwealth Register.

Ráánil ye 9 llól Nov 2007

\_\_\_\_\_  
JUAN T. GURRERO  
Samwoolul Board of Trustees  
NMI Retirement Fund/Group Health & Life  
Insurance Trust Fund

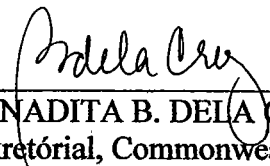
  
\_\_\_\_\_  
MARK A. AGUON  
Samwool  
NMI Retirement Fund / Goup  
Health & Life Insurance Trust Fund

Ammwel me alúghúlúgh sáangi NMIRF/GHLITF:

  
\_\_\_\_\_  
JAMES E. HOLLMAN  
Legal counsel, NMI Retirement Fund


11-9-07  
Rál

Ammwel sáangi:

  
\_\_\_\_\_  
BERNADITA B. DELA CRUZ  
Sekkrétórial, Commonwealth Register


11-9-07  
Rál

Sáangi allégh ye 1 CMC Talil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, ghitipwotchol Allégh kka e appasch nge raa takkal amweri fishi me allégheló CNMI Bwulasiyool Sów Bwungul Allégh Lapalap.

  
GREGORY BAKA  
Acting ngáli Sów Bwungúl Allégh Lapalap

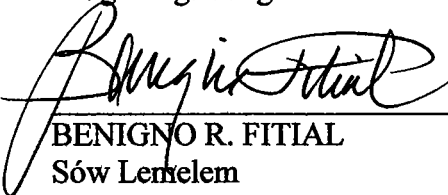
Rál 10 Aremwoy 2007  
nunc pro tunc 31 Sarobwél 2007

Mwir sáangi Bwulasiyool Sów Lemelem:

  
ESTHER S. FLEMING  
Sów Alillisil Sów Lemelem

Rál 11/15/07

Alúghúlúgh sáangi:

  
BENIGNO R. FITIAL  
Sów Lemelem

Rál 11/19/07

**POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL ME AMMWELIL IYE E  
LEMELEM PROGRÓOMAL GROUP HEALTH INSURANCE**

**Akkatéél bwángil:** Board of Trustees (“Board”) mellól Northern Mariana Islands Retirement Fund (“Retirement Fund”) nge eyoor bwángil ebwe akkaté me mwóghut ágheli Ammwelil Group Health Insurance (“Plan Description) bwelle reel allégh ye 1 CMC Tálil 8424.

**Aweweel pomwol liwel:** Progróoma yeel nge ebwe fféer sáangi CNMI Government igha ebwe ayoorá plóónol insurance igha ebwe alisiir schóóy angaangal llól CNMI Government. Progróoma yeel nge e mwóghut ágheli ebwe ghatch, me bwal eew, rebwe ayoorá rates ye ebwe óbwóssuw administration me tingór kka e tooto mereer Enrollees mellol Plóóno yeel

**Aweweel Lliwel kkaal:** Pomwol liwel kkaal ngáli Alléghúl me Ammwelil ebwe siweli premium contribution rates ngáli Government me ii me ruwoow active government employees me retirees. Bwal, pomwol liwel kkaal ebwe alusu health insurance program ngáli Aetna Global Benefits, igha ebwe mwóghut ágheli fully insured program, me ebwe , privatize CNMI Group Health Insurance Program.

**Reel Ammataf faingi:** Mark A. Aguon, Samwoolul, NMI Retirement Fund, sáangi tilifoon (670) 322-3863 me ngáre facsimile reel (670) 664-8080.

**Akkatéél akkááw Allégh me Afal:** Article 10 – Tálil 5 – Tálil 5.02; Alléghúl Ammwelil iye aa akkatééló llól Commonwealth Register. Volume 28, ótol Eluwel 24, 2006 me igha aa liwel me fillóól llól Commonwealth Register Volume 29, Numero 07, ótol Wuun 18, 2007 me Volume 29. Numero 08, ótol Eluwel 17, 2007 (scheéschéél Eluwel 27, 2007).

Ráálil ye \_\_\_\_\_ llól 2007

\_\_\_\_\_  
Samwoolul Board of Trustee, NMIRF

MWIR SÁNGI:

\_\_\_\_\_  
ESTHER S. FLEMING  
Sów Alillisil Sów Lemelem

Ráálil 11/19/07

\_\_\_\_\_  
Samwoolul, NMIRF

AMMWEL SÁNGI:

\_\_\_\_\_  
BERNDITA B. DELA CRUZ  
Sekretorial, Commonwealth Register

Ráálil 11-19-07

**PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS  
GOVERNING THE GROUP HEALTH INSURANCE PROGRAM**

**Language amended under the following sections of ARTICLE 10 – Premiums:**

10.15. The Chart below details the monthly Contributions required from Subscribers and the Government, and the total Premium, beginning on the Effective Date of this Plan Document, which Effective Date is ~~July 1, 2006~~ November 1, 2007. Beginning with the partial Plan Year that commences ~~July 1, 2006~~ November 1, 2007, the Government Contribution and total Premium for each category and coverage shall be as follows (see next page).

~~Unless determined otherwise by actuarial study and recommendation, the Government Contribution to Premiums shall increase by five percent (5%) annually, each such increase to become effective at the beginning of the Plan Year, with the first such increase being effective in January 2003. The automatic increases shall continue annually until such time the Government's Contribution is equal to the Subscriber's Contribution.~~

**Contribution Rates  
Rates Effective ~~July 1, 2006~~ November 1, 2007**

Type of Enrollment	Enrollment Code Number	Contribution Distribution	Active and Retired Monthly Premium	Retiree Semi-monthly Cost	Active Bi-weekly Cost
Single	1	Government Contribution	<u>\$52.00</u>	\$14.66	\$13.55
		Subscriber Contribution	<u>\$117.90</u>	<u>\$55.34</u>	<u>\$51.45</u>
		Total Premium	<u>\$169.90</u>	\$70.00	\$65.00
Couple	2	Government Contribution	<u>\$104.50</u>	\$26.53	\$24.51
		Subscriber Contribution	<u>\$243.82</u>	<u>\$103.47</u>	<u>\$90.49</u>
		Total Premium	<u>\$348.32</u>	\$130.00	\$115.00
Family	3	Government Contribution	<u>\$163.12</u>	\$50.49	\$46.60
		Subscriber Contribution	<u>\$380.59</u>	<u>\$139.51</u>	<u>\$133.40</u>
		Total Premium	<u>\$543.71</u>	\$190.00	\$180.00

Enrollees' premium rates may vary from time to time. In the event an increase in premiums is necessary, the Board of Trustees of the NMI Retirement Fund will promulgate this increase in the Commonwealth Register pursuant to the Administrative Procedures Act.

**Language amended under the following section of ARTICLE 5 - Benefits:**

5.02. **Chart.** The chart below is a summary of the Plan's Covered Benefits. Enrollees should not rely only on this outline. Enrollees must review this entire Plan Document to fully understand the Covered Benefits including the limitations, maximums and exclusions that are detailed in Articles 6, 7 and 8 of this Plan Document.

**SUMMARY OF COVERED BENEFITS**

		ENROLLMENT CODES 1, 2 AND 3
Annual Maximum Per Enrollee (Plan Year is <del>4/1/xx-12/31/xx</del> <u>10/1/xx to 9/30/xx</u> )		<del>\$100,000</del> <u>\$200,000</u>
Lifetime Maximum per Enrollee		<del>\$500,000</del> <u>\$1,000,000</u>
Out-Of-Pocket Maximums per Enrollee – 20% of the first \$20,000 per Enrollee per year, then Plan pays 100%		\$4,000
Out-Of-Pocket Maximums per Family (by Coverage Category)		Single - \$4,000 Couple - \$8,000 Family - \$12,000
<b>FACILITY SERVICES</b>		
Hospital Room & Board: Including semi-private room and board		80%
ICU Room & Board		80%
Skilled Nursing Room & Board: <u>Including convalescent facility</u>		80%
		60 Day Max per Year
Other in-patient and out-patient hospital charges such as operating room, drugs, x-ray, laboratory, and medical supplies		80%
<b>PRESCRIPTION DRUG SERVICES</b>		
Prescription Drugs <ul style="list-style-type: none"> <li>• <u>365 day maximum supply for all Generic, Brand Name and Brand Name Non-Formulary Drugs.</u></li> <li>• <del>All covered generic medications are preferred and covered at 20% coinsurance for participating Providers, 30% for non-participating Providers.</del></li> <li>• <del>Non-formulary Brand medications require a 50% member coinsurance amount</del></li> </ul>		<u>80% - Participating Provider</u> <u>70% - Non-Participating Provider</u> <u>50% - Brand Name Non-Formulary Drugs</u>
		Enrollee pays the following for each medication prescribed: <del>20% coinsurance for generic, 20% coinsurance for name-brand plus the difference in cost between the generic and name-brand dispensed by a Participating Provider or 30% coinsurance for generic, 30% coinsurance for name-brand plus the difference in cost between the generic and name-brand dispensed by a Non-Participating Provider and 50% coinsurance for non-formulary brand prescriptions dispensed by a Participating or Non-Participating Provider for a 30-day supply from a pharmacy or a 90-day supply from the Plan's mail order Rx service, or a pharmacy (pharmacy or Enrollee will be reimbursed at the mail order reimbursement rate). Certain medications may have a 30-day supply maximum and may not be eligible for the 90-day supply or available under the mail order program.</del>
<b>COVERED SERVICES</b>		
Allergy Testing & Treatment		80% <u>Maximum \$500 per calendar year</u>
<b>COMMONWEALTH REGISTER</b>		
VOLUME 29 NUMBER 11 November 19, 2007 PAGE 27198		

Ambulance: Surface only	80%
Annual Physical Exams: Including <u>immunizations (age 0-18)</u> , chest x-ray, BP check, cholesterol screening (>25yrs), mammogram, PAP smear, vision & hearing screening. Max. of \$150 <u>200</u> per enrollee per year (age 18 and above).	80%
Birth Control / Contraception -- birth control devices.	80%
Blood and Blood Products	80%
<u>Chiropractic Care</u>	<u>80%</u> <i>Maximum \$25.00 per visit (15 visits per calendar year)</i>
Dental Work & Oral Surgery due to accident or injury only, including: fractures of jaw or facial bones, congenital anomalies, stones in salivary ducts, impacted teeth, problems with oro-facial muscle attachments, & other surgery on tissues of the mouth.	80%
Durable Medical Equipment: wheelchairs, crutches, walkers, suction machines, hospital beds, commodes, O <sub>2</sub> , O <sub>2</sub> accessories, respirators and braces (e.g. leg, arm or back).	80%
<u>Gynecological Exams: Includes 1 exam and pap smear every 12 months (\$200 calendar year maximum combined with routine physical exam)</u>	<u>80%</u>
Hearing <u>Exams and Hearing Aids: Includes one (1) routine exam every 24 months and</u> two (2) devices every 5 years, maximum allowable is \$750 per device.	80%
Home Health Visits ( <u>Limited to 150 visits/ per calendar year</u> )	80%
IV therapy in the office and in the home	80%
<u>Mammograms: Includes one (1) baseline mammography between age 35 and 39 and one (1) exam every 12 months at age 40+.</u>	<u>80%</u>
Maternity Care: Including physician's care of mother before, during and after delivery (1 postpartum visit), physician's hospital care of mother and newborn.	80%
Mental Health / Substance Abuse Services: Inpatient: Includes Professional services related to inpatient care. Outpatient: Includes Professional services related to outpatient care.	80% <i>Maximum of \$1,000 per year</i>
Newborn Nursery Services for days in which the mother & newborn are both confined. All other expenses, newborn must be enrolled within 30 days from birth.	80%
Organ Transplants: Cornea, Heart, Heart-Lung, Kidney, Kidney-Pancreas, Lung, Pancreas, Bone Marrow, as specified in Plan, and Liver, as specified in Plan.	80%
Physical Therapy / Occupational Therapy / <u>Chiropractic Care. Maximum of \$25 per visit &amp; 15 visits per enrollee per year.</u>	80% <i>Maximum \$25.00 per visit (20 visits per calendar year)</i>
Physician Office Visits.	80%
<u>Prostate Cancer Exam: Includes 1 PSA and DRE every 12 months for males 40+.</u>	<u>80%</u>
Prosthetic Devices (other than dental).	80%
<u>Short Term Rehabilitation: 25 visits per calendar year combined for spinal disorders, physical therapy and occupational therapy, subject to \$25 per visit max per Enrollee per year</u>	<u>80%</u>
Sleep Study: One (1) complete study per lifetime	80%
Smoking Cessation Counseling (one series per lifetime).	80%
Speech Therapy.	80%
<u>Spinal Disorder Treatment.</u>	<u>80%</u>
Well Child Care up from Age 0-18: Including routine immunizations & screenings for anemia, TB, hearing and	80%

vision problems. <u>7 exams first year of life; 2 exams second year of life; and 1 exam per year thereafter.</u>	
<u>Wellness Services (Additional): Includes 1 flex sigmoid and double barium contrast every 5 years at age 50+ and one (1) colonoscopy every 10 years</u>	<u>80%</u>
<b>EXCLUSIONS – NOT COVERED UNDER THE PLAN</b>	
Abortions (elective)	Occupational Therapy except where specified above
Acupuncture	Orthopedic Shoes, Insoles & other supportive devices
Air Ambulance	Palliative Treatment
Air conditioners, humidifiers, de-humidifiers & purifiers	Personal comfort and convenience items
Biofeedback	Physical Exam for obtaining or continuing employment, insurance, gov't. licensing, or sports
Chiropractic Care except where specified above	Physical Therapy except as specified above
Circumcision, routine or ritual	Private Duty Nursing
Consultation with Provider via phone, fax or e-mail	Rehabilitation therapy except as specified in Plan
Contact lenses, eyeglasses, and refractive surgery	Rest Cures
Cosmetic Surgery and other cosmetic services	Rest Homes, sanitariums, & other non-hospitals or non-SNF
Custodial, Domiciliary and Convalescent Care, including nutritional supplements, <u>except as specified above</u>	Reversal of Voluntary Sterilization
Dental work or oral surgery, including endodontic (root canal) & periodontic services	Suicide Attempts & related injuries
Donor Services	Services for an injury or illness resulting from natural disaster or act of War
Drugs and Medicines for which a prescription is not required under U.S. federal law	Services for an injury sustained, either as driver or passenger, from racing or speed testing a motor vehicle
Exercise Equipment, vitamins, steroids and muscle stimulation devices	Services for an injury sustained because of a criminal act by the Enrollee including DUI by the Enrollee
Experimental or investigative services	Services for an intentionally self-induced illness or self-inflicted injury, while the Enrollee was sane or insane
Fertility / Infertility Services	Services or supplies for treatment or diagnosis of Temporomandibular Joint (TMJ) disorders or other conditions involving joints or muscles related to TMJ.
Foot reflexology except as related to diabetic conditions	Services rendered by an immediate relative or member of the Enrollee's household.
Gastric Bypass	Sexual dysfunction services
Growth Hormone Therapy	Telephone calls by doctors
Heat Lamp Treatments (except as related to Maternity Services)	Training for custodial care or self-care
Hospice Care	Transportation of remains of deceased
Implants, supplies and drugs for cosmetic purposes	Transportation other than ground ambulance service
Liposuction	Transsexual services
Living Expenses	Treatment of baldness and hair loss
Massage Treatments	Tuberculosis
Maternity Care for non-Spouse Dependent	Weight Control Programs or drugs, food products, supplements or services for weight reduction, even if prescribed by a physician
Military Service-Connected Injuries or disabilities	Workers' Compensation related services

All services are subject to "Medical Necessity" and in most cases **MUST** be ordered by a licensed Physician. Where no limitation or maximum as specified, none may be imposed.



# Application For Group Coverage

Aetna Global Benefits®

Coverage underwritten by Aetna Life Insurance Company and Aetna Life & Casualty (Bermuda) Ltd.

Group Policy or Control Number

GP 299593

Application is hereby made to Aetna Life & Casualty (Bermuda) LTD., Hamilton, Bermuda (hereafter referred to as "Aetna") for the kinds of group insurance specified below.

**1** Applicant Group Health & Life Insurance Trust Fund  
 Address Capitol Hill, Saipan

**2** The purpose of the application is to request  
 a.  issuance of new coverage.  
 b.  change in existing coverage.  
 c.  extension of existing coverages to additional groups of employees.

**3** This application includes the following associated employers (any entry in conflict with applicable law cannot be included):  
Commonwealth of Northern Mariana Islands Government located at Northern Mariana Islands  
 located at \_\_\_\_\_  
 located at \_\_\_\_\_

**4** All of the regular, full-time, active employees of any employer mentioned above shall be eligible to participate as to the coverage hereby applied for, except the following (state here the class or classes excluded).  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Retired employees are  not eligible.  to be eligible

5	For Employees	For Dependents	Kind of Coverage	Maximum Scheduled Amount
	<input type="checkbox"/>	<input type="checkbox"/>	Term Life	\$
<input type="checkbox"/>	Not Available	Accidental Death & Dismemberment	\$	
<input type="checkbox"/>	Not Available	Disability Income	\$	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Comprehensive Medical Expense	\$	
<input type="checkbox"/>	<input type="checkbox"/>	Major Medical Expense	\$	
<input type="checkbox"/>	<input type="checkbox"/>	Other Medical Expense	\$	
<input type="checkbox"/>	<input type="checkbox"/>	Other (specify)	\$	
<input type="checkbox"/>	<input type="checkbox"/>	Waiver of actively-at-work requirement in accordance with Terms and Charges in proposal dated	\$	

**6** Agent(s) of Record  
 n/a

**7** It is requested that the policy(ies) or contract(s) be issued on the  contributory  non-contributory basis.  
 The Applicant agrees that at no time shall any employee be permitted or required to contribute for non-contributory coverage; or, unless the change is approved in writing by the Insurance Company at its Head Office in Hamilton, Bermuda, to make contributions for contributory coverage at a rate higher than the initial contribution rate applicable for the employee's then current coverage. It is agreed that no coverage shall become effective as to any person if he is not then a bona fide, full time employee, regularly performing the duties of his occupation, unless otherwise specifically provided in the Group Policy or Contract.  
 Applicant Group Health & Life Insurance Trust Fund  
 Date September 17, 2007 By Juan T. Guerrero  
 Witness Mark A. Aguon Official Title Chairman, Board of Trustee

Your premium purchases insurance coverage from Aetna, as well as the services of any Aetna-licensed independent agent or broker identified in the Application For Group Coverage. We appreciate your business and the opportunity to serve you.

27201



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

CONTENTS: PROPOSED AMENDMENTS TO THE TAXICAB REGULATIONS NO. 1500

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

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

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

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

Issued by: James A. Santos 11/08/07  
James A. Santos, Secretary of Commerce Date

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

Dated this 19<sup>th</sup> day of November, 2007

Mathew A. Gregory  
Mathew A. Gregory  
Attorney General

Received by:

Esther S. Fleming 11/19/07  
Esther S. Fleming Date  
SAA

Bernadita Dela Cruz 11-19-07  
Bernadita Dela Cruz Date  
Commonwealth Register

PROPOSED AMENDMENT TO THE TAXICAB REGULATIONS 1500,  
Comm. Reg. Vol. 26, No. 1, (01/22/04), at 021631

---

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

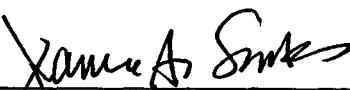
Statement of Goals/Objectives: The purpose of the proposed amended regulation is to refine qualification for a Taxicab Operator's License; provide for administrative expenses, and to provide for a monitoring regimen for maintenance of insurance policies, vehicle registration, and major vehicle repairs.

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

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

Citation of Related and/or Affect Statues, Regulations and Orders: 1 CMC §§ 2594, et seq., 9 CMC §§ 2301, et seq.; Comm. Reg. Vol. 14, No. 2, at 8916 (2/15/92); amendments Comm. Reg. Vol. 20, No. 6, at 15921 (6/15/98); Vol. 22, No. 2, at 17049 (2/15/00)

Date: 11/08, 2007

  
\_\_\_\_\_  
James A. Santos  
Secretary of Commerce

Part H. Vehicles Section

Section 1508.3. Unsafe Taxicab-Operation Prohibited

No taxicab owner or operator shall permit or require a operator to operate, nor shall any operator operate, a taxicab which a reasonable inspection would reveal, or the report of the last operator revealed, to be hazardous or likely to result in mechanical condition which is hazardous to operate or is more likely than a safe vehicle to cause an accident while in operation. No vehicle in excess of ~~10 (ten)~~ twelve (12) years old may be registered as a taxi vehicle, regardless of its condition.

NOTISIAN PUPBLIKU POT I INTENSION PARA U MA'ADOPTA I AMENDASION  
I REGULASION TAXICAB NUMIRU 1500, sigun I LAI 1 CMC SEKSIONA 2595

ASUNTO: MAN MAPROPONE I AMENDASION SIHA PARA I REGULASION  
TAXICAB NUMIRU 1500

MAN MAPROPONE NA REGULASION SIHA PARA I REGULASION TAXICAB  
NUMIRU 1500

(atan I man che'che'ton ni man mapropone na regulasion)

KOPIAN I REGULASION SIHA: I man mapropone na regulasion pot I Lai I  
Regulasion Taxicab Numiru 1500 mapupblika gi Rehistran I Commonwealth. Siña  
machule' I kopian I regulasion siha ni man mapropone gi Dipattamenton I Commerce gi  
Caller Box 10007, gi Donni Hill Complex, gi Capitol Hill, giya Saipan, MP 96950.

OPINION PUPBLIKU: Todu I man enteresao na petsona siña munahalom tinige'  
infotmasion, opinion, osino testamonion kinontra pot I man mapropone na regulasion  
siha guatu I Sekretario, gi Dipattamenton I Commerce, gi Caller Box 10007, gi Donni  
Hill Complex, gi Capitol Hill, giya Saipan, MP 96950, ti menos di trenta (30) diha siha  
ginen I ha'ane anai mapupblika este na notisia gi Rehistran I Commonwealth.

ATURIDAT: I Dipattamenton I Commerce ma'aturisa para u establese regulasion siha  
sigun I lai 1 CMC Seksiona 2454, 2596.

Linaknos: James A. Santos  
James A. Santos, Sekretario I Commerce

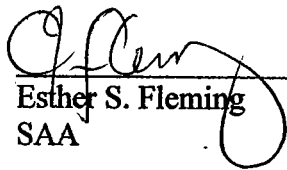
11/08/07  
Fecha

Sigun I lai 1 CMC Seksiona 2153, I areklamento yan regulasion siha ni man che'che'ton  
guine esta man ma'ina pot para u fotma yan suficiente ya ma'aprueba ni I Ofisinan I  
Abugadu Henerat I CNMI.

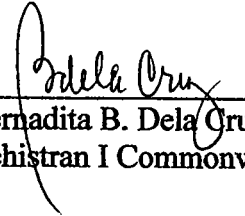
Mafecha este gi mina 19<sup>th</sup> na diha gi November, 2007.

Matthew A. Gregory  
Matthew A. Gregory  
Abugadu Henerat

Maresibe' as:

  
\_\_\_\_\_  
Esther S. Fleming  
SAA

11/19/07  
Fecha

  
\_\_\_\_\_  
Bernadita B. Dela Cruz  
Rehistran I Commonwealth

11-19-07  
Fecha

## Seksiona 1508.3.

Maprohibi I Ti Man Sâfu na Operasion Taxicabs

Tâya na duenun Taxicab osino operadot debi di sedi osino otden un operadot para u na kalamten, pat maseha hayi na operadot u na kalamten, I Taxicab ni u na tungo' pot I resonâpble na ebaluasion (inspection), pat u na tungo' pot I ripot I uttimo na operadot, na piligro pat siña rinisutta na gai kondision I mákinan kareta ya piligro para u mana kalamten I kareta osino ti sâfu na kareta ya siña ni na guaha aksidente mientras mana kalalamten. Tâya kareta ni dosse (12) años siña marehistra kumo karetan taxi, maseha maolek I kondision-ña.

MAN MAPROPONE I AMENDASION SIHA PARA I REGULASION I  
TAXICAB 1500, REHISTRAN I COMMONWEALTH, BALUMA 26,  
NUMIRU 1, (01/22/04Z0, GI 021631

---

Annok I Áturidát I Lai: 1 CMC Seksiona 2454 matulaika ni I Otden Eksekatibu 94-3 (efektibu 08/23/94) a áturisa I Sekretáron I Dipáttamenton I Commerce para u establesi regulasion siha pot I asunton responsiblidát I Dipáttamento.

Mensáhen Diniseha yan  
Finiho:

I propositun este man mapropone na amendasion siha gi regulasion pot para u na la'máolek I kuálifikasion para I Lisensian Taxicab Operators; a probeniyi gástun atministrasion, yan para u probeniyi areklamenton gubietnamento para I ma'adahen I insurance policies, rehistrasion I kareta, yan I man adet na problema siha gi kareta.

Kada'da' Na Mensáhe  
Pot I Regulasion siha:

I amendasion I regulasion a probeniyi para u na la'máolek I kuálifikasion para I Lisensian Taxicab Operators; para u ma'ina I ápas siha pot para u makubre I gástun I para u ma'establesi I Taxicab Operator's Identifacation Card; a probeniyi ebidensian insurance, manisisita káttá yan numirun kareta, marektuyi I Rehistran I kareta yanggen esta mäs di dosse (12) áños, ya a rekomenda para u mana hálom I dokumenton I man adet na problema siha gi kareta ni para u fan ma'arekla guatu gi Taxicab Bureau.

Petsona (siha) ni para  
u Ma'ágang:

David S. Palacios; Direktot I Envoicement & Compliance;  
(670) 664-3093.

Annok I Man Achule'  
yan/pat Inafekta na Lai,  
Regulasion yan Otden  
siha:

1 CMC Seksiona 2594, et seq., 9 CMC Seksiona 2301, et seq.; Rehistran I Commonwealth Baluma 14, Numiru 2, gi 8916 (2/15/92); amendasion siha gi Rehistran I Commonwealth Baluma 20, Numiru 6, gi 15921 (6/15/98); Baluma 22, Numiru 2, gi 17049 (2/15/00)

Fecha: 11/08, 2007

  
James A. Santos  
Sekretario I Commerce



ARONGOL TOULAP IGHA E MÁNGI EBWE FILLÓÓY LLIWEL KKAAL  
NGALI ALLÉGHÚL TAXICAB REGULATIONS NO. 1500, bwelle allegh ye 1  
CMC Talil 2596

ÓUTOL: POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL TAXICAB NO.  
1500

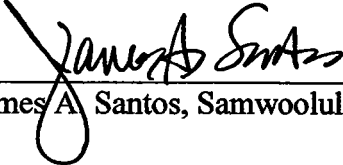
SSIWEL NGÁLI ALLÉGHÚL TAXICAB NO. 1500  
(amweri pomwol allégh kka e appasch)

**TILIGHIAL ALLÉGH KKAAL:** Pomwol Lliwel kkaal ngáli Alléghúl Taxicab No  
1500 ikka aa akkatééló llól Commonwealth Register. Emmwel óubwe bwughil pomwol  
allégh kkaal mereel Bwulasiyool Commerce, Caller Box 10007, Donni Hill Complex,  
Capitol Hill, Seipél, MP 96950.

**MÁNGEMÁNGIIR TOULAP:** Schóókka eyoor máfiyeer nge emmwel rebwe  
ischilong mángemángiir reel pomwol allégh ngali Samwoolul Commerce, Caller Box  
10007, Donni Hill Complex, Capitol Hill, Seipél, MP 96950, essóbw luuló eliigh (30)  
ráálil sangi schagh yaal akkatééló mellól Commonwealth Register.

**BWÁNG:** Bwulasiyool Commerce nge eyoor bwángil ebwe akkaté allégh kkaal bwelle  
reel allégh ye 1 CMC Tálil kka 2454, 2596.

Isáliyálwów:

  
James A. Santos, Samwoolul Commerce

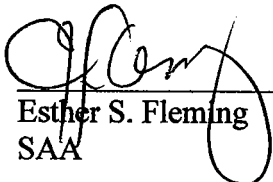
11/08/07  
Rál

Sangi allégh ye 1 CMC Talil 2153, allégh kka e appasch nge raa takkal amweri fischi me  
alléghéló mereel CNMI Bwulasiyool Sów Bwungul Allégh Lapalap

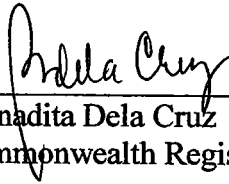
Ráálil ye 19<sup>th</sup> llól maramal November, 2007

  
Matthew A. Gregory  
Sow Bwungul Allégh Lapalap

Mwir sangi:

  
Esther S. Fleming  
SAA

11/19/07  
Rál

  
Bernadita Dela Cruz  
Commonwealth Register

11-19-07  
Rál

Peigh H Ammwelil Ghareeta

Talil 1508.3. Appilisaghil Mwóghutul Taxicab

Esóór schóóy affááragh me ngare schóókka re yááli taxicab me ngare ammwóghut taxicab rebwe mweiti ngaliir rebwe affááragh ngare eyoor me e bwá bwe ese fil me e ammasagh ebwe affááragh ghareeta igha ebwe lap ngali ebwe filiwós. Esóór ghareeta ye aa luuló seigh me ruwoow ráágh ebwe toolong ebwe taxicab.

**POMWOL LLIWEL NGÁLI ALLÉGHÚL TAXICAB 1500, Comm. Reg. Vol. 26,  
No. 1, (01/22/04, reel 021631**

**Akkatéél bwángil:** 1 CMC Tálil 2454, iye aa ssiwel mereel Akkúléwal Sów Lemelem 94-3 (schéschéél 8/23/94 e ngálleey bwángil Bwulasiyool Commerce rebwe akkaté allégh kka elo faal ammwelil Bwulasiyo.

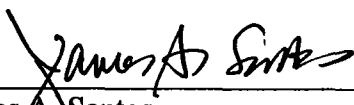
**Aweweel pomwol lliwel:** Bwúlúl pomwol allégh kka ebwe lliwel bwelle ebwe alúghúlúghúw Lisensial schóóy angaangal Taxicab; ayoorá salapial administrative, me ayoorá ammwelil insurance policies, vehicle registration, me fféerúl ghareeta.

**Aweweel pomwol Allégh:** Allégh kka re lliweli ebwe alúghúlúghúw Lisensial schóóy angaangal Taxicab; ammwelil óbwós igha ebwe óbóssuw méél Identification card sáangiir schóóy angaangal Taxicab; ayoorá ngáre eyoor insurance, tilighial ghareeta me numerool, ebwe akkayúúló yaal registration ghareeta kka aa toori seigh me eew ráágh, me mweiti ngali atotoolong dokkomentool ghareeta kka ebwe fféerlól sáangi Taxicab Bureau.

**Aramas ye ubwe faingi:** David S. Palacios; Samwoolul Enforcement & Compliance;  
(670) 664-3093

**Akkatéél akkááw Allégh me Tingór:** 1 CMC Tálil 2594, et seq., 9 CMC Tálil 2301, et seq.; Comm. Reg. Vol. 14, Numero. 2, reel 8916 (2/15/92; lliwelóól Comm. Reg. Vol. 20, Numero. 6, reel 15921 (6/15/98); Vol. 22, Numero 2, reel 17049 (2/15/00)

Ráálil ye 1/10/07, 2007

  
\_\_\_\_\_  
James A. Santos  
Samwoolul Commerce

PUBLIC NOTICE

DEPARTMENT OF LABOR

PROPOSED NEW REGULATIONS UNDER PL 15-108

These amendments are promulgated in accordance with the Administrative Procedure Act, 1 CMC §9101 et seq. The Department is adopting rules and regulations that replace the Alien Labor Rules and Regulations in their entirety.

**Citation of**

**Statutory Authority**

The Secretary of Labor is authorized to promulgate regulations pertaining to employment of citizens, permanent residents, and foreign national workers pursuant to PL 15-108 §§ 4530, 4606, 4961, 4971, and 4972.

**Short Statement of**

**Goals and Objectives**

This is a comprehensive set of regulations addressing the employment of citizens, permanent residents, and foreign national workers and the procedures to be followed by the Department of Labor under the Commonwealth Employment Act of 2007, PL 15-108, which repealed and re-enacted Chapters 4 through 8 of Division 4 of Title 3 of the Commonwealth Code.

**Brief Summary of the**

**Proposed Regulations**

These regulations are promulgated to implement the Commonwealth Employment Act of 2007, PL 15-108, a new statute which repealed and replaced the Nonresident Workers Act under which the prior regulations had been promulgated.

**Citation of Related**

**And/or Affected Statutes,**

**Rules and Regulations**

Alien Labor Rules and Regulations adopted in the Commonwealth Register Vol. 26, No. 7, July 26, 2004.

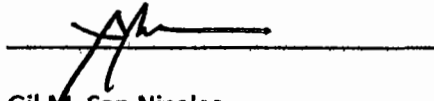
**For Further**

**Information Contact:**

Eleanor Nisperos, Assistant Attorney General, Department of Labor, Afetha Square Building, San Antonio, Caller 10007, Saipan, MP 96950, phone 236-0910, fax, 236-0991. Comments on these proposed regulations should be submitted by December 14, 2007 and must be received no later than December 19, 2007. Digital copies of these draft regulations in Word format or PDF format are available by e-mailing [enisperos@cnmi-gov.net](mailto:enisperos@cnmi-gov.net). Submission of comments may be in digital format either using the Word comment feature or a standard memo sent to the above e-mail address. Comments in hard copy are also welcomed and should be delivered to the above office address.

Dated this 16th day of November, 2007.

Submitted by:

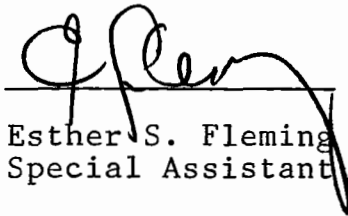


Gil M. San Nicolas  
Secretary of Labor



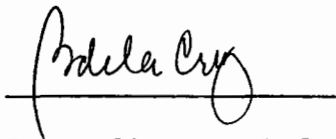
Matthew T. Gregory  
Attorney General

Date 11/19/07



Esther S. Fleming  
Special Assistant for Administration

DATE 11/19/07



Bernadita B. Dela Cruz  
Commonwealth Registrar

Date 11/19/07

## NOTISIAN PUPBLIKU

### DIPÁTTAMENTON I HOTNALERU

#### MAN MAPROPONE NUEBU NA REGULASION SIHA GI PAPA I LAI PUPBLIKU 15-108

Man ma'establesi este siha na amendasion siha ni kininsiste yan I Ákton I Areklamenton I Atministrasion, lai 1 CMC Seksiona 9101 et seq. I Dipáttamento a adodopta I areklamento yan regulasion siha ni para u kuentáyi I Areklamento yan Regulasion Hotnalerun Estrangheru siha enteramente.

**Annok I Áturidát I Lai:** I Sekretáron I Hotnaleru ma'áturisa para u establesi regulasion siha ni tineteka I empleáon suidádánu, petmanente na residente siha, yan hotnalerun nasionát estrangheru siha sigun I Lai Pupbliku 15-108 Seksiona 4530, 4606, 4961, 4971, yan 4972.

**Kada'da' Na Mensáhen  
Finiho yan Diniseha:**

Kabáles este siha na regulasion ni a mensiosiona I empleáon I suidádánu, petmanente na residente siha, yan hotnalerun nasionát estrangheru siha yan I areklamento ni para u matatiyi ginen I Dipáttamenton I Hotnaleru papa I Ákton 2007 pot I Empleáon I Commonwealth, Lai Pupbliku 15-108, ni madiroga yan matalun otdena gi Kapitulu 4 esta 8 gi Dibision 4 gi Titulu 3 gi Kodigun I Commonwealth.

**Kada'da' Na Mensáhe  
Pot I Mapropone na  
Regulasion Siha:**

Man ma'establesi este siha na regulasion pot para u matutuhon I Ákton 2007 pot I Empleáon I Commonwealth, Lai Pupbliku 15-108, nuebu na lai ni madiroga yan matalun otdena I Ákton Hotnalerun Estrangheru Siha papa eyu I halacha na regulasion ni ma'establesi.

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


Areklamento yan Regulasion Hotnalerun Estrangheru Siha ni ma'adopta gi Rehistran I Commonwealth Baluma 26, Numiru 7, gi Julio 26, 2004.

**Para Mås Infotmasion  
Ågang:**

Si Eleanor Nisperos, Segundon I Abugádu Henerát, Dipáttamenton I Hotnaleru, gi Afetna Square Building, gi San Antonio, gi Caller Box 10007, giya Saipan, MP 96950, numirun tilifon 236-0910, numirun fax 236-0991. Opinion siha pot I man mapropone na regulasion debi di u mana fanhalom gi Disembre 14, 2007 ya debi di u maresibe' antes di Disembre 19, 2007. I digital copies pot este na regulasion man guaha gi Word Format osino PDF format gi email [enisperos@cnmi-gov.net](mailto:enisperos@cnmi-gov.net). Yanggen para u mana fanhalom I opinion siha debi di u digital format ya siña u ma'usa I Word Comment feature osino I standard memo ya u mahanâgue gi I mamensiona na email address. Siña lokkue ma'aksepta I tinige' opinion siha ya u mahanâgue I mamensiona na mailing address gi sanhilo'.

Mafecha este gi mina \_\_\_\_\_ na ha'âne gi Nubeembre, 2007.

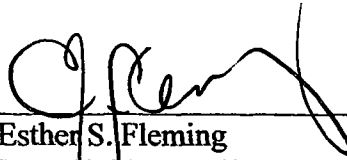
Ninahalom as:

  
\_\_\_\_\_  
Gil M. San Nicolas  
Sekretário, Dipáttamenton I Hotnaleru

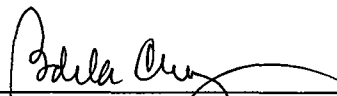
Fecha: 11/15/07

  
\_\_\_\_\_  
Matthew T. Gregory  
Abugádu Henerát

Fecha: 11/19/07

  
\_\_\_\_\_  
Esther S. Fleming  
Espesiát Na Ayudánte Para I Atministrasion

Fecha: 11-19-07

  
\_\_\_\_\_  
Benradita B. Dela Cruz  
Registrar I Commonwealth

Fecha: 11-19-07



## ARONGOL TOULAP

### BWULASIYOOL LABOR

#### POMWOL ALLÉGH KKA E FFÉ FAAL ALLÉGHÚL TOULAP YE 15-108

LLiwel kka ebwe akkaté bwelle mwòghutul Administrative Procedure Act, l CMC Tálil 9101 et seq. Bwulasiyo yeel ebwe fillóóy allégh kkaal igha ebwe alusu alongal Alléghúl Alien Labor.

**Akkatéél bwángil:** Samwoolul Labor nge eyoor bwángil ebwe akkaté allégh kkaal ikka e ghil ngáli schóóy angaang kka schóól faleey (employment of citizens), schóókka raa lollo ighyey (permanement residents), me foreign national workers bwelle reel Alléghúl Toulap ye 15-108 Tálil kka 4530, 4606, 4961, 4961, 4971, me 4972.

**Aweweel pomwol liwel:** Ikkaal alongal allégh kka ekke bwaári employment of citizens, permanent residents, me foreign national workers me aweewe ye Bwulasiyool Labor ebwe tabweey taal Alléghúl Commonwealth Employment Act llól 2007, PL 16-108, ikka ebwe akkayúúló mwo me allégh sefál Chapters 4 mwet ngáli 8 mellól Division 4 sáangi Title 3 mellól Commonwealth Code.

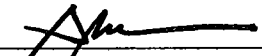
**Aweweel pomwol allégh:** Allégh kkaal nge raa atéew bwelle rebwe ayoora Commonwealth Employment Act llól 2007, PL 15-108, allégh ye e ffé iye ebwe ayúúwuló mwo me alusu Alléghul Nonresident Workers Act faal allégh kka raa fasúl atéew.

**Aweweel akkááw pomwol allégh:** Alléghúl Alien Labor kkaal ebwe filló llól Commonwealth Register Vol. 26, No. 7 Wuun 26, 2004.

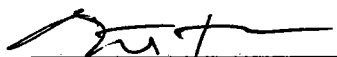
**Reel ammataf faingi:** Eleanor Nisperos, Sów Alillisil Sów Bwungul Allégh Lapalap, Bwulasiyool Labor, Afetna Square Building, San Antonio, Caller 1007, Seipél, MP 96950, tilifoon 236-0910, fax, 236-0991. Ischil mángemáng reel pomwol allégh kkaal ebwe atotoolong ótol Tumwur 14,2007 me rebwe bwughil nge essóbw luuló Tumwur 19, 2007. Tilighial Digital reel allegh kkaal llol word format me ngare PDF format nge eyoor ngare u email reel [enisperos@cnmi-gov.net](mailto:enisperos@cnmi-gov.net). Isisilongol ischil mángemáng yeel nge emmwel ebwe digital format sáangi igha yááyá Word comment me ngare standard memo iye ebwe akkafang sáangi email address iye elo weiláng. Aghiyegh reel hard copy nge rebwe alisi me emmwel ebwe bweibwogholó reel bwulasiyo ye weiláng.

Rááílil ye \_\_\_\_\_ llól maramal Aremwoy, 2007.

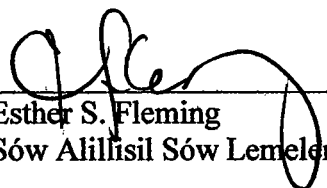
Isaliyallong:

  
\_\_\_\_\_  
Gil M. San Nicolas  
Samwool Labor

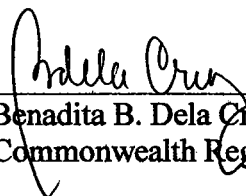
11/15/07  
Rál

  
\_\_\_\_\_  
Mathew T. Gregory  
Sów Bwungul Allégh Lapalap

11/19/07  
Rál

  
\_\_\_\_\_  
Esther S. Fleming  
Sów Alillisil Sów Lemelém

11-19-07  
Rál

  
\_\_\_\_\_  
Benadita B. Dela Cruz  
Commonwealth Register

11-19-07  
Rál

**EMPLOYMENT RULES AND REGULATIONS  
TABLE OF CONTENTS**

**PART 0. AUTHORITY AND PURPOSE**

- A. Authority
- B. Purpose
- C. Name

**PART I. DEPARTMENT OF LABOR**

- A. Delegation of authority
- B. Appearance of conflict
- C. Preparation and use of standard forms

**PART II EMPLOYMENT PREFERENCE FOR CITIZENS AND PERMANENT RESIDENTS**

**SECTION 1: GENERAL**

**SECTION 2: PRIVATE SECTOR EMPLOYMENT**

- A. Management of the labor pool in the Commonwealth
- B. Primary job preference
- C. Secondary job preference
- D. Job vacancy announcement
- E. Job referral and advertising
- F. Compliance with Resident Workers Fair Compensation Act
- G. Implementation of the secondary job preference
- H. Exemptions
- I. Investigation
- J. Adjudication of claims
- K. Statistical data
- L. Online implementation

**SECTION 3: GOVERNMENT SECTOR EMPLOYMENT**

**PART III. MORATORIUM ON THE HIRING OF FOREIGN NATIONAL WORKERS**

- A. Moratorium phase-out
- B. Exemptions
- C. Reserved
- D. Employment requirements
- E. Reserved
- F. Enforcement
- G. Penalties

**PART IV. RESERVED**

---

Draft 11/14/07

Page 3

**PART V. CERTIFICATION PRE-CLEARANCE**

- A. Required clearances
- B. Approved list
- C. Limited applicability of the Administrative Procedure Act

**PART VI. EMPLOYMENT OF FOREIGN NATIONALS**

SECTION 1: GENERAL

SECTION 2: ENTRY INTO THE COMMONWEALTH

- A. Entry by foreign workers
- B. Approved employment contract
- C. Health certifications
- D. Approved security contract
- E. Entry permit
- F. Entry by immediate family members of foreign national workers
- G. Entry by foreign national workers in religious occupations

SECTION 3: STANDARDS FOR EMPLOYMENT

- A. Standard conditions of employment
- B. Medical insurance
- C. Benefits
- D. Orientation
- E. Contract renewal, non-renewal, and termination
- F. Transfer by administrative order
- G. Reductions in force
- H. Avoidance and early resolution of potential labor disputes
- I. Inspection of worksites
- J. Investigation

SECTION 4: ADJUDICATION OF DISPUTES

- A. Complaints and actions in labor matters
- B. Jurisdiction of the Administrative Hearing Office
- C. Reserved
- D. Powers of the hearing officer
- E. Service of process
- F. Conduct of hearings
- G. Orders and relief
- H. Appeal to the Secretary
- I. Judicial review

SECTION 5: EXIT FROM THE COMMONWEALTH

- A. Exit during the contract term
- B. Exit after the contract term
- C. Periodic exit required
- D. Responsibility for costs of repatriation
- E. Limited stay and re-entry for litigation purposes
- F. No stay or bar in other actions

**SECTION 6: OTHER PROVISIONS**

- A. Regulations
- B. Limitations
- C. Prohibitions
- D. Sanctions and penalties
- E. Exemptions
- F. No liability
- G. Required records
- H. Fees
- I. Statistical data
- J. Required reports
- K. Electronic filing and access
- L. Transition

**PART VII. SEVERABILITY**

**PART VIII. EFFECTIVE DATE**

## PART O. AUTHORITY AND PURPOSE

- A. **Authority.** The Department of Labor (the "Department"), pursuant to its powers, duties, and authority under the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act, as amended; and Public Laws No. 11-6, 11-66, 12-11, and 12-58 as amended, does hereby promulgate and issue these regulations that shall govern the hiring of citizens, permanent residents, and foreign national workers in the Commonwealth.
- B. **Purpose.** The purpose of these regulations is to set forth the necessary procedures and requirements regarding the training and placement of citizens and permanent resident workers, the necessary procedures and requirements regarding the hiring and work of foreign national workers, and to provide procedures for adjudicating complaints regarding violations of the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act, as amended; and Public Laws No. 11-6, 11-66, 12-11, and 12-58 as amended.
- C. **Name.** These regulations shall be known as the "Employment Rules and Regulations."

## PART I. DEPARTMENT OF LABOR

(Chapter 1 of PL 15-108)

- A. **Delegation of authority.** (Sections 4401, 4402 of PL 15-108) The Secretary of the Department of Labor hereby delegates authority under the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act as amended; and Public Laws No. 11-6, 11-66, 12-11, and 12-58 to the Director of Employment Services, the Director of Labor, and the hearing officers in the Administrative Hearing Office. Written delegation of authority previously issued shall remain in force and effect until rescinded, altered, or modified as circumstances require.
- B. **Appearance of conflict.** (Section 4403 of PL 15-108) Employees of the Department shall avoid the appearance of conflicts of interest by reporting to the Secretary any contractual interest in an employment agency or other business engaged in recruiting or processing employment-related documents when the contractual interest is held by or for the benefit of the employee or a member of the immediate family of the employee. For purposes of this section, the term "employee" means any person whose salary is paid by or through the Department and any contractor with the Department and the term "immediate family" means parent, sibling, or child. Employees of the Department shall advise the Secretary if any person with a close familial or personal relationship appears before the employee at the Department or requests the employee to act in regard to the exercise of any power of the Department under this Act and shall perform no such act unless permitted in writing by the Secretary.
- C. **Preparation and use of standard forms.** It is the policy of the Department to use standard forms where possible to simplify administrative tasks, to permit the use of online filing, and to make operations more efficient. The Secretary or a designee may, at any time, amend, modify, alter, or substitute any of these forms, or add new forms as may be necessary for efficient operation of the Department, all without any amendment of these regulations. The Department may require that information on the standard forms be supplemented as provided in these

regulations. Providing a standard form in no way limits the Secretary as to information that may be required in support of an application, request, or submission to the Department.

**PART II EMPLOYMENT PREFERENCES FOR CITIZENS AND PERMANENT RESIDENTS**

(Chapter 2 of PL 15-108)

**SECTION 1: GENERAL**

(Chapter 2, Article 1 of PL 15-108)

RESERVED. [Note: Chapter 2, Article 1 of PL 15-108 provides definitions.]

**SECTION 2: PRIVATE SECTOR EMPLOYMENT**

Chapter 2, Article 2 of PL 15-108

- A. **Management of the labor pool in the Commonwealth:** The Labor Department's objective under PL 15-108 is to achieve high quality employment for citizens of the CNMI in productive businesses that drive sustainable economic growth and opportunities. High levels of participation in high quality, well-paid, and diversified employment by a diverse, adaptable, and highly skilled workforce will help ensure the economic well-being of everyone in the Commonwealth. The Department seeks to make faster and more efficient match-ups of people's skills with the job opportunities that are available and to reduce skill shortages in the future by cooperating with government-private partnership efforts to help people make informed decisions about education and training. At the same time, the Department seeks to provide fair employment opportunities for global skills and talent that support the CNMI's economy in ways that recognize and balance the Commonwealth's objectives with respect to full employment for its citizens. Citizen and permanent resident employment and foreign national worker employment are both necessary components of the Commonwealth's economic success in the future.
- B. **Primary job preference.** (Section 4521 of PL 15-108) Citizens and permanent residents shall be given a primary preference for employment in the Commonwealth. This requirement underlies all regulations with respect to the hiring, renewal, replacement, and termination of employees. An important part of the implementation of the primary job preference is emphasis on jobs and occupations for which citizens and permanent residents are or can be qualified and which should be attractive to them. A Jobs Study by the Office of Public Auditor in 2006 and 2007 provided useful observations and conclusions in these regards. For this purpose, four categories of jobs merit special attention.
1. **The "A" list.** In the past, certain job classifications were reserved for citizens and permanent residents entirely, or available only on a one-to-one basis with foreign national workers. These job classifications continue to merit the most careful attention and emphasis in implementation of the preference for citizens and permanent residents. They include:
    - (a) Accounting clerk
    - (b) Bookkeeping clerk
    - (c) Bus driver (including transit, tour, and school bus driver)
    - (d) Custodian
    - (e) Hotel front desk clerk
    - (f) Janitor
    - (g) Messenger, courier



- (h) Receptionist, information clerk
  - (i) Retail trade cashier
  - (j) Retail trade clerk
  - (k) Secretary (other than legal, medical, and executive)
  - (l) Security guard
  - (m) Surface tour boat operator, motor boat operator
  - (n) Taxi driver, chauffeur
  - (o) Telephone receptionist, responder, answering service
  - (p) Tour guide and escort
2. The "B" List. Certain jobs, *in addition to the "A" list*, warrant special efforts to place citizens and permanent residents. These include:
- (a) Accountant
  - (b) Brickmason, blockmason, stonemason
  - (c) Cement mason, concrete finisher
  - (d) Electrician
  - (e) Executive secretary, administrative assistant
  - (f) Heating and airconditioning mechanic, installer
  - (g) Human resource manager
  - (h) Operating engineer, other construction equipment operator
  - (i) Paving, surfacing, and tamping equipment operator
  - (j) Refrigeration mechanic, installer
  - (k) Service station attendant
  - (l) Ship captain, boat captain
  - (m) Stock clerk, stockroom, warehouse, storage yard
  - (n) Truck driver, light or delivery services
3. The "C" list. Certain jobs require an orientation or transition period but after appropriate training or on-the-job training can readily be filled by citizens and permanent residents. They include:
- (a) Auditing clerk
  - (b) Auto mechanic
  - (c) Carpenter
  - (d) Cook
  - (e) Maintenance building repairer
  - (f) Sales representative
  - (g) Secretary, legal, medical, and executive
  - (h) Stock clerk, sales floor
  - (i) Warehouse worker
4. The "D" list. Particular care must be given to the preference for citizens and permanent residents in filling any job for which the wage is more than \$10 per hour. All jobs for which the wage rate or equivalent salary is \$10 per hour or more are included on the "D" list. As

examples, Examples of these relatively high-paying jobs that citizens and permanent residents can be available to fill are:

- (a) Assistant manager, housekeeping
- (b) Customer complaint clerk
- (c) Diving instructor
- (d) Financial controller
- (e) Food & beverage manager
- (f) Front office manager
- (g) Guest service manager
- (h) Inventory controller
- (i) Kitchen manager
- (j) Maintenance manager
- (k) Preschool teacher
- (l) Sales manager, marketing manager
- (m) Station manager

C. Secondary job preference. Foreign national workers who are currently in the Commonwealth shall be given a secondary preference for employment within the Commonwealth. Employment Services shall provide services to foreign national workers who are in the Commonwealth, who have abided by Commonwealth law and worked productively, and who seek to continue their employment in the Commonwealth. Foreign national workers who fill jobs that support the CNMI economy, in an appropriate balance with the Commonwealth's objectives regarding citizen employment, are a valuable resource to the Commonwealth and their work and contributions are important.

D. Job vacancy announcement. (Section 4522 of PL 15-108)

1. Job vacancy announcement. Any employer may submit a proposed job vacancy announcement to Employment Services in order to utilize the referral service in locating a suitable employee. An employer who intends to employ a foreign national worker must submit a proposed job vacancy announcement to Employment Services. The proposed job vacancy announcement shall include a job description, a statement of the wages to be paid, and a statement of all benefits to be provided. The job description shall be defined by the Occupational Information Network (O-NET) which is an online database that stores information on occupational titles based on the most current version of the Standard Occupational Classification (SOC) System. The O-NET is found at <http://online.onetcenter.org>. For specialty jobs not adequately defined by O-NET classifications a parenthetical description may be appended to the closest O-NET classification. The statement of wages shall include the bi-weekly amount to be paid in United States currency. The statement of benefits shall include the net cash equivalent of benefits that will be provided in kind to foreign national workers. Net cash equivalent is the fair market value of a benefit less any deduction from wages for providing the benefit. The form for submitting a job vacancy announcement is set out at Appendix 1.
2. Employer registration. Citizens, permanent residents, and foreign investors may register with Employment Services in order to utilize the services available to employers from

Employment Services. Persons who entered the Commonwealth for employment may not employ others or utilize the services available to employers from Employment Services. Registrants shall complete a standard form for registration and shall provide a Tax Identification Number and an industry code from the North American Industrial Classification System (NAICS) appropriate to their line of business. The NAICS is available online at [www.census.gov/epcd/www/naics.html](http://www.census.gov/epcd/www/naics.html).

3. **Employer solvency.** An employer must be financially solvent and able to meet the obligations of an employment contract in order to utilize Employment Services. In most cases, if a foreign national worker is employed, the bonding requirement for employer obligations will meet this requirement. However, Employment Services also has responsibility for referring local residents for whom no bonding is required. Employment Services may, at its discretion, evaluate employer financial capability upon receipt of a proposed job vacancy announcement. The evaluation will compare an employer's financial resources and past performance to the estimated annual expenses of the employer in employment of a new employee in the job described in the proposed job vacancy announcement together with all other employees currently employed. Expenses include the proposed wage at or above the minimum wage, medical care, and the net cost of any other benefits such as food, housing, transportation to and from the worksite that will not be deducted from the employee's wage. Employment Services may request financial statements, tax returns, or such other evidence of solvency as is required for an evaluation. Employment Services may reject a proposed job vacancy announcement if it finds the employer has presented insufficient evidence that the employer is financially capable.
4. **Financial requirements for non-business employers.** A non-business employer is a single individual person who is not incorporated or operating as a partnership or limited liability company and who does not have a business license.
  - (a) Non-business employers may employ full time foreign national workers only as domestic helpers and farmers.
  - (b) Non-business employers must not currently be receiving nor within the past year have received assistance from the Nutrition Assistance Program, Security Supplemental Income from the Social Security Administration, any government subsidy in the form of public utilities from the Commonwealth Utilities Corporation, or low income housing from the Mariana Islands Housing Authority.
  - (c) A non-business employer must earn an annual wage or salary equal to or greater than 150% of the United States Department of Health and Human Services Poverty Guidelines for the State of Hawaii. These guidelines are at *Federal Register*, Vol. 72, No. 15, January 24, 2007, pp. 3147–3148 or at <http://aspe.hhs.gov/poverty/07poverty.shtml>.
  - (d) Members of a household may aggregate their income for purposes of qualifying as a non-business employer, but every person whose income is considered for purposes of meeting the financial requirements of this section must sign the foreign national

worker's approved employment agreement and thereby becomes fully responsible, jointly and severally, for all of the employer's obligations under the agreement.

5. **Tax standing.** An employer must be in good standing with respect to the payment of all taxes in order to utilize Employment Services. Employment Services shall obtain from the employer a certification of good standing from the Department of Revenue and Taxation.
  6. **Outstanding complaints and judgments.** An employer must have no outstanding judgments arising out of Department proceedings that are more than 60 days in arrears, except matters on appeal. An employer with more than one outstanding complaint pending with the Department may not be a suitable employer who should be permitted to utilize Employment Services. Employment Services may reject a proposed job vacancy announcement if it finds the employer has presented insufficient evidence that outstanding judgments or complaints should not disqualify the employer.
- E. **Job referral and advertising.** (Section 4523 of PL 15-108)
1. **Referral service.** Employment Services shall provide a referral service for citizens, residents, and foreign national workers located in the Commonwealth. This service shall match information about prospective employees with information about job vacancies so that private sector jobs may be filled expeditiously with qualified persons who are willing and able to do the work required by the employer.
  2. **Job applicant registration.** Citizens, permanent residents, and foreign national workers may register with Employment Services for assistance in finding employment in the Commonwealth. Registrants shall complete a standard form for registration and provide proof of citizenship, social security number or LIIDS number, proof of educational attainments if relevant, names of prior employers, and police clearance.
  3. **Orientation and assistance to registered persons seeking employment.** Employment Services will provide orientation materials to help applicants with job applications and interviews and with referrals to other agencies that provide related assistance.
  4. **Cataloging and evaluation of skills.** Employment Services will catalog and evaluate the skills, qualifications, and interests of applicants seeking employment in order to be able to match applicants with job vacancy announcements. For jobs with a legitimate requirement for fluency in a foreign language, Employment Services will evaluate oral foreign language skills through the use of standard conversational tests administered by translators employed or contracted by the Department. Employment Services will evaluate written foreign language skills through the use of standard written tests administered by translators employed or contracted by the Department.
  5. **Referral List.** Employment Services shall maintain a current list of all persons who have registered within the past six months and who have not yet become employed. The list will be segmented by job skills using the Occupational Information Network (O-NET) system.

6. **Employment referral.** For each proposed job vacancy announcement, Employment Services shall determine whether any person on the Referral List is qualified for the vacancy. If candidates are available from the Referral List, within five (5) working days after receipt of the proposed job vacancy announcement a suitable number of qualified candidates will be referred to the employer. Employment Services shall maintain records as to referrals and rejections. In the event of rejection by the employer of a person referred by Employment Services, and the failure to hire any citizen or permanent resident for the job, the Director of Employment Services shall examine the circumstances of the rejection to determine whether it was in compliance with Commonwealth law. A rejection not in compliance with Commonwealth law is a ground for refusal to release a job vacancy announcement for publication.
7. **Employer action on referrals.** After receiving a referral from Employment Services, an employer may take any of the following actions:
- (a) Any citizen or permanent resident may be hired rather than a person referred by Employment Services without any justification required to be submitted to Employment Services.
  - (b) In cases where more than one applicant is referred by Employment Services, any applicant referred may be hired rather than any other applicant referred without any justification required to be submitted to Employment Services.
  - (c) Employers may reject persons who are referred by Employment Services using the employer's normal hiring criteria in compliance with Commonwealth law. When a referral is rejected, the employer shall provide Employment Services with a short statement of reasons. Employment Services may deny certification if insufficient reasons are stated.
  - (d) Employers may reevaluate their employment needs and hire no one for the proposed position. In this case, the employer shall notify Employment Services that the vacancy no longer exists.
8. **Good faith effort to hire.** An employer must make a good faith effort to hire a citizen or permanent resident for a job vacancy apart from the referral service provided by Employment Services in the event that referral service is unsuccessful in locating a qualified applicant. A good faith effort may include :
- (a) Posting of the job vacancy announcement at the employer's place of business and with the Workforce Investment Agency, the Office of Vocational Rehabilitation, the Adult Development Institute at the Public School System, the Northern Marianas College, and other suitable locations;
  - (b) Utilization of such online services as may be available within the Commonwealth;

- (c) Publication in church bulletins and other newsletters, magazines, or similar publications that have a substantial audience with citizens and permanent residents and may appear less frequently than the newspapers of general circulation normally used to advertise jobs under Part II, Section 2(D)(10).
- (d) Outreach for candidates from the mainland United States if local citizens and permanent residents are not available.
- (e) If required under Part VI, Section 3(A)(12), an employer must have filed with Employment Services a manpower plan acceptable to the Director of Employment Services targeted at the particular job.

A job vacancy announcement may be released for publication only upon a showing by the employer of a good faith effort to hire a citizen or permanent resident worker for the job.

9. Release for publication. If no person is hired for the job through the referral process, and a good faith effort to hire a citizen or permanent resident has been made, Employment Services shall release the job vacancy announcement for publication. Employment Services may require amendment of the proposed job vacancy announcement submitted by the employer to more usefully or accurately state the description of the job, wages, benefits, and net cash equivalent of in-kind benefits.
10. Publication requirements. The job vacancy announcement, as released under Part II, Section 2(E)(9), shall be published in full text in media with the required number of publication points.
  - (a) Publication points. Publication of job vacancy announcements may be accomplished in one or more media.
    - (i) On the Department of Labor website, [www.marianaslabor.com](http://www.marianaslabor.com) for as long as the job is vacant – required for every vacancy.
    - (ii) One day in an English-language newspaper of general daily circulation on business days in the Commonwealth – five points.
    - (iii) One day in an English-language weekly newspaper, church bulletin, club or organization newsletter or bulletin, or similar publication – two points.
    - (iv) One spot on English-language radio during the hours of 7 am to 9 pm in the Commonwealth – six points.
    - (v) One spot on English-language television broadcasts during the hours of 7 am to 9 pm in the Commonwealth – eight points.
    - (vi) Online for at least seven consecutive days on a national U.S.-based website that specializes in job placement – ten points.

(vii) Standard U.S.-based placement media for particular industries or professions – ten points (applicable only to jobs requiring an academic degree within the industry or profession).

(b) Point requirements. The minimum requirements for publication of job vacancy announcements are :

(i) A-List jobs: 25 points

(ii) B-List jobs: posting on the Department's website only

(iii) C-List jobs: posting on the Department's website only

(iv) D-List jobs: 25 points in two media

(v) Jobs that require a B.A. degree or advanced degree: 25 points in two media, one of which should ordinarily be 10(a)(vii) above

(vi) Unskilled jobs (not on the A-D lists): At least two days in each of two weeks in an English-language newspaper and at least two days in the same two weeks in a Chinese-language newspaper.

11. No waivers. There are no waivers available with respect to the publication requirement. However, the publication requirement, like all other sections of Part II of these regulations, does not apply to certain employers who fall within one of the four exemptions in Section 4526 of PL 15-108. (See Part II, Section 2(G).)

12. Publication filing. The employer must file with Employment Services, no later than thirty (30) days from last publication, the following:

(a) If publication beyond the Department's website is required, a statement or invoice from the provider of publication services showing the dates on which the job vacancy announcement was published;

(b) A declaration from the employer on a standard form with respect to the citizens and permanent residents who applied for the job, the action taken on each application, and the reasons for rejecting each such applicant.

13. Confirmation of compliance. If no qualified citizen or permanent resident applicant is produced through referral, good faith efforts to hire, or publication, Employment Services shall issue to the employer a confirmation of compliance document in the standard form prescribed by the Department.

14. Career guidance. Employment Services will be proactive in coordinating with representatives of the Workforce Investment Agency, the Public School System, the

Northern Marianas College, the CNMI Office of Personnel Management, representatives of private educational institutions in the Commonwealth, the Department of Commerce, and the Special Workforce Action Taskforce (SWAT) to discuss and cooperatively implement ways to improve career guidance for citizens and permanent residents.

15. Education and training resources. Employment Services will maintain a current inventory of useful education and training resources in the Commonwealth, and will provide persons who register with information about these resources available to help improve job skills and competency. Employment Services does not engage in education or training of workers. That is the responsibility of other agencies. In addition, it is not the responsibility of Employment Services to assist employers to develop and implement resident training programs at the workplace.
  16. Study of alternative systems for implementing the preference for citizens and permanent residents. Alternative systems, such as the Singapore Levy System recommended by the Jobs Study Committee, will be studied by Employment Services along with possible methods for improvement in performance under the Commonwealth Employment Act of 2007, to be included in the Secretary's annual report to the Legislature.
  17. Implementation of secondary job preference. Foreign national workers may register with Employment Services at any time during or at the expiration of a contract. If, in the implementation of the secondary job preference for foreign national workers who are currently located in the Commonwealth, an appropriate job opportunity is identified either by Employment Services or by the foreign national worker, Employment Services shall transmit promptly to a hearing officer an inquiry about the proposed employment. If the hearing officer finds that the employee has no disqualification and the employer has no outstanding unpaid judgments more than 60 days overdue in respect of Department of Labor proceedings or other disqualifications, the hearing officer may authorize the foreign national worker to be employed on a temporary basis and may authorize the employer to file all necessary materials to meet the requirements of Section 4922. The hearing officer shall act within five business days on each inquiry from Employment Services in this regard. The Administrative Hearing Office shall hold hearings on the third Wednesday of each month with respect to all pending temporary authorizations. If no written objection is filed at least five days prior to the hearing date by the Director of Labor, the Director of Employment Services, the foreign national worker, or the current temporary employer of the foreign national worker, the hearing officer may grant a transfer so that a foreign national worker may become employed by the temporary employer under a new approved employment contract without first exiting the Commonwealth.
- F. Compliance with Resident Workers Fair Compensation Act, 4 CMC §9501 et seq. (Section 4524 of PL 15-108) Each benefit given by an employer to foreign national workers must also be given to the employer's citizen and permanent resident employees either by in-kind equivalent or by net cash equivalent.
1. Wage qualification. A citizen or permanent resident employee shall be provided equivalent benefits if the employee holds a job with a wage rate at or below the federal



minimum wage prevailing in the United States. This is not the federal minimum wage applicable to the Commonwealth, but the federal minimum wage applicable to a state.

2. Payment options. An employer may provide a benefit to a foreign national worker in-kind or in cash at the option of the employer. An employer must provide a benefit to a citizen or permanent resident employee in-kind or in cash equivalent at the option of the employee.
3. Transition provision. An employer may elect to discontinue benefits offered in the past and, if benefits are not offered to foreign national workers, no equivalent is owed to citizen and permanent resident employees. An employer intending to discontinue benefits at the next contract renewal of a contract that is in full force and effect on January 1, 2008 may notify the Department on or before March 1, 2008, and the requirements for compliance with the Resident Workers Fair Compensation Act will be suspended until that contract renewal is completed, and no equivalent compensation for citizen and permanent resident employees will be due in the interim.
4. Housing benefits.
  - (a) If an employer provides housing for any foreign national worker holding a job with a wage rate at the minimum wage applicable in the Commonwealth, the cash equivalent for a citizen or permanent resident employee holding a job with the same wage rate shall be \$100.00 per month and the net cash equivalent shall be \$100.00 per month less any regular, documented deduction from the wages of the foreign national workers receiving the housing benefit.
  - (b) If an employer provides housing for any foreign national worker holding a job with a wage rate at more than the minimum wage applicable in the Commonwealth, the cash equivalent for a citizen or permanent resident employee holding a job at the same wage rate shall be the average fair market monthly rental value, and the net cash equivalent shall be the average fair market monthly rental value less the average regular documented deduction from the wages of the foreign national workers receiving the housing benefit.
5. Food benefits. If an employer provides meals for any foreign national worker, the cash equivalent for a citizen or permanent resident employee holding a job with the same wage rate shall be \$2.00 per meal and the net cash equivalent shall be \$2.00 per meal less the average regular documented deduction from the wages of the foreign national workers receiving the food benefit.
6. Local transportation benefits. If an employer provides local transportation for any foreign worker, the cash equivalent for a citizen or permanent resident employee holding a job with the same wage rate shall be \$1.00 per day and the net cash equivalent shall be \$1.00 per day less the average regular documented deduction from the wages of the foreign national workers receiving the transportation benefit.

7. **Medical benefits.** No equivalent medical benefits will be required until after the Secretary of Public Health promulgates regulations with respect to the monthly CHC pool insurance premium and proposed regulations with respect to such equivalent have been published for comment and finally adopted.
8. **Other benefits.** If an employer provides other benefits for any foreign worker, such as utilities (gas, electric, water) for personal use, the cash equivalent for a citizen or permanent resident employee holding a job with the same wage rate shall be the fair market value of the benefit, and the net cash equivalent shall be the fair market value less the average regular documented deduction from the wages of the foreign national workers receiving the benefit.

G. **Work force participation by citizens and permanent residents.** (Section 4525 of PL 15-108)

1. **Participation requirement.** In the full-time work force of any employer, the number of citizens and permanent residents employed shall be at least twenty (20) percent of all employees and this requirement shall be at least thirty (30) percent by the year 2013. The phase-in to thirty (30) percent shall occur as follows: for the calendar years 2008 and 2009 the requirement will remain at twenty (20) percent; for the calendar years 2010, 2011, and 2012 the requirement will be twenty-five (25) percent if the state of the Commonwealth economy has improved sufficiently; and for the year 2013 and thereafter the requirement will be thirty (30) percent.
  - (a) For purposes of this requirement, a full-time employee is one who regularly works 30 hours per week or more for 40 weeks per year or more. "Regularly" means on average, the number of weeks in which 30 or more hours were worked is more than half of the total number of weeks in which the employee worked during a particular calendar year.
  - (b) The citizen and permanent resident participation requirement applies during a calendar year to the average number of full-time employees during the year or portion of a year. An employer may compare the average number of full-time employees who are citizens and permanent residents during a calendar year to the average number full-time employees in determining compliance with the percentage requirement. Alternatively, an employer may compare the actual number of full-time employees who are citizens and permanent residents during a calendar year to the actual number of full-time employees. The requirement applies at the time of hire of a foreign national worker.
2. **Employment on more than one island.** If an employer operates on more than one island, the citizen and permanent resident participation requirement applies to all islands. Employees on any island are counted toward the minimum percentage on all islands.

3. **Employment of consultants.** For purposes of the participation requirement, the term “citizens and permanent residents employed” shall not include consultants, advisers, or agents who are independent contractors or who are not full-time employees.
4. **No waivers.** There are no waivers available with respect to the participation requirement. However, the participation requirement, like all other sections of Part II of these regulations, does not apply to certain employers who fall within one of the four exemptions in Section 4526 of PL 15-108 (see subsection H below).

H. **Exemptions.** (Section 4526 of PL 15-108)

1. **Employers with fewer than five employees.** The provisions of Section 4525 of PL 15-108 do not apply to employers with fewer than five employees. For purposes of this section, all full-time employees are counted.
  - (a) An employer against whom two or more judgments are entered in Department proceedings within any two year period automatically loses this exemption and all provisions of PL 15-108 automatically become applicable. No administrative proceeding is required to remove the exemption. A “judgment” for purposes of this section is a final action, which includes a decision of a hearing officer that has not been appealed within the time allowed, or a decision of the Secretary on a matter that has been appealed within the time allowed, provided however that a stay of the removal of the exemption may be provided by a court of competent jurisdiction. The exemption automatically becomes unavailable on the date on which the second judgment is entered. The term “two judgments” includes judgments in two separate actions or cases bearing two separate case numbers, and also includes judgments with respect to two complainants in the same action or a case bearing only one case number.
  - (b) An employer with fewer than five employees who has been in operation in the Commonwealth for more than three years and is not wholly owned by a citizen or permanent resident shall have at least one citizen or permanent resident employee after June 30, 2008.
2. **Particular construction project.** An exemption for a particular construction project is available by written order signed by the Secretary. This authority has not been delegated.
  - (a) A “particular” project means a project limited to one building or one infrastructure improvement. “Limited duration” means two years or less.
  - (b) An application for an exemption for a particular construction project shall be made in writing, signed by the employer, stating the name of the project, the purpose of the project, the nature of the construction, the location of the project, the total cost of the project, the duration of the project, the number of foreign national workers to be employed on the project, the O-NET job classifications of the workers on the

project, and the arrangements made to repatriate each worker within seven (7) days of the completion of the project.

(c) Each foreign national worker employed on a construction project under this exemption shall receive from the employer, upon arrival in the Commonwealth, a notice containing a clear explanation of the limitations on the worker's eligibility to remain in the Commonwealth.

3. Incentive exemption. An incentive exemption shall be available if the citizen and permanent resident employees in the full-time work force of an employer in specified job categories exceeds substantially thirty (30) percent of the employer's total full-time work force in these positions. The incentive benchmarks are as follows:

(a) A-List jobs: forty-five (45) percent

(b) B-List jobs: thirty-five (35) percent

(c) C-List jobs: thirty-five (35) percent

(d) D-List jobs: thirty-five (35) percent

4. Light manufacturing employer holding waiver prior to Jan. 1, 2007. Certain light manufacturing employers have in the past held waivers applicable to statutory and regulatory requirements comparable to the requirements of Part II of these regulations. These past waivers have been long-standing, and business expectations and plans rest on those waivers. An exemption is available for any light manufacturing employer holding a waiver prior to Jan. 1, 2007. For purposes of this section, "manufacturing" means the transformation of raw materials into finished goods for sale, or intermediate processes involving the production or finishing of semi-manufactures. "Light manufacturing" means a light industrial use where all processing, fabricating, assembly, or disassembly of items takes place wholly within an enclosed building. Typical items for processing, fabricating, assembly, or disassembly under this use include but are not limited to apparel, food, drapes, clothing accessories, bedspreads, decorations, artificial plants, jewelry, instruments, computers, and electronic devices.

i. Investigation. (Section 4527 of PL 15-108) The Director of Labor shall conduct investigations as necessary and appropriate to enforce the provisions of PL 15-108 and the regulations promulgated thereunder to ensure lawful working conditions, employer-supplied benefits, and health and safety for citizens, permanent residents, and foreign national workers. In conducting these investigations, the Director shall have all of the powers delegated and described with respect to inspections and investigations conducted pursuant to Part VI of these regulations.

j. Adjudication of claims. (Section 4528 of PL 15-108)

1. The adjudication of claims under Section 4528 of PL 15-108 shall proceed according to the rules and regulations in Part VI, Section 4 below.
  2. The term “just cause” for rejecting an application for employment includes all of the nationality-neutral and lawful criteria that an employer normally applies in making hiring decisions such as rejecting persons with criminal records for positions of trust, rejecting persons without an educational degree necessary for the position, rejecting persons with no favorable recommendation from prior employment, rejecting persons with an employment history indicating an inability to perform the job successfully, rejecting persons with an educational background making it unlikely that the necessary education or training to hold the position could be accomplished successfully within a reasonable time, and similar just causes.
  3. All hearings shall be open to the public.
  4. A hearing officer is authorized to award liquidated damages in an amount up to six months’ wages and actual damages for any out-of-pocket costs attributed directly to the action of the employer in refusing employment. However, any damages award, no matter what the components are, cannot exceed six months’ wages for the job for which a citizen or permanent resident applied.
  5. A hearing officer is authorized to levy a fine not to exceed \$2,000 for each violation by an employer.
- K. Statistical data. (Section 4529 of PL 15-108) The Department will aggregate the NAICS data for full-time employees and part-time employees who are citizens and permanent residents into the following categories for purposes of the Department’s annual report.
1. Professional, technical, and managerial
  2. Clerical, sales, and service
  3. Agricultural, fisheries, forestry, and groundskeeping
  4. Light manufacturing
  5. Construction and structural work
  6. Care for children, elders, or handicapped persons in the home, housework, gardening, and related private residence work
- L. Online implementation. The functions of Employment Services will be put online using a website the URL of which is [www.marianaslabor.net](http://www.marianaslabor.net). The purpose of moving various functions online – such as submission of applications, posting of job vacancy announcements, posting of resumes with the applicant’s consent, delivery of responses and determinations by the Department, delivery of statements and declarations required of employers, notices, regulations, and other materials – is to make Employment Services processes faster, more efficient, and less costly for the Department, employers, and job seekers. Employment Services will issue guidance for employers and applicants for the use of the website to file materials and to access information. Employers of more than 25 employees will be required to use available online functions on and after January 1, 2008. Employers of more than 10 employees will be required to use available online functions on

and after July 1, 2008. All employers will be required to use available online functions on and after January 1, 2009. Applicants for employment will use the online functions at their option and always will have the option of providing paper copies in person at the Department.

**SECTION 3. GOVERNMENT SECTOR EMPLOYMENT (Chapter 2, Article 3 of PL 15-108)**

[Note: The regulations on Article 3, restrictions on government employment, are promulgated by the Office of Personnel Management]

**PART III. MORATORIUM ON THE HIRING OF FOREIGN NATIONAL WORKERS**

**(Chapter 3 of PL 15-108)**

- A. Moratorium phase-out. (Section 4601 of PL 15-108) The moratorium is phased out as follows:
1. As of January 1, 2008, the moratorium does not apply to the visitor industry. The visitor industry includes hotels, airlines, aircraft services, tour packagers, tour guides, tourist transportation, and tourist sports, charters, and recreation services.
  2. As of January 1, 2009, the moratorium does not apply to the services industry. The services industry includes accountants, lawyers, banks and financial services, medical and health care services, maintenance and repair and rental services, restaurants and catering services, retail and wholesale sales and services, bakeries with retail outlets, freight and shipping services, appraisal and surveying services, and education services.
  3. As of January 1, 2010, the moratorium does not apply to agricultural, fishing and fisheries, forestry, and groundskeeping positions.
  4. As of January 1, 2011, the moratorium expires with respect to all remaining positions.
  5. Applications to bring foreign national workers to the Commonwealth, to renew foreign national workers, or for approved transfers by foreign national workers may be submitted in advance of the date on which the moratorium no longer applies to the employer to take effect after the date on which the moratorium no longer applies to the employer.
- B. Exemptions. (Section 4602 of PL 15-108) While the moratorium is being phased out, there are six exemptions to the moratorium, and these are defined areas of economic growth and development and areas set aside for the preservation of the tax base of the Commonwealth. Exemptions are claimed on a standard form. A claim of exemption shall be either granted or denied by the Director of Labor. A denial may be appealed to the Administrative Hearing Office on the standard form provided for that purpose by the Administrative Hearing Office.
1. Renewals. The renewal of an approved employment contract with a foreign national worker is governed by Section 4935 of PL 15-108. See regulations with respect to that section. The contract of a foreign national worker who is present in the Commonwealth may be renewed, and the contract of a foreign national worker who has departed the Commonwealth pursuant to Section 4953 of PL 15-108 and remained outside the Commonwealth for six months may also be treated as a renewal for purposes of the moratorium only. If a renewal is available under Section 4935 of PL 15-108 and the procedures required by that section are followed, the renewal is not affected by the moratorium. Neither Section 4953 of PL 15-108 nor any other provision of PL 15-108 provides any right to a renewal, either for the employer or the employee. The Department may, under the conditions and criteria provided in these regulations, deny any renewal application.

2. Replacements. A replacement is a foreign national worker not currently present in the Commonwealth.

(a) Preference for workers currently located in the Commonwealth. An employer seeking an exemption from the moratorium for a replacement worker shall first contact Employment Services so that eligible foreign national workers already in the Commonwealth can be placed. A foreign national worker who is working under a Temporary Work Authorization issued by a hearing officer (see Part VI, Section 4(A)(18)) or a foreign national worker who transfers to an employer through an administrative order issued by a hearing officer (see Part VI, Section 4(G)(4)) is not a replacement, and employment of TWA workers and workers holding transfers is not limited by the moratorium.

(b) Requirements.

(i) A replacement worker may be hired only when a foreign national worker has actually departed the Commonwealth or the employer has reported to the Department that the employee is missing and cannot be located. See Part VI, Section 3(H)(2)(b). A replacement worker may be hired only for a position for the same employer and within the same O-NET job classification as the departed worker.

(ii) A claim of exemption for replacement may be denied if the foreign national worker being replaced departed the Commonwealth after filing a complaint and being awarded relief or if the Director of Labor finds any violation of Commonwealth law in connection with the employment of the foreign national worker being replaced.

(iii) The employment of a replacement must comply with Part II of these regulations.

(iv) The entry permit is an important control that assists in maintaining the proper status of foreign nationals within the Commonwealth. Failure to return an entry permit or file the required notice for a departing worker is grounds for denial of a replacement. See Part VI, Section 2(E)(6).

(v) Periodic exit: Foreign national workers who exit the Commonwealth pursuant to Part VI, Section 5(C) and elect, after six months, not to return to the Commonwealth in an employment status may be replaced without regard to the moratorium.

(vi) Religious leaders: Persons who qualify as religious leaders and enter the Commonwealth pursuant to Part VI, Section 2(G) are not subject to the moratorium.



3. Incentive hiring. This exemption is intended to allow the growth, through the use of foreign workers, of the businesses of employers who have an exemplary record of employing citizens and permanent residents. An incentive exemption shall be available if the citizen and permanent resident employees in the full-time work force of an employer in specified job categories exceeds substantially twenty (20) percent of the employer's total full-time work force in these positions. The incentive benchmarks are as follows:

(a) A-List jobs: forty-five (45) percent

(b) B-List jobs: thirty-five (35) percent

(c) C-List jobs: thirty-five (35) percent

(d) D-List jobs: thirty-five (35) percent

4. Visitor industry supporting services. This exemption is intended to allow the growth, through the use of foreign workers, of the businesses that support the visitor industry and that have a good record of employing citizens and permanent residents. In order to qualify for an exemption, an employer must demonstrate:

(a) Compliance with the requirement that twenty (20) percent of the full-time work force be citizens and permanent residents.

(b) Alternatively, that compliance will be met within one year as to the requirement that twenty (20) percent of the full-time work force be citizens and permanent residents. This provision permits new businesses and expanding businesses some leeway to accomplish the necessary hiring. Compliance is determined on an annual basis from one year after the date of the grant of the exemption.

"Visitor industry supporting services" means businesses that supply services to tourists, residents, and others, but whose customers are, in significant part, persons visiting the Commonwealth as tourists. This exemption recognizes that a web of commercial services supports the visitor industry and is necessary for it to prosper.

5. Major new development. Applicants for the grant of an exemption for a major new development must submit documentation and supporting information to demonstrate that the necessary findings can be made by the Secretary, that:

(a) The major new development is in the best interest of the Commonwealth. This may be demonstrated by participation in or support of income-generating activities that will significantly expand the tax base of the Commonwealth's economy, attract additional visitors, extend the stay of existing visitors, or other similar factors.

(b) The prospective employer has invested at least \$1 million in the Third Senatorial District or \$250,000 in the First or Second Senatorial Districts in a building, facility, or

infrastructure where the exempted employment will occur. Except in unusual circumstances, this must be demonstrated by submission of an audited financial statement.

Projects that receive an exemption for a construction project under Part II, Section 2(G)(2) from the requirement for participation of citizens and permanent residents in the workforce may also receive an exemption under this subsection. The exemptions must be applied for separately.

6. Legislated hiring. Certain light manufacturing operations have had a legislated exemption in order to promote economic growth, and that exemption has been relied upon with respect to these businesses. Those legislated hiring provisions are continued.

C. Reserved. (Section 4603 of PL 15-108)  
[RESERVED]

D. Employment requirements. (Section 4604 of PL 15-108) If an exemption to the moratorium is available, and a foreign national worker is hired, all of the requirements of Part VI of these regulations with respect to the employment of foreign national workers must be met. No provisions of Part VI of these regulations are waived by qualification for an exemption from the moratorium.

E. Reserved. (Section 4605 of PL 15-108)  
[RESERVED]

F. Enforcement. (Section 4606 of PL 15-108)  
[RESERVED]

G. Penalties. (Section 4607 of PL 15-108)  
[RESERVED]

#### **PART IV. RESERVED**

(Chapter 4 of PL 15-108)

#### **PART V. CERTIFICATION PRE-CLEARANCE**

(Chapter 5 of PL 15-108)

- A. Required clearances. (Section 4801 of PL 15-108)

Certain Commonwealth statutes, rules, regulations, policies and practices require certifications of various kinds. If the documentation comes from outside the Commonwealth, the Department accepts only documentation from approved persons, agencies, and entities covered by Part V, Section B below. Examples are health certifications (Part VI, Section 2(C)), police clearances, marriage and birth records, (Part VI, Section 2(B)(4)).

1. Approved list. (Section 4802 of PL 15-108). The list of approved persons, agencies, and entities published by the United States Department of State , the United States Citizenship and Immigration Service . and the United States Department of Justice may be obtained from the Secretary's office.
  2. The Secretary has made no determination with respect to any other persons, agencies, or entities.
- B. Limited applicability of Administrative Procedure Act. (Section 4803 of PL 15-108)  
[RESERVED]

## **PART VI. EMPLOYMENT OF FOREIGN NATIONALS**

**(Chapter 6 of PL 15-108)**

### **SECTION 1: GENERAL**

**Chapter 6, Article 1 of PL 15-108**

[ Note: Chapter 6, Article 1 of PL 15-108 covers definitions.]

### **SECTION 2: ENTRY INTO THE COMMONWEALTH**

**Chapter 6, Article 2 of PL 15-108**

- A. **Entry by foreign workers.** (Section 4921 of PL 15-108) **Airport processing.** When a foreign national worker arrives at the airport for initial entry to the Commonwealth, he or she shall provide to the Commonwealth immigration authority a copy of the approved employment contract for the worker's services and a copy of the sworn affidavit required under Part VI, Section 2(B)(4) of these regulations. If the affidavit was executed outside the Commonwealth, the foreign national worker shall attest under penalty of perjury that all information contained in the affidavit is true. The arriving foreign national worker shall sign a standard form in the worker's native language with an English translation attached attesting to notice with respect to the job described in the employment contract, attesting to notice with respect to attendance at an orientation session, any recruiting agreement, and the telephone numbers and offices where assistance will be provided in case there are any problems locating the employer or the job. If a foreign worker cannot complete these requirements at the airport for any reason, the worker may be paroled into the Commonwealth for a specified period of time in which to correct deficiencies.
- B. **Approved employment contract .** (Section 4922 of PL 15-108) An application for approval of an employment contract must be submitted to the Director of Labor on a standard the form provided by the Department. The Director shall review and take action on the application as soon as practicable after receipt, depending primarily on the time required for investigation, if any, of representations made in the application. The Director may approve or deny the application, or may hold the application for no more than ten (10) days to correct deficiencies. A checklist of deficiencies shall be on a standard form. A denial shall be on a standard form. No other documentation with respect to a deficiency or a denial is required. A denial may be appealed to the Administrative Hearing Office on a standard form. See procedures and rules in Part VI, Section 4 below. An application for approval of an employment contract shall be accompanied by the following documentation:
1. **Confirmation of compliance document from Employment Services.** See Part II, Section 2(E)(13) above.
  2. **Proposed employment contract.** A contract signed by the foreign national worker that complies with all applicable Commonwealth laws. An employer may use any form of contract that complies with Sections 4931 – 4935 of PL 15-108 as certified by a member of the CNMI bar or may use a standard form of employment contract provided by the Department.

3. Proposed health insurance contract. A contract signed by the employer (after the date on which the Secretary of Public Health publishes final regulations in that regard) that would cover the foreign national worker if entry to the Commonwealth is granted.
4. Worker affidavit. A sworn affidavit from the foreign national worker, executed under penalty of perjury in accordance with Part VI, Section 2(A)(3) of these regulations, as to the foreign national worker's age of 21 years or more; a minimum of two (2) years experience in the O-NET job classification for which the contract has been entered; receipt and understanding of the Notice to Foreign National Workers provided by the employer; marital status and identity, age, address, and relationship of immediate family members; and criminal record, if any; and the payment of recruiting fees in the country of origin and the identification of the recruiting agency or agent. The affidavit shall be accompanied by an original or certified copy of a birth certificate, color photo, and police clearance. No employer shall be held liable for false information contained in the affidavit unless the employer has knowledge that the information is false. A standard form of affidavit is provided by the Department.
5. Employer good standing. A certification by the Division of Revenue and Taxation of the employer's good standing with respect to any current business licenses for activities in which the foreign national worker will be engaged and current full payment of all taxes; and a copy of the employer's business license.
6. Recruiting agreement. A copy of any recruitment agreement made between the employer and the foreign national worker, or between the employer and a recruitment agent or agency with respect to the foreign national worker.
7. Notice to Foreign National Workers. A copy of the notice required under Part VI, Section 3(H) that has been delivered to the prospective foreign national worker. A standard form of notice is provided by the Department.
8. Employer waiver, consent, and certification. A waiver, consent, and certification shall be provided in the form provided by the Department.
  - (a) A waiver shall be provided of rights to confidentiality concerning records with respect to the employer in the possession of other government agencies. Such records may be made available to the Department, upon its request, for purposes of administering the labor laws.
  - (b) An express written consent shall be provided with respect to administrative inspections by the Department of the employer's worksites in accordance with the provisions of Part VI, Section 3(I) of these regulations.
  - (c) A certification shall be provided, under penalty of perjury, by the employer of satisfaction and compliance with all Commonwealth statutory and regulatory requirements for preference for the employment of citizens and permanent

residents set out in Part II of these regulations; all applicable statutory or regulatory requirements of the United States; and all regulatory requirements of the foreign national worker's home country that are the subject of a memorandum or other arrangement with the Commonwealth.

(d) A non-business employer (an employer who does not have a business license) must certify, in addition, that he or she is not receiving certain specified government assistance and has met the financial requirements. See Part II, Section 2(D)(4).

9. Payment of fee. Payment of the fee required under Part VI, Section 6(H) of these regulations. Cash, check, or credit card is acceptable as a form of payment. If check or credit card payments do not clear, a penalty fee of \$35 will be assessed.
10. Barred List. The Director of Labor shall maintain a Barred List containing the names of employers who have been barred from employing foreign national workers in an administrative order of a hearing officer, or in an order by the Secretary on appeal. The Barred List is available to the public. No employment contract shall be approved and no entry permit shall be issued to or for an employer on the Barred List. Employers barred for a specific period of time shall be removed from the Barred List upon the expiration of the specified time period.
11. Effect of pending cases. The Director of Labor may suspend action on any application for an approved employment contract during the pendency of any case before the Administrative Hearing Office. The Director shall give written notice to the employer of such suspension. An employer may appeal the decision to suspend processing and request an expedited hearing.

C. Health certifications. (Section 4923 of PL 15-108)

[RESERVED. The current requirements for health certifications remain in place until final regulations for this section are provided by the Secretary of Public Health.]

D. Approved security contract. (Section 4924 of PL 15-108) An employer must provide a security contract in one of three forms for approval by the Director of Labor. Each contract shall secure the performance by the employer of all statutory financial obligations with respect to each foreign national worker listed in the contract. The Director shall approve only contracts that include a waiver of all defenses except presentment of a final judgment and that meet the requirements set out below.

1. U.S. national rating. A contract with an insurance company that has a rating from A.M. Best Company, which is a national rating agency in the United States. The Secretary has approved all companies with a financial strength rating of B+ or better, a credit rating of bbb or better, and a debt rating of bbb or better. Information about the ratings of insurance companies that are currently rated is at [www.ambest.com](http://www.ambest.com).

2. Licensed company with audited financial statement. A contract with an insurance company, licensed to conduct insurance business in the Commonwealth and in good standing with respect to all Commonwealth requirements for insurance companies, as follows:
- (a) The insurance company shall submit to the Department an audited financial statement not more than three months old. The Department will examine the financial statement to determine the amount of liquid financial assets currently available to satisfy judgments arising out of Department proceedings.
  - (b) The Department will authorize the insurance company to issue bonds for a specified number of foreign national workers for one year based on the currently available liquid financial assets shown on the current audited financial statement. The Department will authorize bonding for one foreign national worker for each \$1,000 in liquid financial assets.
  - (c) Authorized bonding may be renewed, increased, or decreased upon submission of a subsequent audited financial statement not more than three months old showing adequate liquid financial assets to support the bonding to be authorized. If a financial statement shows inadequate liquid financial assets to support the authorized bonding, the Department shall cancel authorized bonding to the extent required on thirty (30) days notice and notify any affected employer to submit substitute bonding within thirty (30) days.
  - (d) Within ten (10) days of the service of a notice of claim upon the insurance company, the amount of the claim or \$1,000, whichever is less, shall be deposited by the insurance company with the Department for a period not to exceed ninety (90) days while the Department adjudicates the claim. If the claim is denied, the deposit shall be returned. If the claim is granted, the deposit shall be held until the employer pays the judgment or the bond is called to pay the judgment. If the Department fails to adjudicate the claim within 90 days, the deposit shall be returned promptly.
3. Trust Account coverage. A contract with the Department as follows.
- (a) Coverage is provided for the employer's financial obligations with respect a specific named foreign national worker including up to three months' unpaid wages, other damages, and the cost of repatriation, not to exceed a total of \$3,000. The cost of medical care is not included in this coverage; medical care is covered under Section 4932 of PL 15-108.
  - (b) Payment may be made by the employer for Trust Account coverage under any one of the following options:
    - (i) If the employer has been in business and employed foreign national workers in the Commonwealth continuously for the previous five years and has had no complaints filed with the Department that resulted in any money judgment,

payment in three monthly installments or in a lump sum amount at the employer's option, of an amount that is 125% of the current cost of repatriation of the foreign national worker covered in the account. If a foreign worker is repatriated by the employer and the Department determines there are no outstanding obligations of the employer with respect to that worker, the amount paid into the Trust Account with respect to that worker shall be repaid by the Department to the employer less four (4) percent or the Department's actual administrative costs, whichever is lower.

(ii) If the employer does not qualify under (i) above, payment of the estimated total repatriation cost for the foreign worker plus an estimated amount to cover other obligations of the employer. The estimated amount will be determined by the Department on a case-by-case basis taking account of the employer's prior record in employing foreign national workers and any other relevant factors. If a foreign worker is repatriated by the employer and the Department determines there are no outstanding obligations of the employer with respect to that worker, the amount paid into the Trust Account with respect to that worker shall be repaid by the Department to the employer less four (4) percent or the Department's actual administrative costs, whichever is lower.

(iii) At any employer's option, the amount of \$50 per year for each foreign worker employed together with a waiver of any right to be repaid by the Department.

(c) Eligibility is available only for employers who have no outstanding unpaid amounts due the Trust Account or unpaid judgments arising out of Department proceedings more than 60 days in arrears, except those on appeal.

(d) All interest earned on the Trust Account is returned to the Trust Account.

A standard form contract is provided by the Department.

4. Operation of the Trust Account. Any person authorized to pay from the Trust Account shall be bonded with a fidelity bond in an amount appropriate to the protection of the Trust Account. The Trust Account shall be audited annually by a certified public accountant and the audit shall be reviewed by the Office of the Public Auditor. The audit report shall be a part of the annual report provided pursuant to Section 4970(a)(1).
5. Payments from the Trust Account. Funds in the Trust Account may be used by the Secretary to pay a final judgment against an employer arising out of a Department proceeding which judgment the employer has failed to pay for sixty (60) days or more. The Secretary may also pay judgments which remain unpaid by reason of defaults by insurers if an employer has a contract with an insurance company, and a claim has been made and denied or is uncollectible. The Director of Labor may, in his or her discretion, assign judgments for collection to a private firm. A final judgment is one in which all appeals have been exhausted. Payments are limited to the amount of the judgment or



\$3,000 whichever is a lower amount, less any repatriation costs to be met by the Commonwealth. The Secretary shall be substituted for the payee in any available cause of action to collect on the judgment from the employer or insurer. Payments made from the Trust Account extinguish any claims by or on behalf of foreign national workers against the Deportation Fund.

6. **Defaults.** Any default on an approved security contract requires the Department to publish an appropriate notice that the defaulting person or corporate entity is no longer acceptable to the Department. An employer that is a party to any approved security contract with such defaulting person or entity must provide the Department with a substitute approved security contract within sixty (60) days of receipt of notice or forfeit the privilege of employing foreign national workers.
7. **Audited financial statement.** A financial statement is a written report which quantitatively describes the financial health of a company. This includes an income statement and a balance sheet, and may also include a cash flow statement at the discretion of the Director of Labor. Financial statements are usually compiled on a quarterly and annual basis. An audit is an unbiased examination and evaluation of the financial statements of an organization. For purposes of allotted slots based on an audited financial statement, the audit must be done externally and signed by a certified public accountant. A certified public accountant (CPA) is an accountant who has passed the Uniform Certified Public Accountant Examination in the United States and has met additional education and experience requirements for certification as a CPA. Only CPAs who are licensed in the Commonwealth and are able to provide the public attestation (including auditing) opinions on financial statements.

E. **Entry permit.** (Section 4925 of PL 15-108)

1. **Entry permit required.** Every foreign national worker admitted to the Commonwealth for purposes of employment must have a current entry permit in his or her possession at all times as provided under Part VI, Section 3(A)(2). If an entry permit lapses and is no longer current, the foreign national worker is automatically, as of the day after the expiration date of the entry permit, not eligible to remain in the Commonwealth.
2. **Initial entry permit.** When the Commonwealth immigration authority is notified by the Director of Labor that the Department has received an approved employment contract, an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), and an approved security contract for a foreign national worker, and the airport processing provided for in Part VI, Section 2(A)(1) has occurred, the Commonwealth immigration authority shall authorize for entry or deny entry to the foreign national worker named in the documentation. If the foreign national worker is admitted for entry, the Commonwealth immigration authority shall cause to be issued an entry permit. An entry permit is valid for no more than one year from the date of issue. The entry permit will be delivered to the Director of Labor, and will be presented to the foreign national worker at the orientation session as provided in Part VI, Section 3(D)(6) of these regulations.

3. Entry permit requirements explained at orientation. Each aspect of the requirements for an entry permit shall be explained to entering foreign national workers at the orientation session. See Part VI, Section 3(D)(1)(f).
  4. Renewal of entry permit. An entry permit may be renewed annually so long as the foreign national worker is otherwise qualified to remain in the Commonwealth. A renewal may be granted for no more than one year from the date of expiration of the prior entry permit. The employer shall file an application for renewal on the standard form provided by the Department together with payment of the nonrefundable, nontransferable fee provided in Part VI, Section 6(H). An application for renewal shall either be granted or denied. Denial of renewal may be appealed to the Administrative Hearing Office.
  5. Adjustment of date. An employer may request, at renewal, an adjustment in the date of an entry permit to match the date of an approved employment contract, provided however, that such an adjustment of the date may not result in a renewal period of more than one year.
  6. Return of the entry permit at departure. Just prior to a foreign national worker's departure from the Commonwealth, the employer shall collect the worker's entry permit and return it to the Enforcement Division within ten (10) days of the worker's departure. An employer who fails to collect a departing worker's entry permit shall give written notice to the Enforcement Division on a standard form provided by the Department within ten (10) days of the worker's departure. The entry permit is an important control that assists in maintaining the proper status of foreign nationals within the Commonwealth. Failure to return an entry permit or file the required notice is grounds for denial of a replacement.
- F. Entry by immediate family members of foreign national workers . (Section 4926 of PL 15-108)
1. An "immediate family member" of a foreign national worker is a spouse for whom the foreign national worker can produce an appropriate marriage certificate or record, or a child for whom the foreign national worker can produce an appropriate birth certificate or record. The provisions of Part V apply to these records.
  2. An immediate family member may enter the Commonwealth if the foreign national worker earns an annual wage or salary equal to or greater than 150% of the United States Department of Health and Human Services Poverty Guidelines for the State of Hawaii. These guidelines are at *Federal Register*, Vol. 72, No. 15, January 24, 2007, pp. 3147-3148 or at <http://aspe.hhs.gov/poverty/07poverty.shtml>.

## 2007 Hawaii Poverty Guidelines

Persons in family	Income	150%
1	\$11,750	\$17,625
2 (spouse)	\$15,750	\$23,625
3 (1 child)	\$19,750	\$29,625
4 (2 children)	\$23,750	\$35,625
5 (3 children)	\$27,750	\$41,625
6 (4 children)	\$31,750	\$47,625

2. An immediate family member may enter the Commonwealth only after 90 days have passed since the foreign national worker entered. For purposes of this requirement, the foreign national worker "entered" the Commonwealth on the date that his or her entry permit was issued.
  3. An immediate family member may enter the Commonwealth as a student at a private education institution and as a parent accompanying a student under the special visa provisions with respect to student visitors without regard to the requirements of Part VI, Section 2(F)(2) above. An immediate family member who enters under the student visa must remain eligible under that visa by remaining in private school; otherwise the immediate family member must exit the Commonwealth, wait 90 days, and then re-enter the Commonwealth under the provisions of Part VI, Section 2(F)(2).
  4. An immediate family member over the age of 21 may be employed in the Commonwealth on the same terms and subject to the same requirements as any foreign national worker. No exit from the Commonwealth is required to change from immediate family member status to foreign national worker status. Once employed pursuant to the procedures in Part VI, Section 2, an immediate family member must surrender the entry permit showing immediate relative status and be issued an entry permit showing employment status. After issuance of an entry permit based on employment status, the former immediate relative shall be treated for all purposes as a foreign national worker.
- G. Entry by foreign national workers in religious occupations. (Section 4927 of PL 15-108)
1. Foreign nationals who enter the Commonwealth to be employees (and not leaders) of a religious organization are covered by a transition provision (see Part VI, Section 6(L)(3)) that expires in October 2008. After October 2008, only ministers, priests, or other leaders of religious groups may enter the Commonwealth as foreign national workers.

2. A “*bona fide* non-profit religious undertaking” is an organization legally established or incorporated in the Commonwealth that is exempt from Commonwealth taxation or that is exempt from federal taxation under 26 U.S. C. §501(c)(3). The documentation to establish that the employer is a *bona fide* non-profit religious undertaking must be attached to the application for an approved employment contract submitted pursuant to Part VI, Section 2(B).
3. A “vocation of minister or its equivalent” means that the foreign national worker has been an active, registered or recognized member of the religious organization for the two years immediately preceding entry to the Commonwealth and seeks entry for the primary purpose of serving as a minister, priest, cleric, preacher, rector, parson, reverend, nun, monk, or equivalent position that directs the religious affairs of the *bona fide* non-profit religious undertaking.
4. A foreign national worker in a religious occupation must have an approved employment contract that complies with Part VI, Section 2(B), however the contract term may be three years. All other requirements for the approved employment contract (other than the term) apply to foreign national workers in religious occupations in the same way as they apply to all other foreign national workers.

### SECTION 3: STANDARDS FOR EMPLOYMENT

#### Chapter 6, Article 3 of PL 15-108

- A. Standard conditions of employment. (Section 4931 of PL 15-108)
  1. Single employer. A foreign national worker may be employed by only one employer pursuant to a single approved employment contract.
    - (a) Business employers. An employer of any foreign national worker other than a domestic helper or farmer must hold a business license. An employer who holds a business license may be a corporation, partnership, or other legal entity, or may be a single individual person.
    - (b) Non-business employers. A non-business employer is a single individual person who is not incorporated or operating as a partnership or limited liability company and who does not have a business license. A non-business employer may employ a foreign national worker only as a domestic helper or as a farmer.
    - (c) Part-time casual employment. Section 4922(b) of PL 15-108 permits part-time casual employment.
      - (i) Eligibility. A foreign national worker who entered the Commonwealth pursuant to an approved employment contract and who is eligible to remain in the

Commonwealth (because that contract or a renewal is still in effect) may engage in part-time casual employment.

- (ii) **Single employer.** The “single employer” is the employer under the approved employment contract under which a foreign national worker was permitted to enter and remain in the Commonwealth. That employer remains responsible for all financial obligations with respect to the foreign national worker under that employment contract. The employer under the approved employment contract has no liability for wages for part-time work under this section. The employer under the approved employment contract may not hire the foreign national worker covered by that employer’s contract for part-time casual work.
  - (iii) **Hiring for part-time.** An employer may employ a foreign national worker part-time for no more than 32 hours a month. A notice of part-time hiring on the standard form provided by the Department must be filed before any work by the foreign national worker begins. The notice, once duly filed, is sufficient to satisfy Section 4963(c) of PL 15-108. An employer may not hire a foreign national worker for part-time casual work for any type of work done by regular employees of the business. A notice of part-time hiring may be denied by the Director of Labor if it appears that the part-time employment is being used to circumvent the requirement of full-time work under an approved employment contract, a non-business employer is not financially responsible, or the part-time work is otherwise in violation of Commonwealth law. A denial may be appealed to the Administrative Hearing Office on a standard form provided by the Department.
  - (iv) **No renewal required.** A notice filed with the Department in connection with part-time work is good until the foreign national worker’s status as eligible to remain in the Commonwealth under an approved employment contract changes.
  - (v) **Failure to file.** Any person who employs a foreign national worker for part-time work without first filing a notice with the Department shall be barred from further employment of foreign national workers in any capacity and shall be assessed a fee equal to all of the fees applicable to an approved employment contract under Part VI, Section 6(H). An order of debarment and an assessment of fees may be appealed to the Administrative Hearing Office on the standard form provided by the Department.
2. **Identification.** A foreign worker must keep his or her entry permit in his or her personal possession at all times during the worker’s working hours. “Personal possession” means actual physical possession on the person or within the immediate reach of the person. Personal possession shall not be a requirement when the foreign national worker is receiving medical treatment or when physical possession would not be practicable, at which time the entry permit shall be kept within a reasonable distance of the foreign national worker. This requirement is not in conflict with the Anti-Trafficking Act of

2005 which makes confiscation of travel documents for the purpose of controlling an alien's movements a criminal offense.

3. Contract term. The usual approved employment contract provides for a one-year term. An employer and employee may agree on a two-year term. Employers with special needs or specialty jobs may contract for a shorter period of time than one year. Part-time employment, see Part VI, Section 3(A)(1)(d), is employment at will and has no set term, however, part-time employment may not continue beyond the foreign national worker's eligibility under an approved employment contract to remain in the Commonwealth.
4. Wage rates. Wages shall be stated in hourly terms unless the foreign national worker is overtime-exempt, in which case wages shall be stated in biweekly terms. The wages of domestic helpers and farmers shall be stated in hourly terms. No foreign national worker employed pursuant to these regulations shall be paid less than the minimum wage provided by law. An approved employment contract shall provide that any future increase in the applicable minimum wage prior to the termination of the contract shall apply to work performed under the contract on or after the effective date of the increase.
5. Location of work site. A foreign national worker may have one or more work sites, however a worker may be assigned on only one island. The island where a foreign national worker will be assigned to work must be stated in the approved employment contract or in a change to the approved employment contract that has been filed with the Department. Assigning a foreign national worker to work in a location not specified in the approved employment contract or in a contract change is a ground for denial of a renewal of the contracts of any foreign national workers in that O-NET job classification.
6. Hours of work. The hours of work shall be specified in the approved employment contract. Overtime work may be offered by the employer but not required. Any period of time during which the worker is required to be present at any location within the Commonwealth designated by his or her employer shall be considered working hours for purposes of determining wages and overtime pay. If a foreign national worker accepts employer-supplied housing, the employer shall not require the worker to remain in the housing during non-working hours or take or threaten to take any adverse action against the worker for refusing to remain in the housing during non-working hours. A domestic helper who lives in the same household as the employer and is on "sleeping time" or "rest time" is not on working hours.
7. Payment of wages. A foreign national worker shall be paid bi-weekly by check or direct deposit in a United States bank payable in United States currency in an amount specified in the approved employment contract. Foreign national workers shall not be paid in cash. The employer shall retain cancelled checks or deposit records of payment for three years.
8. Deductions from wages. Each expense of the employer to be deducted from the wages of a foreign national worker shall be specified in the approved employment contract and

the total deductions shall not exceed twenty (20) percent of a worker's bi-weekly wages or the maximum permitted under the Fair Labor Standards Act (FLSA), whichever is greater. The only permitted deductions are those described in this section.

(a) Deductions for medical insurance premiums. Employers may deduct from the wages of foreign national workers who earn the greater of:

(i) Five dollars (\$5.00) per hour, or

(ii) One hundred twenty-five percent (125%) of the actual minimum wage as provided by law,

an amount equal to seventy-five percent (75%) of the actual insurance premium for insurance coverage for that foreign national worker, provided however, that the deduction in any pay period shall be no more than fifteen per cent (15%) of the foreign national worker's net bi-weekly wages.

The co-pay for any insurance is the responsibility of the worker. The co-pay may be deducted from the worker's wages in full amount subject to the limitations above and paid over to the medical service provider if the worker does not make the necessary co-payment in a timely fashion.

(b) Deductions for employer-supplied housing. An employer providing housing for a foreign national worker may deduct from the wages of a foreign national worker who earns the minimum wage no more than \$100 per month for the cost of housing. The deduction for a foreign national worker who earns more than the minimum wage shall not exceed the fair market value of the housing supplied.

(c) Deductions for employer-supplied food, transportation, and other purposes. Allowable deductions for employer-supplied food, transportation to and from the worksite, utilities for the person use of a foreign national worker, and other benefits or purposes may be no more than the expenses actually incurred by the employer in providing such benefits.

(d) Deductions for loans or advances. Employers and others may make loans to an employee, and the employee may agree to have an allotment deducted from wages for repayment. The loan agreement must be in writing and signed by the worker. Loans may not be made for recruitment, processing, or any other employment-related fees.

(e) Documentation of deductions. The amount of and reason for each deduction shall be identified on the wage statement or other documentation of wage payment provided to the employee.

9. Documents. A copy of the approved employment contract shall be provided to the worker at the airport processing. (See Part VI, Section (2)(A).) The entry permit shall be

provided to the worker at the orientation session. (See Part VI, Section 3(D)(6).) No employer may withhold from any foreign national worker any passport, entry permit, approved employment contract, or other document related to the status of the foreign national worker.

10. **Subcontracting.** Any subcontract by an employer to another employer for the services of a foreign national worker shall be implemented or performed only with the prior approval of the Secretary. Application for approval of a subcontract shall be submitted on a standard form provided by the Department. Temporary census workers may be subcontracted to the Department of Commerce without prior approval.
11. **Contract changes and reduction in hours.** Any change to an existing approved employment contract shall be implemented or performed only with prior approval of the Director of Labor and notice to any affected foreign national worker. A request for contract change is submitted on a standard form provided by the Department. A contract change may not be put into effect for ten (10) days after notice is given to the affected foreign national workers. A contract change may be denied by the Director of Labor. A denial may be appealed to the Administrative Hearing Office on the standard form provided by the Department.
12. **Manpower plan.** (Section 4931(k) of PL 15-108)
  - (a) **The manpower plan.** A manpower plan has as its objective an increase in the percentage of citizens and permanent residents in the workforce of the employer. A manpower plan must be appropriate to the particular circumstances of and skills required by the business of the employer. The plan shall identify specific positions on the "A" List, the "B" List, the "C" list, or the "D" List (see Part II(2)(B) of these regulations), currently occupied by foreign national workers, for which citizens and permanent residents will be recruited and trained as necessary. The plan shall include a timetable for accomplishing the identified replacement of foreign national workers with citizens and permanent residents and shall identify the employee responsible for carrying out the plan.
  - (b) **Employers covered.** Every employer with ten (10) or more employees, unless exempt, is required to have a manpower plan. Employers with fewer than ten (10) employees who are found to have violated the workforce participation requirement of Section 4525 of PL 15-108 may be ordered by a hearing officer to adopt a manpower plan, and such employers will be subject to all provisions of law and regulations with respect to a manpower plan from and after the date of the hearing officer's order.
  - (c) **Filing with Employment Services.** Every employer required to have a manpower plan must have on file with the Director of Employment services a written, current plan. A manpower plan is current if it has been updated and filed within the past 14 months.



- (d) Failure to file. Failure to file a required manpower plan is a ground for denial of contract renewal for any foreign national worker holding a position that should have been covered by the manpower plan.
- (e) Exemption for compliance with the workforce participation requirement. An employer that has submitted to the Director of Employment Services adequate documentation with respect to compliance for the immediately preceding two years with the twenty (20) percent requirement for employment of citizens and permanent residents under Part II, Section 2(G) of these regulations is exempt from the requirement to file a manpower plan. Adequate documentation includes a list of the full names of the employees who are citizens and permanent residents and who have been employed during each calendar quarter of the immediately preceding two years.
- (f) Exemption for holder of an exemption from the workforce participation requirement. An employer that is exempt from compliance with the twenty (20) percent requirement for the employment of citizens and permanent residents under Part II, Section 2(G) of these regulations is exempt from the requirement to file a manpower plan. In order to be eligible for the exemption, each employer must file with the Director of Employment Services a Claim of Exemption on the standard form provided by the Department. It is the responsibility of the employer to ensure that a Claim of Exemption continues to be an accurate representation to the Director of Employment Services. If circumstances change and no exemption is available, the employer shall file a Withdrawal of Claim of Exemption on the standard form provided by the Department. If no form has been filed, or an inaccurate form is on file, no exemption is available and the employer is subject to all penalties in the same manner as if the requirement for a manpower plan applied fully to the employer.
- (g) Lifting of exemption if two adverse judgments entered. Employers of fewer than ten employees are exempted from the requirement to file a manpower plan. However, if an exempted employer has two or more judgments entered against them within any two-year period, the exemption is automatically lifted and a plan must be filed with Employment Services within 30 days of the entry of the second judgment. All full-time and part-time employees are counted. A "judgment" for purposes of this subsection is a final order by a hearing officer that has not been timely appealed, or a final order of the Secretary that has not been timely appealed. An appeal to a court of competent jurisdiction from a final order of the Secretary does not operate to continue an employer's previous exemption. "Two or more judgments" for purposes of this section means judgments entered in two or more separate cases or judgments entered for two or more individual complainants in the same case. "Within a two-year period" for purposes of this section is any 24-month period. This period does not relate to a calendar year.
- (h) Failure to achieve measurable progress. Failure to achieve measurable progress under a manpower plan in filling positions with citizens and permanent residents is

a ground for denial of contract renewal for foreign national workers holding positions covered by the manpower plan.

13. Safe workplace conditions. Every employer shall provide safe workplace conditions for all employees, including domestic helpers and farmers.

(a) Every employer shall furnish and ensure the use of such safety devices and safeguards (such as machine guarding, electrical protection, scaffolding, safe walking and working surfaces, means of egress in case of emergency or fire, ventilation, noise exposure protection, personal protective equipment for eyes, face, head, and feet, fire protection, and sanitation) and shall adopt and use such means and practices as are reasonably adequate to render safe the employment and place of employment of all employees.

(b) An employer shall provide an adequate supply of drinking water and sufficient and sanitary toilet facilities at the worksite or reasonable access thereto.

(c) The U.S. Department of Labor's Occupational Safety and Health regulations as published and amended in the Code of Federal Regulations are recognized as the minimum standards required of every employer in the Commonwealth.

14. Safe housing conditions. Every employer who provides housing for employees, except employers of domestic workers whose housing is within the employer's own personal household, shall provide safe housing conditions.

(a) The site of the housing shall be safe.

(i) Grounds around worker housing shall be adequately drained to prevent flooding, collection of waste water, and mosquito breeding.

(ii) Grounds around worker housing shall be maintained in a clean and sanitary condition, free of rubbish, debris, waste paper, garbage, and other refuse. Occupants of employer-supplied housing are responsible for assisting in this maintenance to the extent that they generate such refuse.

(iii) Whenever worker housing is closed on a temporary or permanent basis, the employer shall ensure that all garbage, waste, and other refuse is collected and disposed of, and that the grounds and housing are left in a clean and sanitary condition.

(b) The building structure for housing shall be safe.

(i) Worker housing shall be constructed in a manner which will provide protection against the elements, including, wind, rain, flood, and fire.

- (ii) Each room for sleeping purposes shall contain at least 50 square feet of floor space for each occupant. At least a seven-foot ceiling shall be provided.
  - (iii) Separate bedding, which may include bunks, shall be provided for each occupant. Spacing of single bedding shall not be closer than 36 inches both side-to-side and end-to-end. Elevation of single bedding shall be at least 12 inches from the floor.
  - (iv) Where workers cook, live, and sleep in a single room, a minimum of 100square feet per person shall be provided.
  - (v) Natural ventilation consisting of operable windows shall be provided, the area of which shall be not less than one-fourth the floor area of the living quarters. In lieu of natural ventilation, mechanical ventilation may be provided which shall supply at least 15 cubic feet of fresh air per person per minute.
  - (vi) All exterior openings shall be screened with at least 16-mesh per inch material.
  - (vii) An adequate and convenient water supply shall be provided for drinking, cooking, bathing, and laundry purposes.
- (c) Toilet facilities shall be safe.
- (i) The sit down toilets provided shall be no fewer than one per fifteen (15) persons. Where there are ten (10) or more persons of different sexes using the toilets, separate toilet facilities, appropriately identified, shall be provided for each sex.
  - (ii) Toilet facilities shall be located within 200 feet of the sleeping quarters. No toilet facility shall be located in a room used for other than toilet purposes.
  - (iii) Natural ventilation consisting of operable windows or other openings shall be provided, the area of which shall not be less than one-tenth of the floor area of the toilet facility. In lieu of natural ventilation, mechanical ventilation capable of exhausting at least two cubic feet per minute per foot of floor space may be used.
  - (iv) All outside openings shall be screened with at least 16-mesh per inch material.
  - (v) Toilet facilities shall be of sanitary and easily cleanable construction and shall be maintained in sanitary condition by the Individuals using the facilities or by the employer.
  - (vi) Toilet facilities shall have adequate lighting.
  - (vii) An adequate supply of toilet paper shall be assured by the employer.

- (viii) Access to toilet facilities shall not intrude upon sleeping quarters.
- (d) Laundry, hand-washing, and bathing facilities shall be safe.
  - (i) Sanitary laundry, hand-washing, and bathing facilities shall be provided in the following ratio: one laundry tray or tub for every fifteen (15) or fewer persons or an equivalent laundry alternative; one hand-wash basin per family or per six or fewer persons; and one showerhead for every ten (10) or fewer persons.
  - (ii) Facilities shall be of sanitary and easily cleanable construction and shall be maintained in sanitary condition by the individuals using the facilities or by the employer. Floors shall be of a smooth, but not slippery, surface.
- (e) Sewage and refuse disposal shall be safe.
  - (i) Where public sewers are available, all sewer lines and floor and sink drains from toilet, laundry, hand-washing, bathing, or kitchen facilities shall be connected thereto. Septic tanks shall be installed or constructed where public sewers are not available.
  - (ii) Where public sewers are not available, facility wastewater shall be treated or disposed of using an on-site wastewater treatment system meeting all applicable Commonwealth regulations.
  - (iii) Garbage shall be stored in disposable or cleanable containers that are secured from flies, rodents, other vermin, and water. Containers shall be kept clean. Containers shall be emptied not less than twice a week. Refuse shall be disposed of only in Commonwealth-approved solid waste landfills. Burning trash is prohibited.
- (f) Food storage, kitchen, and eating facilities shall be safe.
  - (i) Cooking facilities are to be provided wherever workers are provided common living quarters.
  - (ii) Cooking facilities shall be in an enclosed and screened shelter.
  - (iii) Food shall be stored safe from contamination by water, dirt, poisonous substances, rats, flies, or other vermin.
  - (iv) Refrigeration facilities shall be provided for storage of perishable food.
  - (v) Facilities shall be adequate for ensuring sanitary maintenance of eating and cooking utensils.

(g) Health measures.

- (i) Adequate first aid supplies shall be available at the living site for the emergency treatment of injured persons.
- (ii) The employer shall report to the Division of Health Services the name and address of any foreign national worker known to have or suspected of having a communicable disease.
- (iii) The employer shall report to the Division of Health Services and the Health and Safety Section any case of food poisoning or unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom.
- (iv) The employer shall provide adequate access to medical care if the employee's condition appears to be serious.

B. Medical insurance. (Section 4932 of PL 15-108)

[RESERVED. These regulations are published by the Secretary of Public Health. Until such regulations are published, employers remain responsible for medical care for foreign national workers in the same manner as provided under the Nonresident Workers Act. See Section 4972(g) of PL 15-108.]

C. Benefits. (Section 4933 of PL 15-108) Except as otherwise provided by a memorandum or other agreement between the Commonwealth and the foreign country that issued a passport to the foreign national worker, employers may but are not required to provide housing, food, transportation, and other benefits beyond medical care ; and foreign national workers may not be required by an employer to utilize housing, food, transportation, or other benefits beyond the medical care.

D. Orientation. (Section 4934 of PL 15-108)

1. Curriculum. The curriculum for the orientation session includes:

- (a) The rights and obligations of employers, agents of employers, and foreign national workers;
- (b) The role of the Department and Secretary of Labor, the Attorney General, and the Federal Ombudsman in the labor process in the Commonwealth;
- (c) The Federal and CNMI Minimum Wage and Hour Acts, if applicable;

- (d) The deductions that are permitted from an employee's paycheck, and under what circumstances they may be made, in particular deductions for housing, food, and medical expenses;
- (e) The consequences, both in the criminal and immigration context, of illegal employment in the CNMI;
- (f) The legal effect of passports, entry permits, and repatriation at the end of a contract period;
- (g) The administrative review process for labor complaints, including what is and is not a frivolous labor complaint, and the possible consequences of filing a frivolous complaint; and
- (h) The deportation process in the CNMI.

2. Presentation. The orientation program shall be presented every Tuesday morning at 9:00 a.m. at the Enforcement Division, unless canceled by the Director of Labor.
3. Format. The presentation format is video tape augmented by oral presentations as necessary.
4. Translations. The orientation shall be made available in Mandarin, Tagalog, and Korean, in addition to English. Foreign national workers from India and Bangladesh are presumed to have sufficient English to participate meaningfully in an orientation session in English. For other languages, the employer shall provide a translator when the foreign national worker attends the orientation session.
5. Attendance by employer representatives. Any employer or representative of an employer of foreign national workers may attend an orientation session at any time.
6. Entry permit. The entry permit will be delivered personally to the foreign national worker at the orientation session, and the worker will sign a receipt for the entry permit that will become a part of the Department's records.

E. Contract renewal, non-renewal, and termination (Section 4935 of PL 15-108)

1. Renewal. An approved employment contract may be renewed for work within the same O-NET job classification. No right to renewal for either the employer or foreign national worker is conferred by Section 4935 or any other section of PL 15-108 or these regulations. Renewal is granted or denied by the Department taking account of the interests of the Commonwealth with respect to employment of citizens and permanent residents and enforcement of the requirements of PL 15-108 and these regulations.
  1. Form. A request for renewal is made on the standard form provided by the Department.

2. **Fee.** A nonrefundable, nontransferable fee for renewal, as provided in Part VI, Section 6(H), must be paid at the time the request is submitted.
  3. **Time.** A request for renewal shall be submitted no earlier than forty-five (45) days prior to the termination date of the approved employment contract and no later than thirty (30) days prior to that termination date.
  4. **Documents.** A request for renewal shall be accompanied by copies of an approved employment contract, an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), and an approved security contract covering the foreign national worker to be renewed. An employer may submit a new employment contract with new terms as necessary.
  5. **Certification as to job classification and wage rate.** A request for renewal shall be accompanied by a certification by the employer and the employee, on the standard form provided by the Department, that the foreign national worker has been assigned duties and responsibilities, and has performed services, only within the O-NET job classification in the approved employment contract and that the wages paid have been in accordance with the documentation filed with Employment Services with respect to the job.
  6. **Outstanding obligations.** A renewal may not be granted if the employer has any outstanding payment more than 60 days in arrears with respect to any approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), any approved security contract, or any judgment in a Department proceeding , except those on appeal.
  7. **Renewal for farmers.** An employer of a farmer must appear, with the foreign national worker, at the Enforcement Division, for an interview prior to renewal with respect to the terms and conditions under which the farmer is employed.
  8. **Barred List.** No renewal of an employment contract shall be approved for an employer on the Barred List. (See Part VI, Section 2(B)(10).)
  9. **Pending cases.** The Director of Labor may suspend action on any application for renewal of an approved employment contract during the pendency of any case before the Administrative Hearing Office. The Director shall give written notice to the employer of such suspension. An employer may appeal the decision to suspend processing and request an expedited hearing.
  10. **Effect of denials.** An employer may appeal the denial of a request for renewal. While an appeal is pending, an employee may continue to work for the employer.
2. **Non-renewal.** An employer may elect not to renew an approved employment contract of a foreign national worker. No reason need be given. An employer shall provide to

the employee and file with the Department a notice of the employer's intent not to renew on a standard form provided by the Department at least thirty (30) days before the termination date in the approved employment contract. An employer shall remain liable for the biweekly wages of the employee until thirty (30) days after notice is provided to the employee and filed with the Department.

3. **Termination.** An employer may terminate an approved employment contract for cause during the term of the contract. The employer shall give notice to the foreign national worker and to the Department on a standard form provided by the Department at least ten (10) days prior to the termination date unless the contract requires more notice. A foreign national worker may file a complaint contesting a termination for cause on a standard form provided by the Department. The Director of Labor may investigate a termination to determine if the termination was in compliance with Commonwealth law and these regulations.

F. **Transfer by administrative order.** (Section 4936 of PL 15-108)

1. A transfer may be made only by administrative order issued by a hearing officer. See Part VI, Section 4(G)(4).
2. A foreign national worker may not transfer to an employer on the Barred List. See Part VI, Section 2(B)(10).
3. A transfer shall be completed within thirty (30) days of the issuance of the order in compliance with Part VI, Sections 2(B), 2(D), and 2(E) of these regulations. If an application for an approved employment contract is filed within thirty (30) days, and has correctable deficiencies, an automatic extension of twenty (20) days is afforded to file a proper application. The employer and the foreign national worker are responsible for staying in contact with the Department and ensuring that no deficiencies remain at the end of the automatic extension. No further extensions will be granted.
4. If a transfer cannot be completed as required by this section, the foreign national worker shall be repatriated promptly.
5. If a transfer is completed as required by this section, the new employer shall assume all legal responsibilities for the transferred worker, including but not limited to the costs of repatriation, as of the date of approval of the employment contract. The new employer is not responsible for any of the obligations of the former employer up to the date of approval of the employment contract.

- G. **Reductions in force.** (Section 4937 of PL 15-108) Circumstances of economic necessity may require an employer to reduce the workforce or close the business. Employers have the right to make such decisions. However, because Commonwealth law allows employers to employ foreign national workers only by entering into an employment contract approved by the Department, and because foreign national workers are permitted to remain in the Commonwealth only by virtue of being a party to such an employment contract, the right of employers of foreign national workers to reduce their workforce is not unlimited.



1. Notices. Before commencement of a reduction in force, an employer shall give at least 30 days written notice to the Department and to each affected employee on the standard form provided by the Department.
2. Date. Effective date of termination means a date 30 days after both the employees to be laid off and the Director of Labor have received notice of termination due to reduction in force, downsizing, or closure of the business. The employment contracts and work permits of laid-off foreign national workers shall terminate automatically on the effective date of termination.
3. Permission to enter and meet. The employer shall allow representatives from the Department to meet with the employees to be laid off on employer premises, during work hours. The purpose of the meeting shall be to advise the employees of their rights and responsibilities in connection with the lay-off, and to answer their questions.
4. Cooperation with the Department. The employer shall cooperate with the Department investigators and other staff by providing documentation indicating which foreign national workers seek repatriation; which workers intend to seek a transfer employer; payroll summaries for the three pay periods preceding the effective termination date; and such other documentation as necessary to allow the Department to account for all of the laid off employees. Upon request, the employer shall also produce documentation confirming the economic necessity of the lay-offs. Economic necessity may be shown by a substantial reduction in work orders, a substantial reduction in funds, or a good faith reorganization to improve efficiency, among other factors.
5. Company housing. The employer shall permit laid-off foreign national workers housed in company barracks to remain in the barracks for a period of 30 days following the effective date of termination upon the same terms stated in each affected workers' employment contract. The employer is not responsible for providing food for laid-off workers.
6. Department action. If an employer fails to comply with paragraphs 3 through 5 above, or the Director of Labor finds that the lay-offs were not prompted by economic necessity, the Director may bring an administrative action against the employer at the Administrative Hearing Office within 30 days of receipt of the employer's notice of lay-off.
7. New hires of foreign national workers.
  - (a) On-island hires. An employer who has laid off foreign national workers shall be barred for a period of 90 days from the effective date of termination. from hiring any new foreign national workers to work in the O-NET job classifications held by laid-off workers .
  - (b) Off-island hires. An employer who has laid off foreign national workers shall be barred for a period of six months following the effective date of termination from

hiring foreign national workers from off-island to work in the O-NET job classifications held by laid-off workers.

8. Pending applications for approved employment contracts. Upon receipt of notice from an employer of a reduction in force, downsizing or partial closure, the Director shall immediately deny all pending applications filed by the employer to hire foreign national workers from off-island for O-NET job classifications held by the laid-off workers.
  9. Relief from time limits. An employer may petition the Director in writing for relief from the time limits stated in subsection (7) above. The Director may grant such relief only for good cause shown. A denial of a petition for relief may be appealed to the Administrative Hearing Office on the standard form provided by the Department.
  10. Transfers in event of reduction in force. In the event of a reduction in force due to economic necessity, other remedies are ordinarily not sufficient to provide the foreign national worker with the benefit of the bargain made when entering an approved employment contract and a transfer may be granted. The Administrative Hearing Office shall convene a hearing within fifteen (15) days of notice to workers with respect to a reduction in force to determine worker status.
  11. Rights and remedies. The rights and remedies afforded employees under these regulations, and the obligations imposed upon employers, are in addition to, not in lieu of, any other contractual or statutory rights and remedies. In particular, these regulations do not excuse employers from the requirements of the federal Worker Adjustment and Retraining Notification Act (the "WARN Act"), 21 U.S.C. § 2101 et seq. (1988), pursuant to which covered employers must provide affected employees and specified government entities at least 60 days notice of a mass lay-off or company closure.
  12. Investigatory powers. Nothing in this section shall be construed to limit the Department's general investigatory and enforcement authority under the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act; or these regulations to investigate alleged violations of same. In particular, the Department may conduct an investigation related to lay-offs of foreign national workers if the Director or a designee has reason to believe the lay-offs were not prompted by economic necessity. Nor shall anything in this section be construed to limit the right of foreign national workers to file meritorious complaints against an employer for violations of the PL 15-108, the Minimum Wage and Hour Act, or these regulations, related to the lay-off.
- H. Avoidance and early resolution of potential labor disputes. (Section 4938 of PL 15-108)
1. Notice to Foreign National Workers. The Notice shall be in the standard form provided by the Department. The notice will be supplied by the Department in English, Mandarin, Tagalog, and Korean. Foreign national workers from India and Bangladesh are presumed to have sufficient English to deal with the English-language version of the Notice. Employers bringing foreign national workers from countries requiring

translation to other languages shall supply a translation. The Notice shall be delivered to the foreign national worker while in the home country before departure for the Commonwealth. The purpose of the Notice is to explain clearly:

- (a) Each of the documents, such as a passport, a copy of the approved employment contract, and an entry permit, that the foreign national worker is entitled to have in his or her possession and is not required to surrender to an employer;
  - (b) No employment of any kind is permitted under a tourist visa, and anyone entering the Commonwealth on a tourist visa who is found to be employed will be deported and will not again be eligible for a visa to visit the Commonwealth;
  - (c) Working conditions in the Commonwealth including the terms on which employer-supplied benefits such as housing, food, and transportation may be available; the permitted deductions from foreign national worker's wages for these benefits; the rights of foreign national workers to provide their own housing, food, and transportation, in which case no deductions are permitted; and the possibility of reductions in force;
  - (d) The requirement to attend an orientation session at the Department of Labor upon arrival in the Commonwealth; and
  - (e) Such other information as is useful to avoid future labor disputes.
2. **Reporting of disputes.** A system of informal reporting of disputes is intended to facilitate early resolution of the potential dispute and to maintain the employment relationship. Disputes may be reported orally, by telephone or in person, or in writing to the Enforcement Section.
- (a) **Reporting by employees.** In the event that an employer fails to make full and complete payment of bi-weekly wages on two successive occasions, or if a conflict arises between the foreign national worker and the employer about working conditions or the implementation of the terms of the approved employment contract, the foreign national worker shall report the potential dispute to the Department promptly.
  - (b) **Reporting by employers.** In the event that a foreign national worker fails to report for work for two successive weeks without notice to the employer of medical or other reasons for absence, or if a conflict arises between the employer and the foreign national worker about working conditions or the implementation of the terms of the approved employment contract, the employer shall report the potential dispute to the Department promptly.
3. **Mediation of disputes.** Disputes reported under Section H(2) may be mediated by the Director of Labor or by the Administrative Hearing Office. The mediation will be conducted informally and confidentially without a taped or other record of the

proceedings. No oral statement made at a mediation is admissible in evidence. If the mediation is successful, the mediator shall reduce the agreement to a writing to be signed by both parties within three (3) days after the mediation session.

4. **Accountability.** Each employer is accountable for every foreign national worker for whom the employer has had an approved employment contract in effect at any time during the preceding calendar year and shall ensure that such persons are currently employed by the employer, have transferred to another employer by administrative order, have exited the Commonwealth, are otherwise accounted for as remaining in the Commonwealth lawfully, or are deceased. In the event that an employer becomes unable to account for a foreign national worker, the employer shall report to the Department within fifteen (15) business days on the standard form provided by the Department.

I. **Inspection of worksites . (Section 4939 of PL 15-108)**

1. **Timing and frequency of inspections.** An administrative schedule of worksite inspections shall be established each year. Normally worksites are inspected once per calendar year, and not more than four times in any calendar year, except that follow up inspections of worksites where violations have been found may be conducted with more frequency.

2. **Procedure for inspections.**

(a) Inspections shall be conducted during normal business hours or, if an administrative warrant is obtained, at any other reasonable time under the circumstances.

(b) The inspector shall present himself or herself to the authorized representative at the worksite, shall provide identification as a Department inspector. The inspector shall inform the authorized representative at the worksite that the worksite has been chosen for inspection by the Department, and shall furnish to such person a copy of the current statutes and regulations authorizing worksite inspections.

(c) The inspector shall ask the authorized representative at the worksite if he or she consents to the inspection. If the authorized representative consents to the inspection, the inspector is authorized to inspect all areas of the worksite and premises and perform all functions listed in subsection (b) above. If the authorized representative refuses to permit entry, or does not consent to allow inspection of the worksite, the inspector may not proceed with the inspection unless an administrative warrant is obtained.

(d) In all cases where the authorized representative refuses to permit entry, does not consent to allow inspection of the worksite, or unreasonably obstructs the inspector in carrying out the inspection, the inspector shall serve notice upon the authorized representative of an administrative hearing at which the employer shall be required to show cause why the employer should not be disqualified from using foreign

national workers by the Department or enjoined from future refusals with respect to inspection.

3. **Violations.** If upon inspection a violation is found of any provision of the Commonwealth Employment Act of 2007, the Minimum Wage and Hour Act, or the Departments regulations promulgated pursuant to Commonwealth law, the Director may, within thirty (30) days:
  - (a) **Warning.** Issue a warning to the responsible party to correct the violation. If the responsible party does not comply within ten (10) days and correct the violation, the Director may issue a Notice of Violation.
  - (b) **Notice of violation.** Issue a notice of violation to the responsible party. Upon issuance of a notice of violation, an action is opened in the Administrative Hearing Office with the Director of Labor as the complainant. If the notice of violation is issued in circumstances where a complaint has been filed with the Administrative Hearing Office by an individual complainant, the caption on the case may be amended to reflect the Director of Labor as the complainant. The Division of Labor's legal counsel shall represent the Division of Labor and the Director in such actions.
4. **Inspections pursuant to warrant.** For purposes of Section 4939 of PL 15-108, "reasonable suspicion" means specific facts about the suspected employer or worksite justifying inspection efforts beyond the norm for businesses of that type.
- J. **Investigation.** (Section 4940 of PL 15-108) The Director of Labor may conduct investigations as necessary and appropriate to enforce the provisions of PL 15-108 with respect to foreign national workers and these regulations to ensure lawful working conditions, employer-supplied benefits, and health and safety for foreign national workers. In conducting these investigations, the Director shall have all of the powers delegated and described with respect to inspections and investigations pursuant to Part VI of these regulations.

#### **SECTION 4: ADJUDICATION OF DISPUTES**

##### **Chapter 6, Article 4 of PL 15-108**

- A. **Complaints and actions in labor matters.** (Section 4941 of PL 15-108)
  1. **Definitions.** As used in these regulations, the following terms shall have the following meanings:
    - (a) "Adjudicative proceeding" means a judicial-type proceeding leading to the issuance of a final order.

- (b) "Administrative Hearing Office" means the hearing office of the Department, and for purposes of 1 CMC §§9109 and 9110 as those provisions may apply to proceedings of the Department.
  - (c) "Complaint" means any document initiating the adjudicative proceeding, whether designated a complaint, appeal, or an order for proceeding, or otherwise. Registration by a foreign national worker with Employment Services may be deemed a "complaint" by a hearing officer under circumstances in which it is appropriate to do so.
  - (d) "Complainant" means a person who is seeking relief from any act or omission in violation of a statute, executive order, contract, or regulation.
  - (e) "Consent agreement" means any written document containing a specific proposed remedy or other relief acceptable to all parties.
  - (f) "Hearing" means that part of a proceeding that involves the submission of evidence, either by oral presentation or written submission.
  - (g) "Hearing officer" means a person designated by the Secretary to adjudicate a proceeding.
  - (h) "Party" includes a person or agency named or admitted as a party to a proceeding.
  - (i) "Person" includes an individual, partnership, corporation, association, exchange, or other entity or organization.
  - (j) "Petition or motion" means a written request, made by a person or party, for some affirmative relief.
  - (k) "Pleading" means a complaint, motion, petition, response or opposition to a motion, brief, sworn affidavit, or any amendment or other filing or request for an action by the Administrative Hearing Office.
  - (l) "Respondent" means a party to an adjudicative proceeding against whom findings may be made or who may be required to provide relief or take remedial action.
  - (m) "Secretary" means the Secretary of Labor and includes any administrator or other official who reports to the Secretary for purposes of appeal of recommended or final decisions of the hearing officers.
2. Rules of practice. Pursuant to the Administrative Procedure Act, these rules and regulations in this Section 4 are generally applicable to adjudicative proceedings in all actions pursued by the Director of Labor and other litigants. Upon notice to all parties, a hearing officer may, with respect to matters pending before that hearing officer,

modify or waive any rule herein upon a determination that no party will be prejudiced and the ends of justice will be served.

3. Pro se litigants. In applying the rules of procedure to adjudicative proceedings, a hearing officer shall give added accommodation to parties appearing *pro se* to ensure that no party is prejudiced and that the ends of justice will be served. The Administrative Hearing Office will take all steps necessary to develop the record fully, including the record adverse to the Department.
4. Case numbers. Each case shall be assigned a unique case number at the time of the filing of the complaint. All pleadings of any kind shall clearly show the case number.
5. Location for filing. A complaint and any other pleadings may be filed at any office of the Department of Labor, regardless of where the employment occurred, except that discovery shall not be filed unless a hearing officer so orders.
6. Form of pleading. Each pleading shall include a caption stating the full name of the complainant and the full name of the respondent or respondents, be typewritten when possible in English on standard 8.5 x 11 white paper, and display the address and telephone number of the party or the person representing the party. Each pleading shall be signed by the party filing it or by an attorney or authorized agent. The signature constitutes a certificate by the signer that he or she has read the pleading; that to the best of his or her knowledge, information, and belief, there are good grounds to support it; and that it is not filed for purposes of delay. No pleading will be refused or stricken for failures of form, however the hearing officer may direct that more understandable pleadings be substituted or that a proper signature be added.
7. Computation of time periods. In computing any period of time under these rules, or in a decision or order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or non-work day observed by the Commonwealth government, in which case the time period includes the next business day. When a prescribed period of time is seven (7) days or less, Saturdays, Sundays, and non-work days shall be excluded from the computation.
8. Filing of Department action. The Director of Labor may commence an action against an employer or employee for an alleged violation of the labor or wage laws in force in the Commonwealth by filing a complaint with the Administrative Hearing Office. The caption shall set forth the names and addresses of the parties. The complaint shall contain a short description of the nature of the alleged violation of law and the relief sought. A Department action may require all foreign national workers employed by an employer to attend a hearing for purposes of determining eligibility for awards of damages and transfer relief.
9. Filing of complaint by an individual.

- (a) Any employer or employee may file a complaint regarding any violation of the Commonwealth Employment Act of 2007, the Minimum Wage and Hour Act, as amended, the Fair Labor Standards Act, as amended, and Public Laws 11-6 and 12-11, as amended, and these rules and regulations; or any breach of an approved employment contract, an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), or any other document filed with the Department.
  - (b) A foreign national worker may file a complaint if the worker entered the Commonwealth for employment even if an incomplete application has been filed, the employment contract has not been approved, the employer never provided any job, the employment contract has been terminated, the employee has fallen into illegal status, the employee has been working illegally, the employee has violated Commonwealth law, or similar circumstances exist. The Administrative Hearing Office will adjudicate all complaints of those who entered the Commonwealth for employment regardless of when they entered the Commonwealth or their current status in the Commonwealth. Persons who did not enter the Commonwealth for employment (such as tourists) may pursue their claims in the Commonwealth courts.
  - (c) A complaint may be filed only after the violation or breach has occurred. Prior to filing an action in any Commonwealth court, a foreign national worker shall file a complaint with the Division of Labor so that remedies available under Commonwealth law may be considered expeditiously and potential violations may be investigated by the Director of Labor for the potential benefit of other similarly-situated workers.
10. Form for filing a complaint. A complaint filed by an individual shall be filed on the standard form provided by the Department. The Division of Labor shall post in a prominent place a translation of the complaint form in Mandarin, Tagalog, and Korean for reference by complainants. No other form of complaint is required. Any additional or explanatory materials may be filed at the option of the complainant in any form chosen by the complainant. The Division of Labor shall provide personnel to assist *pro se* complainants in filling out the complaint form.
  11. No administrative rejection for untimeliness. Failure to file within the statutory time limit of six months (see Part VI, Section 6(B)(2)) shall not be grounds for refusal to accept a complaint or appeal.
  12. No filing fee for indigents. Indigent complainants may file *in forma pauperis* and are not required to pay a filing fee. The standards of the Commonwealth Superior Court with respect to waiver of fees for indigents shall be followed. A complainant who files *in forma pauperis* and is later found by a hearing examiner not to qualify for that status may be ordered to pay the filing fee. (For filing fees, see Part VI, Section 6(H).)



13. **No retaliation.** An employer shall not retaliate against an employee for filing a complaint. Such retaliation is a separate cause of action against the employer.
14. **No response to the complaint required.** The respondent may, but is not required to, file a written response to the complaint.
15. **Assistance and representation.** Any party may be represented by counsel, at the party's own expense. A party appearing *pro se* may be assisted by any person, regardless of whether that person is a lawyer, except that a person who is deportable or who has been the subject of debarment for past misconduct may not serve as a representative. Each authorized counsel or representative must file a written notice of appearance with the Administrative Hearing Office. A standard form for this purpose is provided by the Department.
16. **Translation.** A party requiring the services of a translator to and from English shall provide a competent translator at their expense. A translator who has translated a document shall sign the document on its face as evidence of the translation. Such a signature constitutes a declaration, under the penalty of perjury, that the translator has accurately translated the document and has not included any statements beyond those made in the document. A hearing officer may disqualify a person from participating in a proceeding as a translator, upon a finding, supported by credible evidence, that the person is not sufficiently competent or truthful as a translator.
17. **Mediation of the complaint.** The Director of Labor shall, within five (5) days of filing, refer each complaint for mediation. Mediations may be conducted by the Director, by a hearing officer, or by a mediator appointed by a hearing officer. The Administrative Hearing Office shall schedule the mediation as promptly as practicable, normally within fifteen (15) days of receipt of the complaint, and notify the parties.
  - (a) The parties must be given at least three (3) days notice before the mediation session. Telephone notice of the mediation session is sufficient.
  - (b) The mediation will be conducted informally and confidentially without a taped or other record of the proceedings.
  - (c) No oral statement made at a mediation is admissible in evidence.
  - (d) If the mediation is successful, the mediator shall reduce the agreement to a writing to be signed by both parties within three (3) days after the mediation session.
  - (e) If the foreign national worker does not attend the mediation session after adequate notice, the hearing officer shall deny authorization to seek temporary work pending a hearing on the matter.
  - (f) At the conclusion of the mediation session, if the complaint is not resolved, the hearing officer shall then examine the complaint for timeliness. If the complaint is

not timely filed, the hearing officer shall dismiss the complaint with prejudice. If the complaint is timely filed, the hearing officer shall set a hearing date and inform both parties of the date. No further notice or service of process with respect to the hearing is required if both parties are in attendance at the mediation. If one party is not present at the mediation session, the Administrative Hearing Office shall serve a notice as to the hearing by telephone or any other means of service.

18. Temporary work authorization pending a hearing. The hearing officer may authorize a foreign national worker who attends a mediation session at which no agreement is reached to be employed in the Commonwealth on a temporary basis pending a hearing with respect to a labor complaint.
- (a) Failure to make a good faith effort to settle the complaint shall be grounds to deny a temporary work authorization.
  - (b) No renewal of a temporary work authorization issued by a hearing officer is required. A temporary work authorization shall expire automatically two (2) days after the date of the hearing officer's order.
  - (c) An order granting a temporary work authorization shall have attached to it a copy of the Barred List and a copy of the order shall be transmitted by the Administrative Hearing Office to Employment Services within three days of issuance. An employer on the Barred List may not employ a worker pursuant to a temporary work authorization.
  - (d) An employer who hires a foreign national worker under a temporary work authorization shall file with the Department prior to the commencement of any work by the foreign national worker a short form statement of employment terms on the standard form provided by the Department. No other documentation is required.
  - (e) The financial obligations with respect to bonding (see Part VI, Section 2(D)), health care (see regulations published by the Secretary of Health), and repatriation (see Part VI, Section 5(D)) remain with the last employer of record at the time the complaint was filed and are not shifted to the employer who hires the worker under a temporary work authorization. The financial obligations with respect to payment of wages and any employer-supplied housing or other benefits (other than health care) are the responsibility of the employer who hires the worker under a temporary work authorization.
19. Investigation of the complaint. The Director of Labor or a designee may make such investigation of the complaint as appears warranted by the allegations, other information provided by the complainant or available to the Department, and past complaints filed by the complainant or violations adjudicated against the respondent. Investigators may conduct interviews of the parties and others, request documents from the parties, inspect worksites and living quarters, and undertake such other

investigative actions as are warranted. Any non-privileged information gathered during an investigation shall be made available to the parties on request. Investigators may make such written report of the investigation as may be useful, but no written determination is required. At any time, an investigator may request from Administrative Hearing Office a continuance of the hearing for further investigation. Such requests for continuance shall be granted unless serious adverse consequences to a party would result.

20. Recusal of an investigator. An investigator shall be impartial. An investigator may voluntarily enter a recusal if the investigator's impartiality might be called into question. A party may request the recusal of an investigator. The request must be in writing supported by a sworn affidavit. The Director of Labor shall decide the request based only on the written affidavit.

B. Jurisdiction of the Administrative Hearing Office. (Section 4942 of PL 15-108)

1. Jurisdiction. The Administrative Hearing Office shall have jurisdiction to decide all issues of fact and related issues of law. Jurisdiction attaches upon filing of a complaint, and no procedural or investigative document is required in order for the Administrative Hearing Office to hold a hearing on the complaint.
2. Notices. Unless notice is otherwise given, the Administrative Hearing Office shall notify parties of a day, time, and place set for mediation, pre-hearing conference, or hearing. Persons or companies providing bonds with respect to the financial obligations of employers of foreign national workers shall be notified by the Administrative Hearing Office of claims that may affect such bonds and applicable statutes of limitations are tolled by such notice.
3. Classified or sensitive material. The Administrative Hearing Office may implement procedures for dealing with classified or sensitive material, including limiting discovery or the introduction of evidence, redacting documents, using unclassified or non-sensitive summaries, and conducting *in camera* hearings.
4. Scheduling. Hearings shall be scheduled and shall proceed with all reasonable speed, insofar as practicable, and with due regard for the convenience of the parties.

C. Reserved. (Section 4943 of PL 15-108)

D. Powers of the hearing officer. (Section 4944 of PL 15-108)

1. Amendment of pleadings. A hearing officer may allow appropriate amendments to pleadings when the determination of a controversy on the merits will be facilitated thereby and it is in the public interest.
2. Motions and requests. An application for an order or any other request may be made by motion. The hearing officer may allow oral motions or require motions to be made in writing. If a motion is made in writing, the hearing officer shall specify the time period

for response to the motion. The hearing officer may allow oral argument or written briefs in support of motions.

3. **Prehearing conferences.** A hearing officer may direct the parties to participate in a pre-hearing conference. At a pre-hearing conference, a hearing officer may discuss any matter that may facilitate resolution of the dispute, including settlement. Pre-hearing conferences may be conducted by telephone, in writing, or in person. A hearing officer may, but is not required to, reduce the results of a pre-hearing conference to an order. A statement on the record at the hearing may be used as an alternative.
4. **Consolidation.** A hearing officer may consolidate two or more matters for hearing if the issues or evidence are the same or substantially similar. When consolidated hearings are held, a single record of the proceedings may be made, evidence introduced in one matter may be considered in consolidated matters, and the decision of the matters may be separate or joint, at the discretion of the hearing officer.
5. **Discovery.** A hearing officer may, but is not required to, allow discovery. A party may request discovery regarding any matter, not privileged, that is relevant to the subject matter of the proceeding. If discovery is permitted, it is not ground for objection that the information sought will not be admissible at the hearing. Appropriate methods of discovery include depositions on oral examination or written questions, written interrogatories, production of documents or other evidence for inspection, and requests for admissions. Upon motion and good cause shown, a hearing officer may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. If a party fails to respond to discovery permitted by a hearing officer, an order may be entered by the hearing officer compelling response in accordance with the request.
6. **Subpoenas.** Upon written application by a party or *sua sponte*, a hearing officer may issue a subpoena as authorized by law. A subpoena may compel attendance of non-party witnesses and production of relevant records and other tangible things in the possession or under the control of the non-party witness. Any person compelled to testify in response to a subpoena may be represented, counseled or advised by a lawyer or authorized agent. Within ten (10) days of the receipt of a subpoena but no later than the date of the hearing, the person against whom the subpoena is directed may move to quash or limit the subpoena. Any such motion shall be answered within ten (10) days. An order with respect to a subpoena shall specify the date, if any for compliance. Upon the failure of any person to comply, a party adversely affected may apply to a court of competent jurisdiction for enforcement.
7. **Conduct hearings.** A hearing officer shall preside at each hearing conducted by the Administrative Hearing Office. A hearing officer shall administer oaths and may examine witnesses. A hearing officer may exercise, for the purpose of the hearing and in regulating the conduct of the proceeding, such powers vested in the Secretary as are necessary and appropriate. At the conclusion of a hearing, a hearing officer shall issue such findings, decisions, and orders as are necessary to resolve the matter.

8. Continuances. Continuances may be granted only in cases of prior commitments for a court proceeding, a showing of undue hardship, or a showing of other good cause. Requests for continuance must be in writing and must be filed more than five (5) days prior to the date set for the hearing. Oral orders with respect to continuances shall be confirmed in writing. The Administrative Hearing Office shall not stay any proceeding to allow the parties to proceed with their claims in a different forum except upon order of a court of competent jurisdiction.
9. Further investigation. A hearing officer may refer a matter to the Director of Labor for further investigation of the complaint at hand or of the practices of the respondent.
10. Attendance at hearings. A hearing officer may grant an extension of time to a foreign national worker who has exited the Commonwealth to re-enter more than five (5) days prior to a scheduled hearing for which his or her attendance is required. A hearing officer may grant to a foreign national worker who has re-entered the Commonwealth in order to attend a hearing an extension of time for exit from the Commonwealth after a hearing.
11. Amendments to conform to the evidence. When issues not raised in a pleading, prehearing stipulation, or prehearing order are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence may be ordered by a hearing officer.
12. Dismissal. A pleading may be dismissed upon its abandonment or settlement by the party or parties who filed it. A party shall be deemed to have abandoned a request for hearing if neither the party nor the party's representative appears at the time and place fixed for the hearing unless good cause is shown. A dismissal may be entered against any party failing, without good cause, to appear at a hearing. A dismissal may be entered against any person who has left the CNMI and has been absent for six months or more without having notified the Administrative Hearing Office of their contact information.
13. Separation of functions. No officer, employee, or agent of the Commonwealth engaged in the performance of investigative or prosecutorial functions in connection with any proceeding shall, in that proceeding or a factually related proceeding, participate or advise in the decision of a hearing officer except as witness or counsel in the proceedings.
14. Recusal of a hearing officer. A hearing officer shall be impartial. A hearing officer may voluntarily enter a recusal if the hearing officer's impartiality might be called into question. A party may request the recusal of a hearing officer. The request must be in writing supported by a sworn affidavit. The hearing officer shall decide the request based only on the written affidavit. If the hearing officer refuses the recusal, the

hearing officer shall state reasons for the refusal. A party may contest the refusal by written petition to the Secretary or a designee.

E. Service of process. (Section 4945 of PL 15-108)

1. Service of a complaint, time requirements. Service of the complaint on the respondent shall be made within five (5) days of the filing and proof of service shall be filed with the Administrative Hearing Office within two (2) days of service. If a complainant is represented by counsel, counsel shall complete service. If complainant is not represented by counsel, the Director of Labor, or a designee, shall complete service.
2. Service of a response, time requirements. No response is required, however if a written response is made, it shall be served on the Administrative Hearing Office and the complainant within twenty (20) calendar days after service of the complaint.
3. Service, methods. Service of any pleading, notice, or order may be made anywhere within the territorial limits of the Commonwealth. Service may be made by delivery to the party personally; or service may be made by United States mail first class postage prepaid; or service may be made by publication in a newspaper of general daily circulation on business days in the Commonwealth. Either personal service or mail service must be attempted before publication service may be used, provided however that the Department may use publication service for any notice or order without first attempting personal or mail service.
4. Personal service. Personal service is made by delivery of a copy of the pleading, notice, or order to the party personally or by leaving a copy of the pleading, notice or order at the party's dwelling house or usual place of abode with some person of suitable age and discretion then residing there. If a party is represented by counsel, personal service may be made on counsel. If a party is represented by an agent authorized by appointment or by law to receive service of process, personal service may be made on the agent. Service may be made on any person designated by the complainant. Service is complete upon delivery.
5. Mail service. Mail service is made by delivery of a copy of the pleading, notice, or order to the United States Post Office, with first class postage prepaid, addressed to the complainant at the address provided on the complaint form or addressed to the respondent at the address provided on the approved employment contract unless a party has notified the Department of a change of address in which case service shall be made to the address last provided by the party. If a party is represented by counsel, mail service may be made on counsel. If a party is represented by an agent authorized by appointment or by law to receive service of process, mail service may be made on the agent. Service is complete upon mailing. When documents are served by mail, five (5) days is added to the prescribed period after service to exercise a right or take an action.
6. Publication service. Publication service is made by publishing a copy of the pleading, notice, or order in an English-language newspaper of general daily circulation on business days in the Commonwealth at least once in each of two weeks. If the

Department uses publication service without first attempting personal or mail service, publication with respect to any party who is a citizen of a foreign country shall be supplemented by a one-time publication in a newspaper of the party's national language if such newspaper exists in the Commonwealth. Service is complete upon last publication.

7. Alternative service. Notice may be given by telephone or electronic mail as the Administrative Hearing Office determines appropriate.

F. Conduct of hearings. (Section 4946 of PL 15-103)

1. Public proceedings. Absent a finding by a hearing officer, hearings shall be open to the public. In unusual circumstances, a hearing officer may order a hearing or any part thereof closed if doing so would be in the best interests of the parties, a witness, the public, or other affected persons. Any order closing the hearing shall set forth the reasons for the decision. Any objections thereto shall be made a part of the record.
2. Rules of evidence for hearings. The Commonwealth rules of evidence are generally applicable to adjudicative proceedings before the Administrative Hearing Office. To the extent that these rules may be inconsistent with a rule of special application as provided by statute, executive order, or regulation, the latter are controlling. The parties may offer such evidence as is relevant to the dispute, and the hearing officer may request the production of evidence by a party. Strict adherence to the formal rules of evidence shall not be necessary, and the hearing officer shall make appropriate accommodations for *pro se* litigants. The hearing officer may make rulings on evidentiary issues and the introduction of evidence. The hearing officer may waive any rule upon a determination that no party will be prejudiced and that the ends of justice will be served.
3. Exhibits. Parties shall exchange copies of exhibits at the earliest practicable time and, in any event, at the commencement of the hearing. Exhibits offered in evidence shall be numbered and marked for identification. One copy shall be furnished to each of the parties and to the hearing officer. If a record from any other proceeding is offered in evidence, a true copy shall be presented for the record in the form of an exhibit unless the hearing officer directs otherwise. The hearing officer shall direct the use of documents as to which only parts are relevant, or bulky documents, so as to limit irrelevant material in the record. The authenticity of all documents submitted as proposed exhibits in advance of a hearing shall be presumed unless written objection is made prior to the hearing. Objection to authenticity shall not prevent the admission of a document but a hearing officer may consider matters of authenticity when deciding the weight to give the evidence.
4. Judicial notice. A hearing officer may take judicial notice of adjudicative facts that are not subject to reasonable dispute, provided however that as to facts so noticed, the parties shall be given adequate opportunity to show the contrary.
5. Privilege. Except as otherwise required by law, the privilege of a witness, person, government or political subdivision shall be governed by the principles of common law

as they may be interpreted by the courts of the Commonwealth in light of reason and experience.

6. **Record.** All hearings shall be recorded. Parties may provide a stenographic reporter at their own expense. The media on which recordings of proceedings are made shall be maintained by the hearing office until the expiration of all appeals, at which time the media may be destroyed.
7. **Default.** Except for good cause shown, failure of a party to appear at a hearing after timely being served notice to appear shall be deemed to constitute a waiver of any right to pursue or contest the allegations in the complaint. If a party defaults, the hearing officer may enter a final order containing such findings and conclusions as may be appropriate.
8. **Closing the record.** When a hearing is conducted, the record shall be closed at the conclusion of the hearing unless the hearing officer directs otherwise. If any party waives a hearing, the record shall be closed upon receipt of submissions of the parties or at the time deadlines set by the hearing officer for receipt of such submissions. Unless the hearing officer directs otherwise, no document or other evidentiary matter may be submitted after the record is closed.
9. **Standards of conduct.** All persons appearing in proceedings before a hearing officer are expected to act with integrity and in an ethical manner. A hearing officer may exclude parties, participants, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or acting in violation of these rules and regulations. A hearing officer shall state on the record the cause for suspending or barring any person from participation in a proceeding. Any person so suspended or barred may appeal to the Secretary, but no proceeding shall be delayed or suspended pending disposition of the appeal. A hearing officer shall suspend the proceeding for a reasonable time if it is necessary for a party to obtain another lawyer or representative. A hearing officer may apply the Commonwealth Disciplinary Rules and Procedures for guidance when issuing decisions regarding ethics.
10. **Ex parte communications.** A hearing officer shall not consult any person or party on any issue of fact or question of law unless upon notice and opportunity for all parties to participate or learn the results of such communication. Communications for the sole purpose of scheduling hearings or considering requests for extensions of time are not considered *ex parte* communications so long as other parties are notified of any request and given an opportunity to respond. A person who makes or attempts to make an *ex parte* communication may be subject to sanction including exclusion from the proceedings and adverse ruling on the issue which is the subject of the prohibited communication.
11. **Expedited hearings.** The Commonwealth immigration authority may request and the Administrative Hearing office, in its discretion, may order that any pending labor matter



involving a party who is currently in deportation proceedings in the Commonwealth Superior Court be heard and decided on an expedited basis.

G. Orders and relief . (Section 4947 of PL 15-108)

1. Dismissal. The hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds on its face to be without merit. Parties adversely affected by a dismissal may appeal.
2. Issuance of orders. The hearing officer shall, upon concluding a hearing, issue any necessary findings, decisions, and orders as soon as practicable. Issuance of findings, decisions, and orders shall be pursuant to 1 CMC 9110, but shall not be judicially reviewable until final.
3. Authority. The hearing officer is authorized to:
  - (a) Award unpaid wages or overtime compensation, amounts unlawfully deducted from wages or unlawfully required by an employer to be paid by a foreign national worker, damages for unlawful termination of an approved employment contract, or damages, when appropriate, for conduct of the employer that is in violation of Commonwealth or federal law;
  - (b) Assess liquidated damages in an amount up to twice the amount of unpaid wages or overtime compensation in any case in which a foreign national worker prevails on unpaid wages or overtime compensation claims unless the hearing officer finds extenuating circumstances; and assess liquidated damages in an amount to be determined at the hearing in cases in which the employer's conduct in failing to pay wages or overtime is found to have been willful or retaliatory;
  - (c) Cancel or modify an entry permit or an approved employment contract;
  - (d) Order temporary or permanent debarment of an employer;
  - (e) Disqualify a foreign national worker, temporarily or permanently, from employment in the Commonwealth;
  - (f) Levy a fine not to exceed \$2,000 for each violation of any provision of PL 15-108;
  - (g) Issue declaratory or injunctive relief as appropriate;
  - (h) Award attorneys fees when appropriate in addition to any other remedy; provided however that attorneys fees shall not be recoverable against the Commonwealth and

- (i) Use the inherent powers of a hearing officer and powers granted by the Administrative Procedures Act to further the interests of justice and fairness in proceedings.
4. **Transfers.** Only a hearing officer may grant a transfer. Nothing in the Commonwealth Employment Act of 2007, PL 15-108, or in these regulations creates any right to a transfer. A hearing officer may grant a transfer if other remedies are insufficient to provide a foreign national worker the benefit of the bargain made when entering the approved employment contract. If a hearing officer grants a transfer, a foreign national worker may become employed under a new approved employment contract without first exiting the Commonwealth.
- (a) The grounds for granting transfer relief include:
    - (i) An unlawful termination of an approved employment contract by an employer;
    - (ii) The voiding of an approved employment contract or debarment of an employer for a violation of these regulations or PL 15-108;
    - (iii) A reduction in force pursuant to Section 4937 of PL 15-108;
    - (iv) The abandonment of the worker during the term of an approved employment contract, but prior to ninety (90) days before the termination date of the contract, by an employer who failed to pay bi-weekly wages on two successive occasions, closed a business, declared bankruptcy, or exited the Commonwealth evidencing an intent not to return; or,
    - (v) Upon a finding by the hearing officer that the foreign national worker has prevailed under an equivalent theory of law or equity and that transfer relief is appropriate.
  - (b) A transfer may be granted only to a foreign national worker who has complied with the provisions of the approved employment contract to the extent practicable under the circumstances, and for whom transfer relief is required in order to assure receipt of the benefit of the bargain under the contract that is the subject of the action. A settlement may include transfer relief, if appropriate, and subject to approval by a hearing officer.
  - (c) The order granting a transfer shall include a referral to Employment Services so that available positions for foreign national workers can first be filled by foreign national workers already in the Commonwealth and shall attach a copy of the current Barred List, see Part VI, Section 2(B)(10), so that the foreign national worker knows which employers cannot employ transfers. A copy of any order granting a transfer shall be transmitted by the Administrative Hearing Office to Employment Services within three days of issuance.

5. **Repatriation.** The hearing officer may assess costs for repatriation of a foreign national worker.
6. **Frivolous actions.** The hearing officer may find an action to be frivolous if it is unfounded in fact or law or initiated primarily to obtain an undue pecuniary benefit or for distraction or delay. The filing of an action which is determined by a preponderance of the evidence to be frivolous shall be grounds for permanently disqualifying the foreign national worker who filed the action from employment in the Commonwealth or permanently barring an employer who filed the action from further employment of foreign national workers.
7. **Solicitation of sponsorships.** The purpose of Section 4963(k) and Section 4964(d) of PL 15-108 is to prevent illegal sponsorships in which the employer is offering no viable job but files an application in order to allow the foreign national worker to remain in the Commonwealth. These sections do not apply to employment arrangements in which the employer is offering a legitimate, viable, wage-paying job. The hearing officer shall apply these sections in this way.
  - a. A foreign national worker who intentionally and knowingly violates Commonwealth law by paying an application fee or a renewal fee that should be paid by an employer solely in order to remain in the Commonwealth, under circumstances in which the employer provides no viable wage-paying job for the worker, may be deported if, under all the circumstances of the case, deportation is the appropriate remedy.
  - b. A foreign national worker who pays an application or renewal fee in connection with an existing, viable, wage-paying job may not be deported on account of the violation of these sections. If the employer provides a viable job for which the worker has been employed, they have not participated in an illegal sponsorship arrangement involving sham employment. Foreign national workers who pay an application or renewal fee under these circumstances may have a claim against the employer whose responsibility it is to pay the fee and may be awarded damages if, under all the circumstances of the case, damages are the appropriate remedy. Similarly, a foreign national worker who pays an application or renewal fee without knowledge or intent to participate in an illegal sponsorship arrangement may not be deported on account of the violation of these sections. A hearing officer may take account of the information about illegal sponsorships provided at an orientation session.
  - c. An employer who engages in an illegal sponsorship by filing an application for an approved employment contract without the intent or present ability to provide a viable, wage-paying job for a foreign national worker may be barred from further employment of foreign national workers if, under all the circumstances of the case, debarment is the appropriate remedy.
  - d. An employer who requires or permits a foreign national worker to pay an application or renewal fee in connection with an existing, viable, wage-paying job may be fined up to \$2,000 and ordered to pay the amount of the fees to the worker

in addition to any other remedies if, under all the circumstances of the case, these are the appropriate remedies.

8. **Order.** As soon as practicable, and generally within fifteen (15) days after the close of the record, the hearing officer shall complete and issue or enter any necessary decisions and orders. A decision of a hearing officer shall include findings of fact and conclusions of law, with reasons therefore, on each material issue of fact or law presented on the record. A decision shall be based on the whole record, supported by reliable, probative evidence, and in accordance with the statutes and rules and regulations conferring jurisdiction. An order may be made with respect to amounts to be paid, actions to be taken, or other relief to be accorded. An order shall include a schedule of payment for all awards, if any, to the prevailing party.
9. **Date of an order.** The hearing officer shall sign and enter the date on which an order was signed. The date on which the order was signed is the date the order was issued or entered.
10. **Motion for reconsideration.** A party may file a motion for reconsideration within fifteen (15) days after service of an order. The motion shall state concisely the matters or controlling decisions that a party believes the hearing officer overlooked or misapprehended. A response may be filed no later than five (5) days after the filing of the motion. No affidavits shall be filed or additional evidence offered. No oral argument shall be heard unless the hearing officer directs to the contrary. A motion for reconsideration may be granted for mistake, inadvertence, surprise, or excusable neglect; newly discovered evidence which, by due diligence, could not have been discovered in time to move into evidence at the hearing; fraud, misrepresentation, or misconduct of an adverse party; the judgment is void, has been satisfied, released, or discharged, or a prior judgment on which it is based has been reversed; or other reason justifying relief. A properly filed and served motion for reconsideration tolls the time for filing a notice of appeal. The time for appeal begins to run again on the date the decision on a motion for reconsideration is signed. After a decision on a motion for reconsideration is signed, no further motions or filings may be made with the Administrative Hearing Office other than a notice of appeal.
11. **Correction of errors.** A hearing officer may *sua sponte* correct an error prior to the time the record is certified for appeal.
12. **Referral to the Commonwealth immigration authority.** The hearing officer shall notify the Commonwealth immigration authority promptly upon cancellation or modification of an entry permit. The hearing officer may refer any person to the Commonwealth immigration at the conclusion of any labor case.
13. **Satisfaction of a judgment from a bond.** Within thirty (30) days after the date of a final judgment including an award of money damages, the final judgment shall be presented to the holder of the bond under Part VI, Section 2(D) above. If the final judgment has not been fully satisfied within sixty (60) days after the date of the final judgment, the Department shall execute on the bond for payment of the judgment.

H. Appeal to the Secretary . (Section 4948 of PL 15-108)

1. Commencing an appeal. An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee required in Part VI, Section 6(H) of these regulations. A notice of appeal must be filed within fifteen (15) days of service of the decision on the party who is appealing. See Part VI, Section 4(A)(7) above with respect to computation of time limits.
  2. Procedural requirements. Service of process with respect to appeals shall be as provided in Part VI, Section 4(E) of these regulations. Alternative forms of notice by telephone or electronic mail may be used. The party who seeks relief from the Secretary is the appellant. The party against whom relief is sought is the appellee. The Secretary may entertain an *amicus* brief with fifteen (15) days notice to the parties.
  3. Preparation of the record. Upon receipt of a timely notice of appeal and the fee required in Part VI, Section 6(H) of these regulations, the Administrative Hearing Office will make a copies of the media on which the proceeding was recorded and deliver a copy to each party. If a written transcript is necessary, it is the responsibility of the appealing party to prepare and certify it.
  4. Rules of practice on appeals before the Secretary. When the Secretary is exercising jurisdiction over appeals from final orders of the Administrative Hearing Office, the Secretary shall have all the powers and responsibilities of a hearing officer. No hearing or oral argument on an appeal is required. The Secretary shall notify the parties by mail of the time and place for any hearing on the appeal and shall not schedule the hearing with less than fifteen (15) days notice or change a hearing date with less than fifteen (15) days notice.
  5. Administrative review by the Secretary. In a review on appeal, the Secretary may restrict review to the existing record, supplement the record with new evidence, hear oral argument, or hear the matter *de novo* pursuant to 1 CMC §§9109 and 9110. Upon completion of review, the Secretary shall affirm, reverse, or modify the findings, decision, or order of the hearing officer. The Secretary may remand under appropriate instructions all or part of the matter to the Administrative Hearing Office for further proceedings. The Secretary's decision shall constitute final agency action for purposes of judicial review.
- I. Judicial review. (Section 4949 of PL 15-108) Judicial review of a final action of the Secretary is authorized after exhaustion of all administrative remedies and shall be initiated within thirty (30) days of the final action. Except as may be contrary to the provisions of PL 15-108, judicial review shall be pursuant to 1 CMC §9112. Appeal from a final action by the Secretary shall be directly to the Commonwealth Superior Court.

SECTION 5: EXIT FROM THE COMMONWEALTH

- A. Exit during the contract term. (Section 4951 of PL 15-108) A foreign national worker who exits the Commonwealth during the term of an approved employment contract shall file with the Enforcement Division, a notice on the standard form provided by the Department. A foreign national worker who fails to file the notice before departing the Commonwealth may be precluded from re-entering the Commonwealth.
- B. Exit after the contract term. (Section 4952 of PL 15-108) Each foreign national worker is required to exit the Commonwealth within fifteen (15) days after the termination date of an approved employment contract unless the contract is renewed (see Part VI, Section 3(E)), or a claim or transfer is pending, or the worker has filed for a fifteen (15) day extension in connection with filing a claim (see Part VI, Section 5(E)(1)). The Department will assume that the worker is required to depart, and report that information to the Commonwealth immigration authority, unless an application for renewal is received in a timely fashion, an authorization to seek temporary work has been entered on the Department's records, or a request for extension of time is received in a timely fashion. The Department has no responsibility to inquire of the employer or the foreign national worker as to exit after the contract term.
- C. Periodic exit required. (Section 4953 of PL 15-108) PL 15-108 imposes a periodic exit requirement on all persons who enter the commonwealth for employment. The provision is as follows:

**§ 4953. Periodic exit required.**

*(a) Except as provided herein, a foreign national worker shall exit and remain absent from the Commonwealth for at least six (6) consecutive months during every forty-two (42) month period.*

*(b) This requirement shall not apply to foreign national workers who are key employees and have skills essential to the success of the business of an employer of ten (10) or more employees. The designation of key employees is at the discretion of the employer. The number of employees who may be exempted for each employer may not exceed ten (10) percent of the employer's foreign national workers and shall be governed by the Secretary by regulation to assist in achieving the efficient implementation of the periodic exit requirement.*

1. Policy with respect to periodic exit. There are two policy reasons for a periodic exit requirement. The first and primary reason is to open up opportunities for local residents to be trained and employed in positions previously held by foreign national workers. The second reason, also important, is to enforce the basic bargain that was made with each foreign national worker who entered the Commonwealth for employment purposes and not for permanent residence.
2. Repatriation. An exit by a foreign national worker under the periodic exit requirement is a repatriation. See Part VI, Section 5(D).

3. **Timing of exit.** A foreign national worker must exit the Commonwealth within three years of the date on which the foreign national worker entered the Commonwealth and remain outside the Commonwealth for at least six months.
  - (a) The date on which a foreign national worker entered the Commonwealth is the entry date stamped on the worker's passport.
  - (b) The date on which a foreign national worker exited the Commonwealth is the exit date stamped on the worker's passport.
  - (c) If a tourist visa is issued to the foreign national worker after exit from the Commonwealth for purposes of a visit to the Commonwealth, the six month period shall begin again from the date on which, under the tourist visa, the foreign national worker exits the Commonwealth.
  - (d) The timing of the periodic exit is left up to the employer and the employee except during the transition to the first deadline for periodic exit, the Department will regulate the exits of foreign national workers to ensure an orderly exit process.
4. **Employers and employees covered.** Unless an exemption applies, the periodic exit requirement covers all employers in the Commonwealth who employ foreign national workers and all foreign national workers who are present in the Commonwealth. An employer may not employ a foreign national worker, who is not exempt, who has not complied with the periodic exit requirement. A foreign national worker loses employment status in the Commonwealth on the last exit date available to that worker to remain in compliance with Commonwealth law.
5. **The "key employee" exemption.** Each employer with 10 or more employees may designate certain employees as key to the business and exempt them from the exit requirement. This allows each business to determine for itself whether a worker has skills important to the continued success of the business. The exemption may not reach more than 10% of an employer's foreign national workers.
6. **Equivalent exit.** The periodic exit requirement serves two objectives that are important to the Commonwealth's employment and labor objectives. First, and primarily, the periodic exit serves the objective of promoting employment opportunities for U.S. citizens and permanent residents. Second, the periodic exit requirement serves the objective of promoting enforcement, understanding and clarity with respect to the requirement that the status of guest workers does not change as a result of their work in the Commonwealth. Employers who have reached the longer-term goal of 30% citizen and permanent resident participation in their full-time workforce have met the primary objective of the periodic exit requirement. They have provided significant employment opportunities for U.S. citizens and permanent residents. For that reason, these employers may satisfy the periodic exit requirement by repatriating their foreign workers under Section 4953(a) for 60 days (rather than six months) and submitting to the Department a consent document signed by the foreign national worker acknowledging permanent residence in the country that issued the worker's passport and no change in status by reason of employment in the Commonwealth. The consent

document shall be accompanied by a legal opinion, signed by an attorney admitted to practice in the Commonwealth, that the consent document was signed under circumstances that make it legally effective in the Commonwealth, given the nature of the employment, the education and language capability of the foreign national worker, and any other circumstances appropriately considered. Should any 60-day exit requirement be found by a court not to be applicable to any worker, then the six-month exit requirement would automatically apply to that worker.

7. Work while the foreign national worker is outside the Commonwealth. A foreign national worker who exits the Commonwealth and is residing in a foreign country may perform work for an employer located in the Commonwealth using Internet resources or other methods of outsourced work under any contract arrangement acceptable to the employer and the worker. When a foreign national worker is outside the Commonwealth (and outside the United States), the worker is not working under Commonwealth law with respect to foreign national workers and the minimum wage does not apply.
8. Re-hire upon re-entry to the Commonwealth. A foreign national workers may return to his or her former jobs after the six month exit period is over. The moratorium does not apply. Section 4620(a) of PL 15-108 provides that: "A foreign national worker who exits the Commonwealth [pursuant to the periodic exit requirement] shall, at the conclusion of the required six (6) month absence, be considered a renewal for the purposes of this moratorium. However, for purposes of these regulations, the foreign national worker, while "considered" a renewal for purposes of the exemption to the moratorium, is a new entry to the Commonwealth and must comply with all the requirements of Sections 4921 through 4927 of PL 15-108. The approved employment contract for such workers is a new contract, not a renewal of a prior contract. Foreign national workers who return to the Commonwealth after six months' abroad are starting a new period of residence in the Commonwealth. No period of prior residence is relevant after return.

D. Responsibility for costs of repatriation. (Section 4954 of PL 15-108)

1. Last employer of record. The last employer of record is responsible for all of the costs of repatriation. Repatriation costs include the costs with respect to the embalming and transport of deceased workers and transport of their personal effects back to the point of hire. The last employer of record is the employer under the most recent approved employment contract, on file at the Department, with respect to the foreign national worker.
2. Employment on temporary work authorization. An employer of a foreign national worker under temporary work authorization (see Part VI, Section 4(A)(17)) is not responsible for repatriation costs.
3. Illegal employment. An employer who employs a foreign national worker without an approved employment contract, without an approved security contract, or without an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard) or otherwise in violation of



Commonwealth law may be assessed full or partial repatriation costs by the Director of Labor.

4. Joint and several liability. In situations in which there is a last employer of record and a foreign national worker has also been employed illegally by another employer, the Director of Labor may assess repatriation costs entirely to the last employer of record, entirely to the illegal employer, or partially to both employers. If a foreign national worker has been employed illegally and a last employer of record is assessed repatriation costs, that employer may recover the assessed repatriation costs from the illegal employer in an action before the Commonwealth Superior Court.
5. Appeals. Within fifteen (15) days of the issuance of an assessment of repatriation costs by the Director of Labor, any person or party affected by the assessment order may appeal the order in accordance with Part VI, Section 4(H) and seek judicial review in accordance with Part VI, Section 4(I). A standard form for an appeal is provided by the Department.

E. Limited stay and re-entry for litigation purposes. (Section 4956 of PL 15-108)

1. Extension for purposes of filing a claim. A foreign national worker must exit the Commonwealth within fifteen (15) days after the termination of an approved employment contract or any renewal. An extension of an additional fifteen (15) days is available if the foreign national worker is in the process of preparing a complaint to be filed with the Labor Department, a complaint in a civil matter to be filed with the Commonwealth Superior Court, or a complaint to the Department of Public Safety with respect to a criminal matter. In order to be eligible for the additional fifteen (15) days, a foreign national worker must file with the Enforcement Division at the Department the short form as provided by the Department setting a departure date.
2. Extension by order of a hearing officer. A foreign national worker who attends a mediation session after filing a complaint (see Part VI, Section 4(A)(16)) may request an extension of time for departure from the Commonwealth from the hearing officer. An extension of time will normally be granted by the hearing officer unless there is a finding by the hearing officer that the foreign national worker is likely not to appear at the hearing or a deportation order already has been entered or equivalent circumstances exist. A hearing officer's order granting an extension of time shall also set an initial hearing date in the matter. A denial of an extension of time may be appealed.

F. No stay or bar in other actions. (Section 4957 of PL 15-108)  
[RESERVED]

SECTION 6: OTHER PROVISIONS  
Chapter 6, Article 6 of PL 15-108

A. Regulations. (Section 4961 of PL 15-108)

In order to implement the legislative oversight requirement, amendments to these regulations after the effective date of the initial regulations shall be published for comment in the normal course as for other regulations and then, after the public comment period has been completed, the final regulations shall be transmitted to the presiding officers of the Legislature for a thirty (30) day period of consideration. If all or any part of the regulations is rejected by a joint resolution within the thirty (30) day period, the regulations shall be amended accordingly before going into effect. No further period for public comment is required after submission to the Legislature.

B. Limitations. (Section 4962 of PL 15-108)

Statute of limitations on filing of labor complaints. The Commonwealth Employment Act of 2007 includes new provisions to avoid disputes where possible and to resolve disputes as promptly as possible. An extensive orientation session will brief incoming foreign national workers on their rights. Documentation requirements have been improved. For these reasons, the statute of limitations with respect to filing individual labor complaints is six months from the date the actionable conduct could have been discovered with reasonable diligence. In any event, an individual must file a complaint within thirty (30) days of the termination of an approved employment contract. However, the Director of Labor may file an action against an employer on behalf of individual workers after the 30-day period for an individual complaint has expired. The six month period within which the Director may file a complaint does not expire until an investigation involving multiple workers has been concluded.

C. Prohibitions. (Section 4963 of PL 15-108)  
[RESERVED]

D. Sanctions and penalties. (Section 4964 of PL 15-108)  
[RESERVED]

E. Exemptions. (Section 4965 of PL 15-108)  
[RESERVED]

F. No liability. (Section 4966 of PL 15-108)  
[RESERVED]

G. Required records. (Section 4967 of PL 15-108)

An employer of a foreign national worker shall keep for at least three years, and present immediately upon demand by the Director of Labor or a designee, the following information:

1. Personnel records for each foreign national worker including the name, current residence address, age, domicile, citizenship, point of hire, and , entry permit expiration date, and approved employment contract termination date;

2. Payroll records for each foreign national worker including the O-NET job classification; wage rate or salary, number of hours worked each week, gross compensation, itemized deductions, and evidence of checks or direct deposits for net payments made biweekly;
  3. Documentation for each foreign national worker including approved employment contract, police clearance, health certificate, and tax payment records; and
  4. The employer's business license and security contract information with respect to each foreign national worker.
  5. The number and type of employment-related accidents or illnesses involving workers and adequate identification of each worker involved.
- H. **Fees .** (Section 4968 of PL 15-108) The following fees shall be collected by the Department. All fees are nonrefundable and nontransferable unless otherwise provided in these regulations.

1. Processing a request for a job vacancy announcement:	\$25.00
2. Registration with Employment Services:	No fee
3. Application for an approved employment contract:	\$250.00
4. Attendance at orientation:	No fee
5. Application for contract for specialty job:	\$25.00
6. Application for part-time casual employment:	No fee
7. Request for contract amendment:	\$25.00
8. Request for exemption:	\$25.00
9. Request for contract renewal:	\$250.00
10. Request for approval of subcontracting:	\$25.00
11. Request for approval of contract changes:	No fee
12. Processing a transfer after administrative order:	\$250.00
13. Filing of manpower plan:	No fee
14. Issuance of initial entry permit:	No fee
15. Renewal of entry permit:	\$25.00
16. Replacement or duplicate entry permit:	\$50.00
17. Appeal of failure to timely renew entry permit:	\$100.00
18. Processing a temporary work authorization:	\$75.00
19. Mediation of labor disputes:	No fee
20. Filing a labor complaint:	\$10.00
21. Filing a labor appeal:	\$10.00
22. Copying costs for documents in Department files:	\$0.50 per page
23. Transcript of labor hearing (tape only):	\$10.00 per tape
24. Printed version of Labor Rules and Regulations:	\$0.25 per page
25. Expedited processing:	\$100.00 in addition to fee

- I. **Statistical data.** (Section 4969 of PL 15-108) The Department will aggregate the NAICS data for full-time employees and part-time employees who are foreign national workers into the following categories for purposes of the Department's annual report.

1. Professional, technical, and managerial
  2. Clerical, sales, and service
  3. Agricultural, fisheries, forestry, and groundskeeping
  4. Light manufacturing
  5. Construction and structural work
  6. Care for children, elders, or handicapped persons in the home, housework, gardening, and related private residence work
- J. Required reports. (Section 4970 of PL 15-108)  
[RESERVED]
- K. Electronic filing and access. (Section 4971 of PL 15-108)
1. Electronic forms. These regulations are designed to foster the use of Internet access so that forms may be filed via the Department's website. To that end, most submissions to the Department are standard forms that are available for downloading from the Department's website.
  2. Online functions. The functions of the Department with respect to foreign national workers will be put online using a website the URL of which is [www.marianaslabor.net](http://www.marianaslabor.net). The purpose of moving various functions online – such as submission of applications, notices, complaints, appeals, and other forms – is to make the Department's processes faster, more efficient, and less costly for the Department, employers, and foreign national workers and their representatives. The Department will issue guidance for employers and foreign national workers for the use of the website to file materials and to access information. Employers of more than 25 employees will be required to use available online functions on and after March 1, 2008. Employers of more than 10 employees will be required to use available online functions on and after July 1, 2008. All employers will be required to use available online functions on and after January 1, 2009. Foreign national workers and their representatives will use the online functions at their option and always will have the option of providing paper copies in person at the Department.
  3. Online access. The Department will provide for access via the Department's website for employers and foreign national workers to revised statutes and regulations, announcements, notices, opinions and orders, and public data from the Department. The Department will also provide for secure access to data pertaining to individual employers or foreign national workers for purposes of updating, correction, or supplementation of the Department's records.
- L. Transition. (Section 4972 of PL 15-108)
1. Transition for employment contracts. The transition for employment contracts is for the purpose of ensuring that by the effective date of PL 15-108, the maximum number of contracts are in compliance with PL 15-108, without impairing any existing contract.

- (a) The transition for approved employment contracts is in effect from November 9, 2007, the date of enactment of PL 15-108, to January 1, 2008, the effective date of PL 15-108.
- (b) An employment contract submitted after November 9, 2007, the enactment date of PL 15-108, and that will be in effect at any time after January 1, 2008, the effective date of PL 15-108, must be in compliance with Section 4922 of PL 15-108 at the time the employment contract is approved.
- (c) An employment contract in effect on January 1, 2008, the effective date of PL 15-108, under which a foreign national worker of an age of less than 21 years is working may be performed in accordance with its terms after January 1, 2008, the effective date of PL 15-108. However, the employer of an underage worker must bring the worker to the Department by February 15, 2008 to meet with an investigator who will determine whether the employer and the nature of the employment are suitable for an underage person. The contract may be renewed if the foreign national worker is under the age of 21 at the time of renewal provided that an investigator has determined in connection with the renewal application that the employer and the nature of the employment are suitable for an underage person. Underage persons who are in unsuitable employment may register with Employment Services to find suitable employment and may remain in the Commonwealth until suitable employment is found or the person gains the age of 21, at which time the person shall have 30 days to find an employer and these regulations shall apply in full.

2. Transition exemptions for government employment

[REGULATIONS TO BE PROVIDED BY THE OFFICE OF PERSONNEL MANAGEMENT]

3. Transition for religious occupations. The transition for religious occupations is for the purpose of phasing out the availability of approved employment contracts for foreign national workers hired by bona fide religious affiliates as employees rather than as leaders.

- (a) The transition for religious occupations is in effect from January 1, 2008, the effective date of PL 15-108, through October 1, 2008.
- (b) During the transition period, the Director of Labor may approve employment contracts under which a bona fide religious undertaking (see Part VI, Section 2(G)) is the employer and the position to be filled by the foreign national worker is a professional position in a religious vocation or occupation. Such an employment contract may be for a term of three years.
- (c) After October 1, 2008, the Director of Labor may not approve any employment contract other than for a priest or similar leader of a bona fide religious undertaking. (See Part VI, Section 2(G).) No employment contracts for foreign national workers

as employees will be approved. No renewals of employment contracts for foreign national workers as employees will be approved.

4. Transition for owners of businesses

[REGULATIONS TO BE PROVIDED BY THE DEPARTMENT OF COMMERCE]

5. Transition for notaries public

[REGULATIONS TO BE PROVIDED BY THE DEPARTMENT OF COMMERCE]

6. Transition for periodic exit requirement. The transition for the periodic exit requirement is for the purpose of ensuring that these exits occur in an orderly fashion throughout the first three -year period after the effective date of PL 15-108 and are not bunched at the very end of the three-year period. It would adversely affect the economy of the Commonwealth if all exits occurred in the third year of the three-year period.

- (a) The transition for the periodic exit requirement is in effect from January 1, 2008, the effective date of PL 15-108, to January 1, 2011, a date three years after the effective date of PL 15-108.
- (b) For purposes of the transition, foreign national workers lawfully in the Commonwealth on January 1, 2008, the effective date of PL 15-108, shall be deemed to have entered the Commonwealth on that date, except as provided below.
- (c) During the transition period, each employer shall have an exemption for key employees of up to ten (10) percent of the employer's total number of foreign national workers.
- (d) During the transition period, each employer may earn additional exemptions up to a total of five (5) percent of the employer's total number of foreign national workers.
  - (i) Employers who carry out the periodic exit requirement of at least twenty (20) percent of the exit-eligible work force during the period from January 1, 2008 through December 31, 2008 shall be able to claim a key employee exemption for an additional three (3) percent of the full-time work force.
  - (ii) Employers who carry out the periodic exit requirement of at least thirty (30) percent of the exit-eligible work force from January 1, 2009 through December 31, 2009 shall be able to claim a key employee exemption for an additional two (2) percent of their exit-eligible work force.
- (d) Employers with only one exit-eligible employee shall accomplish the periodic exit for that employee no later than September 30, 2009.

- (e) In the event that the Department determines that periodic exits have not begun or been accomplished by at least thirty percent of the exit-eligible foreign national workers by September 30, 2008, the Department shall hold a lottery to determine which exit-eligible foreign national workers shall begin the periodic exit during the period January 1, 2009 through March 30, 2009 in order to ensure that a sufficient number of exits will occur in order to keep the exit program on schedule so that there is no bunching of exits at the end of the initial three-year period. In the event that the Department determines that periodic exits have not begun or been accomplished by at least sixty percent of the exit-eligible foreign national workers by September 30, 2009, the Department shall hold a lottery to determine which exit eligible foreign national workers shall begin the periodic exit during the period January 1, 2010 through March 30, 2010 in order to keep the exit program on schedule so that there is no bunching of exits at the end of the initial three-year period.
- (f) The exit of every exit-eligible employee shall be accomplished by December 30, 2010. An additional lottery shall be held, as necessary, to accomplish this result.
- (g) A renewal under Part VI, Section 3(E) of these regulations may be denied for failure to comply with the transition provisions implementing the periodic exit requirement. The renewal period may be truncated to less than one year in order to ensure compliance with the periodic exit requirement.

**SECTION VII. SEVERABILITY**

If any provision of these regulations or the application of such regulations to any person or circumstance shall be held invalid by a court of competent jurisdiction, the remainder of such regulations or the application of such regulations to persons or circumstances other than those as to which it was held invalid shall not be affected thereby.

**SECTION VIII. EFFECTIVE DATE**

These regulations are effective thirty (30) days after publication or on January 1, 2008, whichever is later, and shall not apply retroactively to proceedings in the Administrative Hearing Office that were pending before that date.

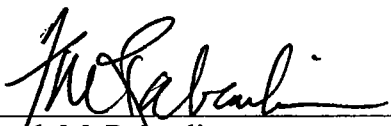
PUBLIC NOTICE

PROPOSED AIR QUALITY REGULATIONS AND REPEAL OF AIR POLLUTION CONTROL REGULATIONS

The Director of the Division of Environmental Quality, Office of the Governor, Commonwealth of the Northern Mariana Islands ("CNMI") hereby gives notice to the general public and all interested parties of its proposal to promulgate new Air Quality Regulations pursuant to the Environmental Protection Act, 2 CMC §§ 3101 *et seq.* If adopted, these regulations supersede the CNMI Air Pollution Control Regulations, published in the Commonwealth Register Vol. 9, No. 1 at 4861-4894 (January 19, 1987).

The proposed regulations require minor and major sources of air pollution to obtain permits from DEQ and to limit emissions in a manner designed to protect the health and welfare of the residents of the CNMI and consistent with the Clean Air Act, 42 USC §§ 7401-7671q ("CAA"). The proposed regulations specifically implement Title V of the CAA as mandated by federal law. The proposed regulations also control open burning, fugitive dust, and set operating and permit fees.

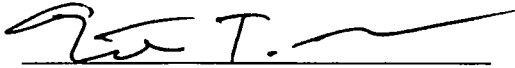
DEQ has held numerous meetings with stakeholders and other interested parties regarding the proposed regulations in August 2007. DEQ is now soliciting comments regarding these proposed regulations in accordance with the Administrative Procedures Act, § 9104(a). Copies of these proposed regulations may be obtained at DEQ's offices located on the first floor of the Gualo Rai Building, Middle Road, Saipan, MP. A copy can also be accessed and downloaded from the DEQ website at [www.deq.gov.mp](http://www.deq.gov.mp). Please submit your comments, in writing, to Division of Environmental Quality, Box 501304 C.K., Saipan, MP 96950-1304, within thirty (30) days of the date this notice is published in the Commonwealth Register.

  
\_\_\_\_\_  
Frank M. Rahauliman  
Director, CNMI Division of Environmental Quality

11/08/07  
\_\_\_\_\_  
Date



Pursuant to 1 CMC §§ 2153 and 9104, the proposed 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

11/19/07

Date

Filed by:

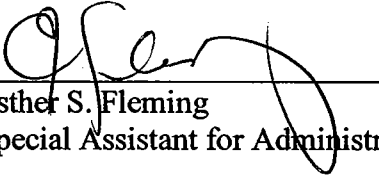


Bernadita B. Dela Cruz

11-19-07

Date

Received by:



Esther S. Fleming  
Special Assistant for Administration

11/19/07

Date

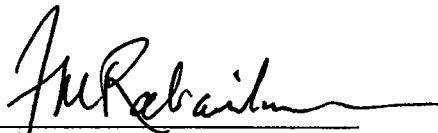
## NOTISIAN PUPBLIKU

### MAN MAPROPONE NA REGULASION SIHA POT KUÁLIDÁT I AIRE YAN MADIROGAN I REGULASION SIHA POT I MANEHAN I INAPLACHA GI AIRE

I Direktot I Dibision I Environmental Quality, gi Ofisinan I Gubietno, gi Commonwealth I Sankattan Siha Na Islan Mariana (“CNMI”) este na momento man náná’i’ notisia para I pupbliku henerát yan todú I man enteresáo na petsona pot I mapropositu na nuebu na ma’establesi na Regulasion siha pot I Kuálidát I Aire sigun I Ákton I Environmental Protection, 2 CMC Seksiona 3101 *et seq.* Yanggen ma’adopta, este na regulasion siha a tulaika I Regulasion Manehan I Inaplachan I Aire, ni mapupblika gi Rehistran I Commonwealth gi Baluma 9, Numiru 1 gi 4861-4894 (Ineru 19, 1987).

I man mapropone na regulasion siha a rekomenda I man didide’ yan meggai na guinahan inaplacha gi aire para u fan gai petmisu ginen I DEQ ya u mana menos I linaknos gi I madesigna na manera pot para u maprotehi I hinemlo’ yan I minaolek I residente siha gi CNMI ya u konsiste ni I Ákton I Gásgas na Aire, 42 USC Seksiona 7401-7671q (“CAA”). I man mapropone na regulasion spesifikátmente a praktika I Titulu V gi I CAA ni ma’otden ginen I Lai Federát. I man mapropone lokkue a maneha I man masosongge, potbus, ya a na guaha ápas petmisu yan para u machogue.

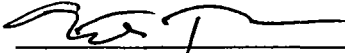
Gi halom Agostu 2007, I DEQ ginen a na guaha loskuántus na dinanña ni stakeholders yan palu siha na petsona ni man enteresáo pot I man mapropone na regulasion siha. Págu I DEQ a gágagáo opinion siha pot asuntón este siha na regulasion ni man mapropone ya u kininfotme ni I Ákton Areklamenton Atministrasion, Seksiona 9104(a). Kopian este man mapropone na regulasion siha ni man machule’ gi Ofisinan I DEQ ni gaige gi I fine’nina na bibienda gi I Gualo Rai Building, gi Middle Road, giya Saipan, MP. Siña lokkue un chule’ ya un imprinta gi I DEQ website gi [www.deq.gov.mp](http://www.deq.gov.mp). Pot fabot na hálom I opinion siha , gi tinige’, guatu gi Dibision I Environmental Quality, gi Box 501304 C.K., Saipan MP 96950-1304, gi hálom trenta (30) diha siha gi anai mafecha este na notisia para pupblikasion gi I Rehistran I Commonwealth.



Frank M. Rabauliman  
Direktot, Dibision I CNMI Environmental Quality

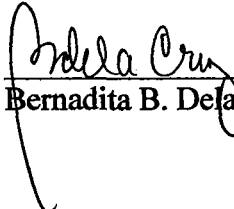
11/08/07  
Fecha

Sigun I lai 1 CMC Seksiona 2153 yan 9104, I man mapropone na regulasion siha, ni man che'che'ton I kopia siha guine na momento, esta man ma'ina yan ma'aprueba pot para u fotma yan ligat suficiente ni I Ofisinan I Abugadu Henerat.

  
Matthew T. Gregory  
Abugadu Henerat I CNMI

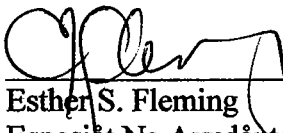
11/19/07  
Fecha

Pinelo' as:

  
Bernadita B. Dela Cruz

11-19-07  
Fecha

Maresibe' as:

  
Esther S. Fleming  
Espesiat Na Ayudante Para I Atministrasion

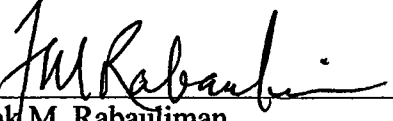
11/19/07  
Fecha

**ARONGOL TOULAP**  
**POMWOL ALLÉGHÚL AIR POLLUTION ME ALLÉGH SEFÁL AMMWELIL**  
**AIR POLLUTION**

Samwoolul Bwulásiyool Division of Environmental Quality (Ammwelil Limifischil weleór), Bwulasiyool Sów Lemelem, Commonwealth Téél falúwasch Mariana Islands (“CNMI”) ekke arongaar toulap me alongeer schóókka eyoor yaar aghiyegh reel pomwol bwe ebwe akkaté Air Quality Regulation ye e ffé bwelle reel Environmental Protection Act, 2 CMC Tálil 3101 et seq. Ngáre re fillóóy, allégh kkaal ebwe alusu Alléghúl CNMI Air Pollution Control, iye aa akkatééló llól Commonwealth Register Vol. 9, Numero 1 reel 4861-4894 (Schoow 19, 1987).

Bwulul allégh kkaal bwelle ebwe mweiti ngáli eghús me lapalapa milikkka e ayoora air pollution igha rebwe ayoora lisensial mereel DEQ me ammwela ngówal bwurók ngáli iligh me welfare (alleggh) ngáliir schóóy CNMI me bwelle ebwe fil ngáli Alléghúl Clean Air Act, 42 USC Talil 7401-7671q (“CAA”). Pomwol allégh kkaal ebwe Title V mereel CAA iye e alléghewow mereel federóód. Pomwol allégh kkaal e ammwela fiifi (open burning), fugitive dust (podbus), me ammwelil mwóghutul me óbwossul lisensia.

DEQ aa ayoora mwiisch ngáliir stakeholders me amweyút kka re tipeli bwelle pomwol allégh kkaal ótol Eluwel 2007. Ighila nge DEQ e mwuschel aghiyegh reel pomwol allégh kkaal bwelle reel Administrative Procedure Act, Tálil 9104(a). Tilighial pomwol allégh nge emmwel óubwe bwughil mereel Bwulasiyool DEQ iye elo mmwal pwó me Gualo Rai (Amairaw) Building, Middle Road, Seipél, MP. Tilighial nge emmwel ebwal bwughil me download mereel DEQ wibesite reel www.deq.gov.mp. Isisilong yáami ischil mángemáng reel Division of Environmental Quality, Box 501304 C.K., Seipél, MP 96950-1304, llól eliigh (30) ráálil arong yeel iye aa akkatéélong llól Commonwealth Register.

  
\_\_\_\_\_  
Frank M. Rabauliman  
Samwoolul. CNMI Division of Environmental Quality

11/08/07  
\_\_\_\_\_  
Rál

Sángi allégh ye 1 CMC Talil 2153 me 9104, pomwol allégh kkaal, tilighial ikka e appasch nge raa takkal amweri fischi allégheló mereel Sów Bwungul Allégh Lapalap

\_\_\_\_\_  
Matthew T. Gregory  
Sów Bwungul Allégh Lapalap

\_\_\_\_\_  
Rál

Ammwel sáangi: Bernadita B. Dela Cruz  
Bernadita B. Dela Cruz

11-19-07  
Rál

Mwir sáangi: Esther S. Fleming  
Esther S. Fleming  
Sów Alillisil Sów Lemelem

11/19/07  
Rál

DIVISION OF ENVIRONMENTAL QUALITY

CNMI REGULATIONS

AIR POLLUTION CONTROL

Subchapter 1 General Requirements

- § 1 Definitions
- § 2 Prohibition of air pollution
- § 3 Requirement for a permit
- § 4 General conditions for considering applications
- § 5 Certification
- § 6 Permit conditions
- § 7 Holding of permit
- § 8 Transfer of permit
- § 9 Reporting discontinuance
- § 10 Cancellation of a minor or major source permit
- § 11 Permit termination, suspension, reopening, and amendment
- § 12 Sampling, testing, and reporting methods
- § 13 Air quality models
- § 14 Operations of monitoring stations
- § 15 Public access to information
- § 16 Reporting of equipment shutdown
- § 17 Prompt reporting of deviations
- § 18 Emergency provision
- § 19 Prevention of air pollution emergency episodes
- § 20 Variances
- § 21 Penalties and remedies
- § 22 Severability
- §§ 23 - 30 Reserved

Subchapter 2 General Prohibitions

- § 31 Applicability
- § 32 Visible emissions
- § 33 Fugitive dust
- § 34 Motor vehicles

- § 35 Incineration
- § 36 Biomass fuel burning boilers
- § 37 Process industries
- § 38 Sulfur oxides from fuel combustion
- § 39 Storage of volatile organic compounds
- § 40 Volatile organic compound water separation
- § 41 Pump and compressor requirements
- § 42 Waste gas disposal
- §§ 43-50 Reserved

### Subchapter 3 Open Burning

- § 51 Definitions
- § 52 General provisions
- § 53 Agricultural burning: permit requirement
- § 54 Agricultural burning: recordkeeping and monitoring
- § 55 Agricultural burning: action on application
- §§ 56-60 Reserved

### Subchapter 4 Minor Sources

- § 61 Definitions
- § 62 Applicability
- § 63 Permit requirements
- § 64 Initial minor source permit application
- § 65 Duty to supplement or correct permit applications
- § 66 Compliance plan
- § 67 Transition into the minor source permit program
- § 68 Permit term
- § 69 Temporary minor source permits
- § 70 Minor source general permits
- § 71 Transmission of information to the Administrator
- § 72 Permit reopening
- § 73 Public participation
- § 74 Minor source permit renewal applications
- § 75 Administrative permit amendment
- § 76 Applications for modifications
- §§ 77-80 Reserved

## Subchapter 5 Major Sources

§ 81	Definitions
§ 82	Applicability
§ 83	Permit requirements
§ 84	Initial major source permit application
§ 85	Duty to supplement or correct permit applications
§ 86	Compliance plan
§ 87	Compliance certification of major sources
§ 88	Transition period
§ 89	Permit Action on insignificant activities
§ 90	Permit term
§ 91	Federally-enforceable permit terms and conditions
§ 92	Transmission of information to the Administrator
§ 93	EPA oversight
§ 94	Operational flexibility
§ 95	Permit reopening
§ 96	Public participation
§ 97	Filing objections with EPA and DEQ
§ 98	Major source permit renewal applications
§ 99	Administrative permit amendment
§ 100	Applications for minor modifications
§ 101	Applications for nonminor modifications
§§ 102-110	Reserved

## Subchapter 6 Fees for Major Sources, Minor Sources, and Agricultural Burning

§ 111	Definitions
§ 112	General fee provisions for major sources
§ 113	Application fees for major sources
§ 114	General fee provisions for minor sources
§ 115	Application fees for minor sources
§ 116	Annual fees for major and minor sources
§ 117	Basis of annual fees for major and minor sources
§ 118	Application fees for agricultural burning permits
§§ 119-130	Reserved



Subchapter 7 Hazardous Air Pollutant Sources

- § 131 Definitions
- § 132 Applicability
- § 133 Permit Requirements
- § 134 Ambient air concentrations of hazardous air pollutants
- §§ 135-140 Reserved

Subchapter 8 Applications, Permits, Compliance Documents and Relocation Request Content

- § 141 Minor source permit application
- § 142 Minor source permit
- § 143 Minor source general permit application
- § 144 Minor source permit renewal application
- § 145 Minor source modification application
- § 146 Major source permit application
- § 147 Major source permit
- § 148 Major source permit renewal application
- § 149 Minor modification to a major source application
- § 150 Nonminor modification to a major source application
- § 151 Compliance plan
- § 152 Compliance certification
- § 153 Temporary source relocation request
- §§ 154-160 Reserved

## SUBCHAPTER 1

### GENERAL REQUIREMENTS

§ 1 Definitions. As used in these rules, unless otherwise defined for purposes of a particular subchapter or section of these rules:

(a) "ug/m<sup>3</sup>" means micrograms per cubic meter.

(b) "Act" means the Clean Air Act, as amended, 42 United States Code §§ 7401, et seq.

(c) "Administrative permit amendment" means a permit amendment which:

(1) Corrects typographical errors;

(2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(3) Requires more frequent monitoring or reporting by the permittee;

(4) Without changing any conditions or requirements, consolidates the terms and conditions of two or more minor source permits into one minor source permit for a facility;

(5) Without changing any conditions or requirements, consolidates the terms and conditions of two or more major source permits into one major source permit for a facility; or

(6) Incorporates applicable requirements for any insignificant activity listed in section 83(f) or (g), provided the activity is not by itself subject to PSD or sections 111 or 112 of the Act, does not cause a minor stationary source to become a major source, and does not cause the stationary source to become subject to PSD or sections 111 or 112 of the Act; or

(7) Allows for a change in ownership or operational control of a source provided the Director has determined that no other change in the permit is necessary, and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.

(d) "Administrator" means the Administrator of the EPA or the Administrator's designee.

(e) "Agricultural burning permit" means written authorization from the Director to engage in agricultural burning.

(f) "Air pollutant" has the same meaning as in the Act, Section 302, and any substance the Director may by rule designate as such.

(g) "Air pollution" means the presence in the outdoor air of substances in quantities and for durations which may endanger human health or welfare, plant or animal life, or property or which may unreasonably interfere with the comfortable enjoyment of life and property throughout the Commonwealth and in such areas of the Commonwealth as are affected thereby, but excludes all aspects of employer-employee relationships as to health and safety hazards.

(h) "Air pollution control equipment" means equipment or a facility of a type intended to eliminate, prevent, reduce, or control the emissions of any regulated or hazardous air pollutant to the atmosphere.

(i) "Allowable emissions" means the emissions of a stationary source calculated using the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate, capacity, or hours of operations, or any combination of these, and the most stringent of the following:

(1) The applicable standards set forth in the Standards of Performance for New Stationary Sources or the National Emissions Standards for Hazardous Air Pollutants;

(2) Any CNMI state implementation plan emission limitation, including those with a future compliance date; and

(3) The emission rates specified as a federally enforceable permit condition, including those with a future compliance date.

(j) "Applicable requirement" means all of the following as they apply to emissions units in a minor or major source:

(1) Any standard or other requirement provided for in the state implementation plan approved or promulgated by EPA;

(2) Any NAAQS or CNMI ambient air quality standard;

(3) Any standard or other requirement approved pursuant to Title I of the Act, including but not limited to Sections 111, 112, 114, 129, and 183 and Part C.

(4) Any standard or other requirement of the program to control air pollution from outer continental shelf sources approved pursuant to Section 328 of the Act;

(5) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone approved pursuant to Title VI of the Act;

(6) The application of best available control technology to control those pollutants subject to any NAAQS or CNMI ambient air quality standard, but only as best available control technology would apply to new minor sources and modifications to minor sources that have the potential to emit or

increase emissions above significant amounts considering any limitations, enforceable by the Director, on the minor source to emit a pollutant;

(7) Requirements in section 81(a) of these rules; and

(8) Any standard or other requirement promulgated pursuant to 2 CMC, Division 3, Chapter 1 or this chapter.

(k) "Applicant" means any person who submits an application for a permit.

(l) "Authority to construct" means the permit issued by the Director pursuant to repealed CNMI Air Pollution Control Regulations (9 CR 4861) giving approval or conditional approval to an owner or operator to construct an air pollution source.

(m) "Best available control technology ("BACT")" means an emissions limitation including a visible emission standard based on the maximum degree of reduction for each pollutant subject to regulation approved pursuant to the Act which would be emitted from any proposed stationary source or modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard promulgated pursuant to 40 CFR Parts 60, 61, and 63. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(n) "Biomass fuel burning boilers" means fuel burning equipment in which the actual heat input of biomass fuel exceeds the actual heat input of fossil fuels, calculated on an annual basis.

(o) "BTU" means British thermal unit.

(p) "CFR" means the latest promulgated Code of Federal Regulations.

(q) "Chapter" means these Air Pollution Control Rules

(r) "Commenced" as applied to construction of or modification to a stationary source means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(1) Begun, or caused to begin a continuous program of actual operation or on-site construction of the source; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual operation or construction of the source.

(s) "Complete" means, in reference to an application for a permit, that the application contains all of the necessary information, except in cases of applications for major source permits which require EPA review, as indicated in § 81(b).

(t) "Compliance plan" means a plan which includes a description of how a source will comply with all applicable requirements, and includes a schedule of compliance under which the owner or operator will submit progress reports to the Director no less frequently than every six months.

(u) "Construction" means a physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of an emissions unit which would result in a change in actual emissions.

(v) "DEQ" means the Division of Environmental Quality.

(w) "Director" means the Director of the Division of Environmental Quality or an authorized agent, officer, or inspector.

(x) "Draft permit" means the version of a permit for which the Director offers public notice, including the method by which a public hearing can be requested, and an opportunity for public comment pursuant to section 96.

(y) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator of the source, which requires immediate corrective action to restore normal operation, and causes the source to exceed a technology based emission limitation under the permit. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error, and shall not include an exceedance of a health-based emission limitation.

(z) "Emission" means the release or discharge air pollutants into the air from any source, or an air pollutant which is released or discharged into the air from any source.

(aa) "Emission limitation" means a requirement established by the Director or the Administrator which limits the quantity, rate, or concentration of

emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(bb) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated or hazardous air pollutant.

(cc) "EPA" means the United States Environmental Protection Agency.

(dd) "Existing major source" means a stationary major source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of these rules.

(ee) "Existing minor source" means a stationary minor source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of these rules.

(ff) "Federally enforceable" means (i) all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63; (ii) requirements within the CNMI state implementation plan; (iii) any permit requirements established pursuant to Title I Part C of the Act; (iv) all permit terms and conditions in a major source permit except those specifically designated as not federally enforceable; (v) or regulations approved pursuant to 40 CFR Part 51 Subpart I, including operating permits issued under an EPA-approved program that is incorporated into this subchapter and expressly requires adherence to any permit issued under such program.

(gg) "Fuel burning equipment" means a furnace, boiler, internal combustion engine, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power.

(hh) "Fugitive dust" means the emission of solid airborne particulate matter from any source other than combustion.

(ii) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(jj) "Hazardous air pollutants" means those hazardous air pollutants listed pursuant to Section 112(b) of the Act. This definition also applies to the terms "air toxics" and "toxic air pollutants".

(kk) "Major source" means:

(1) For hazardous air pollutants, except radionuclides, a source or a group of stationary sources that is located within a contiguous area under common control that emits or has the potential to emit considering controls and

fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more or twenty-five tons per year or more of any combination; or

(2) For any other pollutant, a source, or a group of stationary sources that is located within a contiguous area under common control belonging to a single major industrial grouping (i.e., all having the same two-digit Standard Industrial Classification Code) and that emits or has the potential to emit, considering controls, one hundred tons per year or more of any air pollutant. Fugitive emissions from the stationary source shall be considered by the Director in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:

- (A) Coal cleaning plants (with thermal dryers);
- (B) Kraft pulp mills;
- (C) Portland cement plants;
- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
- (I) Hydrofluoric, sulfuric, or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;
- (U) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million BTU per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
- (W) Taconite ore processing plants;
- (X) Glass fiber processing plants;

- (Y) Charcoal production plants;
- (Z) Fossil fuel fired steam electric plants of more than two hundred fifty million BTU per hour heat input; and
- (AA) All other stationary source categories regulated by a standard promulgated pursuant to Section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.
- (3) For radionuclides, a source having the meaning specified by the Administrator by rule.
- (4) For nonattainment areas, a major stationary source as defined in Part D of Title I of the Act.
- (ll) "Major source permit" means a permit for a major source that is issued, renewed, or amended pursuant to subchapter 5 and 40 CFR § 69.32, and includes temporary and major source general permits.
- (mm) "Maximum achievable control technology ("MACT")" means the maximum degree of reduction in emissions of hazardous air pollutants that the Director determines to be achievable, Such a determination shall be made on a case-by-case basis, taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impacts, and energy requirements,
- (nn) "Minor source" means any stationary source that is not a major source and is not otherwise exempted in Subchapter 4..
- (oo) "NAAQS" means the National Ambient Air Quality Standards contained in 40 CFR Part 50.
- (pp) "National Emission Standards for Hazardous Air Pollutants" means the federal emission standards contained in 40 CFR Parts 61 and 63.
- (qq) "Necessary preconstruction approvals or permits" means those permits or approvals required pursuant to federal or CNMI air quality control laws and regulations.
- (rr) "New major source" means a major source that commenced construction or modification on or after the effective date of these regulations.
- (ss) "New minor source" means a minor source that commenced construction or modification on or after the effective date of these regulations.
- (tt) "Opacity" means a condition which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.
- (uu) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a stationary source.
- (vv) "Particulate matter" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.



(ww) "Permit" means written authorization from the Director to construct, modify, relocate, or operate any regulated or hazardous air pollutant source. A permit authorizes the owner or operator to proceed with the construction, modification, relocation, or operation of a regulated or hazardous air pollutant source, and to cause or allow the emission of such air pollutants in a specified manner or amount.

(xx) "Permit renewal" means the process by which a permit is reissued at the end of its term.

(yy) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, federal or CNMI government agency, commission, or political subdivision, and to the extent permitted by law, the United States or any interstate body.

(zz) "PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

(aaa) "Potential annual heat input" means the product of the maximum rated heat input capacity (megawatts or million BTU per hour) times 8760 hours per year.

(bbb) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator and the Director.

(ccc) "PSD" means prevention of significant deterioration as set forth in Title I, Part C of the Act.

(ddd) "Reconstruction" means the replacement of components at an existing stationary source to such an extent that the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost that would be required to construct a comparable entirely new stationary source.

(eee) "Regulated air pollutant" means:

- (1) Nitrogen oxides or any volatile organic compound;
- (2) Any air pollutant for which a national or CNMI ambient air quality standard has been promulgated;
- (3) Any air pollutant that is subject to any standard adopted pursuant to 2 CMC, Division 3, Chapter 1, or promulgated pursuant to Section 111 of the Act;
- (4) Any Class I or II substance subject to a standard promulgated pursuant to or established by Title VI of the Act; or

(5) Any air pollutant subject to a standard or other requirement promulgated pursuant to Section 112 of the Act, including :

(A) Any air pollutant subject to requirements of Section 112(j) of the Act. If the Administrator does not promulgate a standard by the date established pursuant to Section 112(e) of the Act, any air pollutant for which a subject source would be major shall be considered a regulated air pollutant on the date eighteen months after the applicable date established pursuant to Section 112(e) of the Act; and

(B) Any air pollutant for which the requirements of Section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.

(fff) "Responsible official" means:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or an authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than two hundred fifty persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Director;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency: a principal executive officer, ranking elected official, or an authorized representative as approved by the Director. For the purposes of these rules, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(ggg) "Risk assessment" means the process of determining the potential adverse health effects of human exposure to environmental hazards. The process includes hazard identification, dose-response assessment, exposure assessment, and risk characterization by quantifying the magnitude of the public health problem that results from the hazard.

(hhh) "SICC" means Standard Industrial Classification Code.

(iii) "Significant" means in reference to a net emissions increase or the potential of a source to emit:

(1) A rate of emissions that would equal or exceed any of the following pollutant and emission rates:

- (A) Carbon monoxide: one hundred tpy;
- (B) Nitrogen oxides: forty tpy;
- (C) Sulfur dioxide: forty tpy;
- (D) Particulate matter: a total of twenty-five tpy of particulate matter of all sizes or fifteen tpy of PM<sub>10</sub>;
- (E) Ozone: forty tpy of volatile organic compounds;
- (F) Lead: 0.6 tpy;
- (G) Asbestos: 0.007 tpy;
- (H) Beryllium: 0.0004 tpy;
- (I) Mercury: 0.1 tpy;
- (J) Vinyl chloride: one tpy;
- (K) Fluorides: three tpy;
- (L) Sulfuric acid mist: seven tpy;
- (M) Hydrogen sulfide (H<sub>2</sub>S): ten tpy;
- (N) Total reduced sulfur (H<sub>2</sub>S, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide): ten tpy;
- (O) Reduced sulfur compounds (H<sub>2</sub>S, carbon disulfide and carbonyl sulfide): ten tpy;
- (P) Municipal waste combustor organics:  $3.2 \times 10^{-6}$  megagrams per year ( $3.5 \times 10^{-6}$  tpy) measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans;
- (Q) Municipal waste combustor metals: fourteen megagrams per year (fifteen tpy) measured as particulate matter; or
- (R) Municipal waste combustor acid gases: thirty-six megagrams per year (forty tpy) measured as sulfur dioxide and hydrogen chloride;

(2) Any net emissions increase of a pollutant or the potential of a source to emit a pollutant subject to regulation pursuant to the Act that paragraph (1) does not list; and

(3) Notwithstanding paragraph (1), any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would be constructed within ten kilometers of a PSD Class I area, and have an impact on such area equal to or greater than one ug/m<sup>3</sup> (twenty-four-hour average).

(jjj) "Smoke" means the gaseous products of burning carbonaceous materials made visible by the presence of small particles of carbon.

(kkk) "Source" means property, real or personal, which emits or

may emit any air pollutant.

(lll) "Stack" means a point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(mmm) "Standard Industrial Classification Code" means Major Group Number, Industry Group Number, or Industry Number as described in the Standard Industrial Classification Manual, 1987.

(nnn) "Standards of Performance for New Stationary Sources" means the federal emission standards contained in 40 CFR Part 60.

(ooo) "Stationary source" means any piece of equipment or any activity located in a building, structure, facility, or installation that emits or may emit any air pollutant.

(ppp) "Submerged fill pipe" means a fill pipe the discharged opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean a fill pipe the discharge opening of which is eighteen inches above the bottom of the tank.

(qqq) "Tpy" means tons per year.

(rrr) "Upon program approval" means the date the CNMI alternate operating permit program is granted full or interim approval by the Administrator pursuant to 40 CFR Part 69 and thereafter.

(sss) "Volatile organic compound" means any compound described at 40 CFR § 51.100.

(ttt) "Volatile organic compound water separator" means a tank, box, sump, or other container which is primarily designed to separate and recover volatile organic compounds from water. Petroleum storage tanks from which water incidental to the process is periodically removed are not considered volatile organic compound water separators.

§ 2 Prohibition of air pollution. (a) No person shall engage in any activity which causes or allows air pollution or the emission of any regulated or hazardous air pollutant without first obtaining written approval from the Director, unless specifically exempted by these regulations.

(b) No person shall engage in any activity which causes or allows deterioration of existing air quality in the CNMI that violates PSD requirements pursuant to Title I, Part C of the Act.

§ 3 Requirement for a permit. Except as provided in subchapters 4 and 5, no person shall begin construction, reconstruction, modification, relocation, or operation of an emission unit or air pollution control equipment of any minor or

major source without first obtaining the applicable major or minor source permit from the Director.

§ 4 General conditions for considering applications. The Director shall approve an application for a major or minor source permit if the applicant can show that all provisions of these regulations and all other applicable requirements will be complied with to the satisfaction of the Director.

§ 5 Certification. Every application form, report, compliance plan, compliance certification, or notice submitted pursuant to these rules shall contain certification by a responsible official of their truth, accuracy, and completeness. This certification and any other certification required pursuant to these regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

§ 6 Permit conditions. In addition to the conditions authorized in sections 142 and 147, the Director may impose more restrictive conditions in a major or minor source permit to further limit the air pollutants and operation of the source. In determining whether to impose more restrictive conditions, the Director shall consider the relevant circumstances of each individual case: the availability of a reasonable control technology, cleaner fuels or operating process; existing air quality and the resulting degradation; protection of public health, welfare and safety; and any information, assumptions, limitations, or statements made in conjunction with a permit application.

§ 7 Holding of permit. (a) Each major or minor source permit, or a copy thereof, shall be maintained at or near the stationary source for which the permit was issued and shall be made available for inspection upon the Director's request.

(b) No person shall willfully deface, alter, forge, counterfeit, or falsify a minor or major source permit.

§ 8 Transfer of permit. (a) Except as provided in the case of temporary sources in section 69, all minor and major source permits issued pursuant to these regulations shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.

(b) All major and minor source permits issued pursuant to these regulations shall not be transferable, whether by operation of law or otherwise, from one person to another without the approval of the Director. A request for transfer

from one person to another shall be made on a permit transfer application form furnished by the Director.

§ 9 Reporting discontinuance. Within thirty days of permanent discontinuance of the construction, modification, relocation, or operation of any major or minor source, the discontinuation shall be reported in writing to the Director by a responsible official of the source.

§ 10 Cancellation of a major or minor source permit. (a) If construction authorized by a minor source permit is not commenced within twelve months after the minor source permit takes effect, is discontinued for a period of twelve months or more, or is not completed within a reasonable time, the minor source permit shall become invalid with respect to the authorized construction.

(b) If construction authorized by a major source permit is not commenced within eighteen months after the major source permit takes effect, is discontinued for a period of eighteen months or more, or is not completed within a reasonable time, the major source permit shall become invalid with respect to the authorized construction.

(c) Subsections (a) and (b) shall not apply to phased construction projects. Instead, each phase shall commence construction within eighteen months for a major source, or twelve months for a minor source, of the projected and approved commencement dates in the permit.

(d) The Director may extend the specified periods upon a satisfactory showing that an extension is justified.

§ 11 Permit termination, suspension, reopening, and amendment. (a) The Director, at the Director's sole discretion or on the petition of any person, may terminate, suspend, reopen, or amend any permit if, after affording the permittee an opportunity for a hearing in accordance with the Administrative Procedures Act 1 CMC §§ 9101, et seq., the Director determines that:

- (1) The permit contains a material mistake made in establishing the emissions limitations or other requirements of the permit;
- (2) Permit action is required to assure compliance with the requirements of the Act; 2 CMC, Division 3, Chapter 1; and these rules;
- (3) Permit action is required to address additional requirements of the Act; 2 CMC, Division 3, Chapter 1; and these rules;
- (4) There is a violation of any condition of the permit;
- (5) The permit was obtained by misrepresentation or failure to disclose fully all relevant facts;

(6) The source is neither constructed nor operated in accordance with the application for the major or minor source permit and any information submitted as part of the application;

(7) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted emissions;

(8) More frequent monitoring or reporting by the permittee is necessary; or

(9) Such is in the public interest, as determined pursuant to 2 CMC, Division 3, Chapter 1.

(b) The provisions of this section are supplemental to the provisions of sections 72 and 95.

§ 12 Sampling, testing, and reporting methods. (a) All sampling and testing shall be made, and the results calculated, in accordance with the reference methods specified by EPA or, in the absence of an EPA reference method, test procedures approved by the Director. All tests shall be performed under the direction of persons knowledgeable in the field of air pollution control.

(b) The DEQ may perform emissions tests on any source in accordance with the permit issued pursuant to these rules. Upon request of the Director, an owner or operator of a stationary source may be required to conduct tests of emissions of air pollutants at the owner or operator's expense. The owner or operator of the stationary source to be tested shall provide necessary ports in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of air emissions.

(c) The Director may require the owner or operator of any stationary source to maintain files in a permanent form suitable for inspection or in a manner authorized by the Director. Such files shall contain pertinent process and material flow, fuels used, nature, amount, and time periods or durations of emissions, or any other information as may be deemed necessary by the Director to determine whether the stationary source complies with applicable emission limitations, NAAQS, any CNMI ambient air quality standard, or other provisions of these regulations.

(d) The information recorded shall be summarized and reported to the Director as specified in the permit and in accordance with any requirement of these rules. Recording periods shall be January 1 to June 30, and July 1 to December 31, or any other period specified by the Director, except the initial recording period shall commence on the date the Director issues the notification of the recordkeeping requirements. The Director may require the owner or operator to submit any reported summary to the Administrator.

(e) Information recorded by the owner or operator of a stationary source and copies of the summarizing reports submitted to the Director shall be retained by the owner or operator for a specified time period from the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be at least 3 years for minor sources and at least 5 years for major sources.

(f) Test reports shall include a comparison of test results with permit limits.

§ 13 Air quality models. (a) All required estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W.

(b) Where an air quality model specified in Appendix A of 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted on written request to and written approval from the Director who must also obtain EPA approval. The Director shall provide for public notice, requests for public hearings and an opportunity for public comment, on all proposed modifications or substitutions of an air quality model. Guidelines identified in 40 CFR Part 51, Appendix W for substituting or using alternate models shall be used in determining the acceptability of a substitute or alternate model.

§ 14 Operations of monitoring stations. During the operation of any monitoring station required by the Director or these regulations, the monitoring requirements of Appendix B to 40 CFR Part 58, "Ambient Air Quality Surveillance," shall be met as a minimum.

§ 15 Public access to information.

(a) Except as provided in subsection (b), all information submitted to the agency shall be considered government records as set forth in the Open Government Act of 1992, 1 CMC § 9917:

(b) Any owner or operator of an existing or proposed major or minor source may request confidential treatment of specific information, including information concerning secret processes or methods of manufacture, by submitting a written request to the Director at the time of submission, clearly identifying the specific information that is to be accorded confidential treatment. With respect to each item in the request, the owner or operator shall provide the following documentation:

(1) How the information concerns secret processes, secret methods of manufacture;



(2) Who has access to the information;  
(3) What steps have been taken to protect the secrecy of the information; and

(4) Why it is believed the information must be accorded confidential treatment and the anticipated prejudice should disclosure be made.

(c) Any information submitted to the DEQ without a request for confidentiality in accordance with this section shall be considered a public record.

(d) Upon a satisfactory showing to the Director that records, reports, or information, or particular part thereof, contain information of a confidential nature, they shall be kept confidential except that such records, reports, or information may be disclosed to EPA, as well as to other commonwealth and federal officers or employees concerned with implementing or enforcing these regulations or the Act. Emissions data shall not be entitled to confidentiality protection.

(e) Records, reports, or information for which confidentiality has been claimed may be disclosed only after the person who made the claim of confidentiality has received reasonable notice and has had the opportunity to demonstrate why these records, reports or information should not be disclosed.

(f) Any person who has claimed confidentiality for records, reports, or other information and whose claim was denied by the Director may obtain administrative review and subsequent judicial review of the denial pursuant to the Administrative Procedures Act, 1 CMC §§ 9101, *et seq.* Records which are the subject of a judicial review shall not be released until the judicial review is complete and only if the court authorizes such release.

(g) All requests for public records shall be in accordance with the Open Government Act of 1992, 1 CMC §9917.

§ 16 Reporting of equipment shutdown. (a) In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Director at least twenty-four hours prior to the planned shutdown. The notice shall include:

(1) Identification of the specific equipment to be taken out of service as well as its location and permit number;

(2) The expected length of time that the air pollution control equipment will be out of service;

(3) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;

(4) Measures, such as the use of off-shift labor and equipment, that will be taken to minimize the length of the shutdown period; and

(5) The reasons why it would be impossible or impractical to shut down the source operation during the maintenance period.

(b) The submittal of the notice shall not be a defense to an enforcement action.

§ 17 Prompt reporting of deviations. (a) Except for emergencies under section 18, in the event any emission unit, air pollution control equipment, or related equipment malfunctions or breaks down and causes the emission of air pollutants in violation of these rules or a permit, the owner or operator shall immediately notify the DEQ of the malfunction or breakdown, unless the protection of personnel or public health or safety demands immediate attention to the malfunction or breakdown and makes such notification infeasible. In the latter case, the notice shall be provided as soon as practicable, but not later than seven days after the malfunction or breakdown.

(b) The owner or operator shall provide the following information in writing within five working days of the malfunction or breakdown:

- (1) Identification of each affected emission point and each emission limit exceeded;
- (2) Magnitude of each excess emission;
- (3) Time and duration of each excess emission;
- (4) Identity of the process or control equipment causing each excess emission;
- (5) Cause and nature of each excess emission;
- (6) Description of the steps taken to remedy the situation, prevent a recurrence, limit the excessive emissions, and assure that the malfunction or breakdown does not interfere with the attainment and maintenance of the NAAQS and CNMI ambient air quality standards;
- (7) Documentation that the equipment or process was at all times maintained and operated in a manner consistent with good practice for minimizing emissions; and
- (8) A statement that the excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(c) The submittal of the notice shall not be a defense to an enforcement action.

§ 18 Emergency provision. (a) An emergency constitutes an affirmative defense to any action brought for noncompliance with any technology-based emission limitation, if it can be demonstrated to the Director through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and the owner or operator of the source can identify the cause or causes of the emergency;

(2) The permitted facility was at the time being properly operated;

(3) During the period of the emergency, the owner or operator of the source took all reasonable steps to minimize emission levels that exceeded the emission limitations or other requirements in the major or minor source permit; and

(4) The owner or operator of the source submitted written notice of the emergency to the Director within two working days of the time when emission limitations were exceeded due to the emergency, provided that the notice contained a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(b) In any proceedings for enforcement action, the owner or operator of the source seeking to establish the occurrence of an emergency has the burden of proof.

(c) This emergency provision is in addition to any emergency or upset provision in any applicable requirement.

§ 19 Prevention of air pollution emergency episodes. (a) This section is designed to prevent the excessive buildup of air contaminants during air pollution episodes, thereby preventing the occurrence of any emergency due to the effects of these contaminants on the public health.

(b) Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Director shall be guided by the criteria set forth in subsections (c) to (g).

(c) If the national weather service issues an atmospheric stagnation advisory or if an equivalent local forecast of stagnant atmospheric conditions is issued, the DEQ shall survey its monitoring stations to determine whether alert, warning, or emergency levels have occurred or are likely to occur.

(d) The alert level is that concentration of pollutants at which first stage control action is to begin. An alert shall be declared, health advisories issued, and source activities curtailed as ordered by the Director when any one of the following levels is reached:

(1) SO<sub>2</sub> - eight hundred ug/m<sup>3</sup> (0.3 ppm), twenty-four-hour average;

- (2) PM<sub>10</sub> - three hundred fifty ug/m<sup>3</sup>, twenty-four-hour average;
- (3) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, ug/m<sup>3</sup>, twenty-four-hour average and particulate matter, ug/m<sup>3</sup>, twenty-four-hour average equal to 65 X 10<sup>3</sup>;
- (4) CO - seventeen mg/m<sup>3</sup> (fifteen ppm), eight-hour average;
- (5) Ozone - four hundred ug/m<sup>3</sup> (0.2 ppm), one-hour average; or
- (6) NO<sub>2</sub> - one thousand one hundred thirty ug/m<sup>3</sup> (0.6 ppm), one-hour average; two hundred eighty-two ug/m<sup>3</sup> (0.15 ppm), twenty-four-hour average and meteorological conditions are such that this condition can be expected to continue for twelve or more hours.

(e) The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. A warning shall be declared, health advisories issued, and source activities curtailed or terminated as ordered by the Director when any one of the following levels is reached:

- (1) SO<sub>2</sub> - one thousand six hundred ug/m<sup>3</sup> (0.6 ppm), twenty-four-hour average;
- (2) PM<sub>10</sub> - four hundred twenty ug/m<sup>3</sup>, twenty-four-hour average;
- (3) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, ug/m<sup>3</sup>, twenty-four-hour average and particulate matter, ug/m<sup>3</sup>, twenty-four-hour average equal to 261 X 10<sup>3</sup>;
- (4) CO - thirty-four mg/m<sup>3</sup> (thirty ppm), eight-hour average;
- (5) Ozone - eight hundred ug/m<sup>3</sup> (0.4 ppm), one-hour average; or
- (6) NO<sub>2</sub> - two thousand two hundred sixty ug/m<sup>3</sup> (1.2 ppm), one-hour average; five hundred sixty-five ug/m<sup>3</sup> (0.3 ppm), twenty-four-hour average; and meteorological conditions are such that this condition can be expected to continue for twelve or more hours.

(f) The emergency level indicates that air quality may have an impact on public health. An emergency shall be declared, health advisories issued, source activities terminated as ordered by the Director, and the public evacuated from the affected area if so recommended by the Director, civil defense, or the police DEQ when the warning level for a pollutant has been exceeded and:

- (1) The concentrations of the pollutant are continuing to increase;

(2) The Director determines that, because of meteorological or other facts, the concentrations will continue to increase; or

(3) When one of the following levels is reached:

(A) SO<sub>2</sub> - two thousand one hundred ug/m<sup>3</sup> (0.8 ppm), twenty-four-hour average;

(B) PM<sub>10</sub> - five hundred ug/m<sup>3</sup>, twenty-four-hour average; or

(C) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, ug/m<sup>3</sup>, twenty-four-hour average and particulate matter, ug/m<sup>3</sup>, twenty-four-hour average equal to 393 X 10<sup>3</sup>;

(D) CO - forty-six mg/m<sup>3</sup> (forty ppm), eight-hour average;

(E) Ozone - one thousand ug/m<sup>3</sup> (0.5 ppm), one-hour average; or

(F) NO<sub>2</sub> - three thousand ug/m<sup>3</sup> (1.6 ppm), one-hour average; seven hundred fifty ug/m<sup>3</sup> (0.4 ppm), twenty-four-hour average.

(g) Once declared, any episode level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that time, the next lower episode level shall be assumed.

§ 20 Variations. (a) No variance shall prevent or interfere with the maintenance or attainment of NAAQS. Any application for a variance shall include a calculation and description of any change in emissions and the expected ambient air quality concentrations.

(b) Under no circumstances shall a variance be granted from any requirement under the Act or from any federally enforceable permit terms and conditions.

§ 21 Penalties and remedies. Any person who violates any provision of these rules, any term or condition of a permit, or any term or condition of an agricultural burning permit shall be subject to the penalties and remedies provided for in 2 CMC § 3131.

§ 22 Severability. If any provision of these regulations or their application to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of these rules shall not be affected thereby.

§§ 23-30 Reserved.

## SUBCHAPTER 2

### GENERAL PROHIBITIONS

§ 31 Applicability. (a) All owners or operators of an air pollution source are subject to the requirements of this subchapter, whether or not the source is required to obtain a minor or major source permit.

(b) In the event any federal or CNMI laws, rules, or regulations are in conflict with the provisions of this subchapter, the most stringent requirement shall apply.

§ 32 Visible emissions. (a) Visible emission restrictions for stationary sources which commenced construction or were in operation before March 21, 1972, shall be as follows:

(1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than forty percent opacity, except as provided in paragraph (2);

(2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty percent opacity.

(b) Visible emission restrictions for stationary sources which commenced construction, modification, or relocation after March 20, 1972, shall be as follows:

(1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than twenty percent opacity, except as provided in paragraph (2);

(2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty percent opacity.

(c) Compliance with visible emission requirements shall be determined by evaluating opacity of emissions pursuant to 40 CFR Part 60, Appendix A, Method 9 and other EPA approved methods.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of subsections (a) and (b), and do not constitute a violation of this section.

§ 33 Fugitive dust. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions. Examples of reasonable precautions are:

(1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;

(2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may result in fugitive dust;

(3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable containment methods shall be employed during sandblasting or other similar operations;

(4) Covering all moving, open-bodied trucks transporting materials which may result in fugitive dust;

(5) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust;

(6) Maintenance of roadways in a clean manner; and

(7) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means.

(b) Except for persons engaged in agricultural operations or persons who can demonstrate to the Director that the best practical operation or treatment is being implemented, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates.

§ 34 Motor vehicles. (a) No person shall operate a gasoline-powered motor vehicle which emits visible smoke while upon streets, roads, or highways.

(b) No person shall operate a diesel-powered motor vehicle which emits visible smoke for a period of more than five consecutive seconds while upon streets, roads, or highways.

(c) No person shall cause any engine to be in operation while the motor vehicle is stationary at a loading zone, parking or servicing area, route terminal, or other off street areas, except:

(1) During adjustment or repair of the engine at a garage or similar place of repair;

(2) During operation of ready-mix trucks, cranes, hoists, and certain bulk carriers, or other auxiliary equipment built onto the vehicle or equipment that require power take-off from the engine, provided that there is no visible discharge of smoke and the equipment is being used and operated for the

purposes as originally designed and intended. This exception shall not apply to operations of air conditioning equipment or systems;

(3) During the loading or unloading of passengers, not to exceed three minutes; and

(4) During the buildup of pressure at the start-up and cooling down at the closing down of the engine for a period of not more than three minutes.

(d) No person shall remove, dismantle, fail to maintain, or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle as required by the provisions of the Act except as permitted or authorized by law.

§ 35 Incineration. (a) No person shall cause or permit the emissions of particulate matter to exceed 0.20 pounds per one hundred pounds (two grams per kilogram) of refuse charged from any incinerator.

(b) All required emission tests shall be conducted at the maximum burning capacity of the incinerator or at other capacities, as approved by the Director.

(c) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Director.

(d) For the purposes of this section, the total of the capacities of all furnaces within one system shall be considered as the incineration capacity.

§ 36 Biomass fuel burning boilers. No person shall cause or permit the emissions of particulate matter from each biomass burning boiler and its drier or driers in excess of 0.40 pounds per one hundred pounds of biomass as burned.

§ 37 Process industries. (a) No person shall cause or permit the emission of particulate matter in any one hour from any stack or stacks, except for incinerators and biomass fuel burning boilers, in excess of the amount determined by the equation  $E = 4.10 p^{0.67}$ , where E = rate of emission in pounds per hour and p = process weight rate in tons per hour, except that no rate of emissions shall exceed forty pounds per hour regardless of the process weight rate.

(b) Process weight per hour is the total weight of all materials introduced into any specific process that may cause any emission of particulate matter through any stack or stacks. Solid fuels charged shall be considered as part of the process weight, but liquid and gaseous fuels and combustion air shall not. For a cyclical or batch operation, the process weight per hour shall be derived by



dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, including any time during which the equipment is idle. For a continuous operation, the process weight per hour shall be derived for a typical period of time by the number of hours of the period.

(c) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation, the interpretation that results in the minimum value for the allowable emission shall apply.

(d) For purposes of this section, a process is any method, reaction, or operation whereby materials introduced into the process undergo physical or chemical change. A specific process is one which includes all of the equipment and facilities necessary for the completion of the transformation of the materials to produce a physical or chemical change. There may be several specific processes in series necessary to the manufacture of a product. However, where there are parallel series of specific processes, the similar parallel specific processes shall be considered as a single specific process.

§ 38 Sulfur oxides from fuel combustion. (a) No person shall burn any fuel containing in excess of two percent sulfur by weight, except for fuel used in ocean-going vessels.

(b) No person shall burn any fuel containing in excess of 0.50 percent sulfur by weight in any fossil fuel fired power and steam generating facilities having a power generating output in excess of twenty-five megawatts or a heat input greater than two hundred fifty million BTU per hour.

(c) The use of fuels prohibited in subsections (a) and (b) may be allowed at the Director's sole discretion if it can be demonstrated that the use of these fuels will result in emission rates of oxides of sulfur equivalent to or lower than the emission rates which would result from the fuels allowed by subsections (a) and (b).

§ 39 Storage of volatile organic compounds. (a) Except as provided in subsection (c), no person shall place, store, or hold in any stationary tank, reservoir, or other container of more than a forty thousand-gallon (one hundred fifty thousand-liter) capacity any volatile organic compound which, as stored, has a true vapor pressure equal to or greater than 1.5 pounds per square inch absolute unless the tank, reservoir, or other container is pressurized and capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed and equipped with one of the following vapor loss control devices:

(1) A floating roof, consisting of a pontoon type roof, double deck type roof or internal floating cover roof, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the volatile organic compounds have a vapor pressure of eleven pounds per square inch absolute (five hundred sixty-eight millimeters of mercury) or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place;

(2) A vapor recovery system, consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; or

(3) Other equipment or means of equal efficiency for purposes of air pollution control as may be approved by the Director.

(b) No person shall place, store, or hold in any new stationary storage tank, reservoir, or other container of more than a two hundred fifty-gallon (nine hundred fifty-liter) capacity any volatile organic compound unless such tank, reservoir, or other container is equipped with a permanent submerged fill pipe, is a pressure tank as described in subsection (a), or is fitted with a vapor recovery system as described in subsection (a)(2).

(c) Underground tanks shall be exempted from the requirements of subsection (a) if the total volume of volatile organic compounds added to and taken from a tank annually does not exceed twice the volume of the tank.

§ 40 Volatile organic compound water separation. No person shall use any single or multiple compartment volatile organic compound water separator which receives effluent water containing two hundred gallons (seven hundred sixty liters) or more of any volatile organic compound a day from any equipment that is processing, refining, treating, storing, or handling volatile organic compounds having a Reid vapor pressure of 0.5 pounds per square inch or greater unless such compartment is equipped with a properly installed vapor loss control device described as follows and which is in good working order, and in operation:

(a) A container having all openings sealed which totally encloses the liquid content. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(b) A container equipped with a floating roof, consisting of a pontoon type roof, double deck-type roof, or internal floating cover roof, which will

rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(c) A container equipped with a vapor recovery system consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All container gauging and sampling devices shall be gas-tight except when gauging and sampling is taking place; or

(d) A container having other equipment of equal efficiency for purposes of air pollution control as may be approved by the Director.

§ 41 Pump and compressor requirements. All pumps and compressors handling volatile organic compounds having a Reid vapor pressure of 1.5 pounds per square inch or greater which can be fitted with mechanical seals shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as may be approved by the Director. Pumps and compressors not capable of being fitted with mechanical seals, such as reciprocating pumps, shall be fitted with the best sealing system available for air pollution control given the particular design of pump or compressor as may be approved by the Director.

§ 42 Waste gas disposal. No person shall cause or permit the emissions of gas streams containing volatile organic compounds from a vapor blowdown system unless these gases are burned by smokeless flares, or abated by an equally effective control device as approved by the Director.

§§ 43-50 Reserved.

## SUBCHAPTER 3

### OPEN BURNING

§ 51 Definitions. As used in this subchapter:

(a) "Agricultural burning" means the use of open outdoor fires in agricultural operations, forest management, or range improvements.

(b) "Agricultural operation" means a bona fide agricultural activity with the primary purpose of making a profit, conducting agricultural research, or providing agricultural instruction by an educational institution, and includes the growing and harvesting of crops or the raising of fowl or animals.

(c) "District" means a geographic area, as designated by the Director, to distinguish appropriate air basins for the purpose of smoke management.

(d) "DLNR" means the Department of Lands and Natural Resources.

(e) "Forest management" means wildland vegetation management using prescribed burning procedures which have been approved by the DLNR or responsible federal agency prior to the commencement of any burn and which are being conducted by a public agency or through a cooperative agreement involving a public agency. The fire department may be consulted for advice and guidance as part of the prescribed burning procedure.

(f) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare.

(g) "Range improvement" means the removal of vegetation for a wildlife, game, or livestock habitat.

§ 52 General provisions. (a) Except as provided in subsection (b) and section 53, no person shall cause, permit, or maintain any open burning. Any open burning is the responsibility of the person owning, operating, or managing the property, premises, business establishment, or industry where the open burning is occurring.

(b) Subsection (a) shall not apply to:

(1) Fires for the cooking of food;

(2) Fires for recreational, decorative, or ceremonial purposes as approved by the Director;

(3) Fires to abate a fire hazard, provided that the Director receives notification prior to the commencement of any burn, that the hazard is so

declared by the fire department, DLNR , or federal agency having jurisdiction, and that a prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency prior to the commencement of any burn;

(4) Fires for prevention or control of disease or pests as approved by the Director;

(5) Fires for training personnel in firefighting methods, provided that prior notice of any building, structure, or simulated aircraft set a fire for training purposes is given to the Director;

(6) Fires for the disposal of military ordnance or similarly dangerous materials, where there is no alternative method of disposal and burning is approved by the Director;

(7) Fires for residential bathing purposes, provided that plastics, used oil, and wood which has been painted with lead paint or treated with insecticides or pesticides are not being used as fuel for these fires;

(8) Fires for the non-commercial burning of leaves, grass, weeds, paper, and wood which has not been painted with lead paint or treated with insecticides or pesticides, not exceeding twenty-five pounds or twenty seven cubic feet, whichever is smaller, per day, provided such burning is:

(A) Not within fifty feet of any habitable building;

(B) Attended or supervised by an adult;

(C) Started and completed between 9:00 a.m. and 6:00 p.m.;

(D) Not in violation of the rules of other fire control agencies; and

(8) Other fires as approved by the Director.

§ 53 Agricultural burning: permit requirement. No person engaged in any agricultural operation, forest management, or range improvement shall cause or allow agricultural burning without first obtaining an agricultural burning permit from the Director. Any person who fails to comply with the terms and conditions of the permit or this chapter shall be subject to the penalties and remedies provided for in 2 CMC §3131, including the invalidation of the permit. No agricultural permit shall be granted for, or be construed to permit, the open burning of trash and other wastes that have been handled or processed by factory operations.

§ 54 Agricultural burning: recordkeeping and monitoring. Each permittee shall monitor and maintain records in accordance with the agricultural burning permit issued by the Director.

§ 55 Agricultural burning: action on application. (a) The Director shall act on an application within a reasonable time, but not to exceed twenty one calendar days from the date an application is deemed complete by the Director, and shall notify the applicant in writing of the approval or denial of the application.

(b) If an application is denied, the applicant may request a hearing in accordance with 1 CMC § 9101, et seq.

(c) The permit may be granted for a period of up to one year from the date of approval.

(d) At the Director's sole discretion or the application of any person, the Director may terminate, suspend, reopen, or amend a permit if, after affording the applicant a hearing in accordance with the Administrative Procedures Act (1 CMC §§ 9101 et seq.), it is determined that:

- (1) Any condition of the permit has been violated;
- (2) Any provision of the CNMI Air Pollution Control Rules has been violated;
- (3) Any provision of 2 CMC, Division 3, Chapter 1, has been violated;
- (4) The maintenance or attainment of NAAQS and CNMI ambient air quality standards will be interfered with; or
- (5) The action is in the public interest.

(e) The permit shall not be transferable whether by operation of law or otherwise or from one person to another.

§§ 56-60 Reserved.

## SUBCHAPTER 4

### MINOR SOURCES

§ 61 Definitions. As used in this subchapter, unless otherwise defined for purposes of a particular section or subsection of this subchapter:

(a) "General permit" means a minor source permit covering numerous similar sources that meets the requirements of section 70.

(b) "Modification" means a physical change in or a change in the method of operation of a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification.

(c) "Temporary minor source" means a minor source that is intended to be operated at multiple locations for a designated period of time at each location. The operation of the source shall be temporary and involve at least one change of location during the term of a minor source permit.

(d) "Timely application" means:

(1) An initial application for a minor source permit which is submitted to the Director in accordance with the schedule for application submittal specified in section 67; or

(2) An application for a minor source permit renewal which is submitted to the Director at least sixty days prior to the date of permit expiration.

§ 62 Applicability. Except as provided in sections 63(d) and (f) and 67, the requirements of this subchapter are applicable to the construction, reconstruction, modification, relocation, or operation of any minor source.

§ 63 Permit Requirements. (a) A minor source shall apply for and receive a minor source permit prior to commencing or continuing any of the activities cited in section 62. The permit shall require the permittee to comply with all permit conditions, all other applicable requirements and all provisions of the permit application.

(b) The minor source permit shall remain valid past the expiration date and the minor source shall not be in violation for failing to have a minor source permit, until the Director has issued or denied a renewal of the minor source permit provided:

(1) Prior to permit expiration, a timely and complete renewal application has been submitted and the owner or operator acts consistently with the permit previously granted, the application on which it was based, and all plans, specifications, and other information submitted as part of the application; and

(2) The owner or operator has submitted to the Director within the specified deadlines all requested additional information deemed necessary to evaluate or take final action on the renewal application, as described in section 74(c).

(c) A minor source permit shall not constitute, nor be construed to be an approval of the design of a minor source. It is the responsibility of the applicants to insure compliance with all applicable requirements in the construction and operation of any minor source.

(d) The following are exempt from the need for a minor source permit, provided that no exemption affects the applicability of any requirement of subchapter 5 or the determination of whether a stationary source is subject to any requirement of this chapter. For example, emissions from the following sources must be included in initial potential to emit calculations.

(1) Stationary sources with potential emissions of less than 1.0 tpy for each air pollutant and less than 0.1 tpy for each hazardous air pollutant;

(2) Any storage tank, reservoir, or other container of capacity equal to or less than forty thousand gallons storing volatile organic compounds, except those storage tanks, reservoirs, or other containers subject to any standard or other requirement pursuant to Sections 111 and 112 of the Act;

(3) Gasoline service stations;

(4) Fuel burning equipment - other than smoke house generators and gasoline fired industrial equipment - with a heat input capacity less than 150,000 BTU per hour, or a combination of fuel burning equipment operated simultaneously as a single unit having a total combined heat input capacity of less than 150,000 BTU per hour;

(5) Steam generators, steam superheaters, water boilers, or water heaters, all of which have a heat input capacity of less than five million BTU per hour, and are fired exclusively with one of the following:

(A) Natural or synthetic gas;

(B) Liquefied petroleum gas; or

(C) A combination of natural, synthetic, or liquefied petroleum gas;

(6) Kilns used for firing ceramic ware heated exclusively by natural gas, electricity, liquid petroleum gas, or any combination of these and have a heat input capacity of ten million BTU per hour or less;



(7) Paint spray booths that emit less than five hundred pounds per year of any regulated air pollutant, except for paint spray booths subject to any standard or other requirement pursuant to Section 112(d) of the Act;

(8) Welding booths;

(9) Diesel fired portable industrial equipment less than 200 horsepower in size which is used during power outages or periodically for the equipment's maintenance and repair;

(10) Gasoline fired portable industrial equipment less than:

(A) 25 horsepower; or

(B) 200 horsepower in size which is used during power outages or periodically for the equipment's maintenance and repair;

(11) Hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood, provided reasonable precautions are taken to prevent particulate matter from becoming airborne. Reasonable precautions include the use of dust collection systems, dust barriers, or containment systems;

(12) Laboratory equipment used exclusively for chemical and physical analyses;

(13) Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;

(14) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of one thousand pounds or less;

(15) Ocean-going vessels, except for ocean-going vessels subject to any standard or other requirement for the control of air pollution from outer continental shelf sources, pursuant to 40 CFR Part 55;

(16) Fire water system pump engines dedicated for fire-fighting and maintaining fire water system pressure, which are operated only during fire fighting and periodically for engine maintenance, and fired exclusively by natural or synthetic gas; or liquefied petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;

(17) Smoke generating systems used exclusively for training in government or certified fire fighting training facilities;

(18) Internal combustion engines propelling mobile sources such as automobiles, trucks, cranes, forklifts, front-end loaders, graders, trains, helicopters, and airplanes;

(19) Diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support service to aircraft prior to start-up;

(20) Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation,, and paving parking lots), including equipment used to conduct these activities, provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and are not otherwise subject to an applicable requirement triggering a permit modification;

(21) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers, or hot furnaces;

(22) Ovens, stoves, or grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;

(23) Stacks or vents to prevent escape of sewer gases through plumbing traps;

(24) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment, and that do not involve the open release or venting of CFC's into the atmosphere;

(25) Woodworking shops with a sawdust collection system;  
and

(26) Other sources as may be approved by the Director.

(e) The owner or operator of a stationary source that becomes subject to the requirements of subchapter 4 because of a new or amended regulation in this chapter shall submit a complete minor source permit application within six months after the effective date of the new or amended regulation or such other time as approved by the Director. The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a minor source permit only if the owner or operator has submitted to the Director a complete and timely minor source permit application, and any additional information necessary for the processing of the application, including additional information required pursuant to sections 64(c) and 65.

(f) The Director, upon written request and submittal of adequate support information from the owner or operator of a minor source, may provide written approval of the following activities to proceed without prior issuance or amendment of a minor source permit. Under no circumstances will these activities be approved if the activity interferes with any applicable requirement or the

determination of whether a stationary source is subject to any applicable requirement.

(1) Installation of air pollution control devices. The Director may allow the installation of an air pollution control device prior to issuing a minor source permit or amendment to a minor source permit if the owner or operator of the source can demonstrate that the control device reduces the amount of emissions previously emitted, does not emit any new air pollutants, and does not adversely affect the ambient air quality impact assessment. The owner or operator of the minor source shall submit with the written request, a complete minor source permit application to install the air pollution control device.

(2) Test burns. The Director may allow an owner or operator of a minor source to test alternate fuels not allowed by permit if the following conditions are met:

(A) The test burn period does not exceed one week, unless the Director, upon reasonable justification, approves a longer period, not to exceed three months;

(B) The purpose of the test burn is to establish emission rates, to determine if alternate fuels are feasible with the existing minor source facility, or as an investigative measure to research the operational characteristics of a fuel;

(C) A stack performance test, a pre-approved monitoring program, or both, if requested by the Director, are conducted during the test burn to record and verify emissions;

(D) The owner or operator of the minor source provides emission estimates of the test burn and if requested by the Director, an ambient air quality impact assessment to demonstrate that no violation of the NAAQS and CNMI ambient air quality standards will occur;

(E) The owner or operator of the minor source demonstrates that the use of the alternate fuel is allowed or not restricted by any applicable requirement, other than the permit condition(s) restricting the alternate fuel use; and

(F) If a performance test or monitoring is required, the owner or operator of the minor source provides written test or monitoring results within sixty (60) days of the completion of the test burn or such other time as approved by the Director. The results shall include the operational parameters of the minor source at the time of the test burn, and any other significant factors that affected the test or monitoring results.

If the Director approves the test burn, the Director may set operational limitations or other conditions for the test burn. Deviations from those limits or conditions shall be considered a violation of this chapter.

§ 64 Initial minor source permit application. (a) Every application for an initial minor source permit shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application. Application contents are specified in Subchapter 8, Section 141.

(b) The Director shall not continue to act upon or consider an incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required or requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 5;
- (3) All applicable fees have been submitted;
- (4) a public hearing has been held if the Director determines one is needed; and
- (5) The Director has certified that the application is complete.

(c) At any time during the processing of an application, even if the application has been determined or deemed complete, the Director may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response.

(d) A minor source permit application for a new minor source or a modification shall be approved only if the Director determines that the construction or operation of the new minor source or modification will be in compliance with all applicable requirements.

§ 65 Duty to supplement or correct permit applications. Any applicant for a minor source permit who fails to submit any relevant facts or who has submitted incorrect information in any permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application, but prior to the issuance of the minor source permit.

§ 66 Compliance plan. (a) A compliance plan shall be submitted with every initial application for a minor source, temporary minor source, and general minor source permit, application for a minor source permit renewal, and application for a modification to a minor source, and at such other times as requested by the Director. Compliance plan contents are specified in Subchapter 8, Section 151.

(b) The owner or operator of a minor source shall submit to the Director for approval a compliance plan with the contents as specified in Subchapter 8, Section 151.

§ 67 Transition into the minor source permit program. (a) The owner or operator of an existing minor source with a permit to construct and operate, issued pursuant to repealed CNMI Air Pollution Control Regulations, 9 CR 4861, shall submit a complete initial minor source permit application at least sixty days prior to the expiration of the permit to operate. The owner or operator shall continue to operate according to the provisions of the permit to operate and in accordance with any applicable laws, regulations, and rules in effect at the time the permit to operate was issued, until the minor source permit is issued.

(b) The owner or operator of a minor source who has applied for but has not received an initial permit to construct and operate or a renewal for a permit to operate pursuant to repealed CNMI Air Pollution Control Regulations (9 CR 4861) shall submit to the Director in a timely manner, not to exceed sixty days from the effective date of this chapter, a complete initial minor source permit application (less any permit to operate application fee previously submitted). The owner or operator shall continue to operate according to the provisions of the authority to construct or permit to operate, whichever is applicable, and in accordance with any applicable laws, regulations, and rules in effect at the time the authority to construct or permit to operate was issued, until the minor source permit is issued.

(c) In the event a permit to construct and operate expires prior to the issuance of the minor source permit, the owner or operator may continue to construct or operate only if the owner or operator has submitted to the Director a complete minor source permit application, and any additional information necessary for the processing of the application. The authority to construct or permit to operate shall continue to be in effect until the minor source permit is issued or denied, provided the owner or operator constructs or operates in accordance with the authority to construct or permit to operate and any applicable laws, regulations, and rules in effect at the time of the authority to construct or permit to operate issuance. Noncompliance with any condition of the authority to construct or permit to operate is considered a violation of this chapter.

(d) All minor source permit applications, compliance plans and filing fees shall be submitted in accordance with sections 64 and 66, and subchapter 6.

§ 68 Permit term. (a) A minor source permit shall not be issued for any term exceeding five years.

(b) A minor source permit may be renewed for any term not to exceed five years.

§ 69 Temporary minor source permits. (a) An owner or operator of a temporary minor source may apply for a temporary minor source permit. The owner or operator of the temporary minor source shall certify its intention to operate at various locations with the same equipment and similar operational methods.

(b) The application and issuance of a temporary minor source permit is subject to the same procedures and requirements for an initial application and issuance of a minor source permit, including requirements of section 64. The initial location of the source shall be specified.

(c) Upon issuance of the temporary minor source permit, the owner or operator shall submit all succeeding location changes to the Director for approval at least thirty days or such lesser time as designated and approved by the Director, prior to the change in location. The owner or operator shall submit sufficient information to enable the Director to assess the air quality impact the temporary minor source may have at the new location. Relocation request contents are specified in Subchapter 8, Section 153.

(d) The Director shall not continue to act upon or consider a location change request, unless the following have been submitted:

- (1) All required information as identified in subsection (c);
- (2) Any additional information as requested by the Director;

and

- (3) Any applicable fee.

(e) Prior to any relocation, the Director shall approve, conditionally approve, or deny in writing each location change. If the Director denies a location change, the applicant may appeal the decision pursuant to 1 CMC §9101 et seq.

(f) With the exception of the initial location, if a source remains in any one location for longer than twelve consecutive months, the Director may request an ambient air quality impact assessment of the source.

(g) At each of the authorized locations, the owner or operator shall operate in accordance with the temporary minor source permit and all applicable requirements.

§ 70 Minor source general permits. (a) The Director, at the Director's sole discretion may, after providing for public notice, including the method by which a hearing can be requested, and an opportunity for public comment in accordance with section 73, issue a minor source general permit for similar minor sources. The general minor source permit expiration date shall apply to all sources covered under this permit.

(b) The Director shall establish criteria and conditional requirements in the minor source general permit by which minor sources may qualify for the general permit. Minor sources qualifying for a minor source general permit shall, at a minimum, have the same Standard Industrial Classification Code, similar equipment design and air pollution controls, and the same applicable requirements. Under no circumstances shall a general permit be considered for minor sources requiring a case-by-case determination for air pollution control requirements (e.g. Best Available Control Technology Determination). The owner or operator of a minor source shall be subject to enforcement action for operating without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.

(c) The owner or operator of a minor source requesting coverage for some or all of its emission units under the terms and conditions of the minor source general permit must submit an application to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application. Minor source general permit application contents are specified in Subchapter 8, Section 143.

(d) The Director shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required and requested pursuant to subsection (c) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 5;
- (3) All applicable fees have been submitted; and
- (4) The Director has certified that the application is complete.

(e) The Director shall notify the applicant in writing whether the application is complete. Unless the Director requests additional information or notifies the applicant of incompleteness within sixty days of receipt of an application, the application shall be deemed complete.

(f) At any time during the processing of an application, even if the application has been determined or deemed complete, the Director may request

additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response.

(g) The Director, in writing, shall approve, conditionally approve, or deny an application for coverage under a minor source general permit within six months after receipt of a complete application.

(h) The Director may approve an application for coverage under a minor source general permit without repeating the public participation procedures.

§ 71 Transmission of information to the Administrator. (a) The Director may at any time require the owner or operator of a minor source to submit to the Administrator a copy of any minor source permit application, including applications for permit renewal and permit amendment reflecting a proposed modification, compliance plan, or records required to be kept under the minor source permit.

(b) The DEQ shall maintain records on all minor source permit applications, compliance plans, final permits, and other relevant information for a minimum of five years.

§ 72 Permit reopening. (a) The Director shall reopen and amend a minor source permit if the Director determines that any one of the following circumstances exist:

(1) The Director determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(2) The permit must be terminated, suspended, or amended to assure compliance with the applicable requirements.

(b) Procedures to reopen and amend a minor source permit shall be the same as procedures which apply to initial permit issuance in accordance with section 63 and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(c) The Director shall provide written notification to the permittee on the reopening of the permit indicating the basis for reopening at least thirty days prior to the reopening date, except that the Director may provide a shorter time period if it is determined that immediate action on the reopening of the permit is required to prevent an imminent peril to public health and safety or the environment.

(d) If requested by the Director, the owner or operator of a minor source shall submit a permit application or information related to the basis of the permit reopening or those provisions affected by the reopening within thirty days of receipt of the permit reopening notice. An extension for the application submittal



may be granted by the Director if the owner or operator can provide adequate written justification for such an extension.

§ 73 Public participation. (a) Except for administrative permit amendments, in considering any application for a minor source permit, the Director, at the Director's sole discretion, may require the applicant to provide for public notice in a form approved by the Director, of the opportunity for public comment, including a request for public hearing, if the Director determines that public comment would aid in the Director's decision. If a public comment period is provided, any person requesting a public hearing shall do so during the public comment period. Any request from a person for a public comment period, a public hearing, or both shall indicate the person's interest in the permit and the reasons why a public comment period or hearing is warranted.

(b) Procedures for public notice, public comment periods, and public hearings shall be as set forth in section 96(b).

§ 74 Minor source permit renewal applications. (a) Every application for a minor source permit renewal is subject to the same requirements for an initial application of a minor source permit including the requirements of section 63. Applications shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application. Application contents are specified in Subchapter 8, Section 144.

(b) The Director shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 5;
- (3) All applicable fees have been submitted; and
- (4) The Director has certified that the application is complete.

(c) At any time during the processing of an application, even if the application has been determined or deemed complete, the Director may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response. As set forth in section 63, the minor source's ability to operate and the validity of the minor source permit shall continue beyond the permit expiration date, until the final permit is issued or

denied, provided the applicant submits all additional information within the reasonable deadline specified by the Director.

§ 75 Administrative permit amendment. (a) Upon written request from the owner or operator of a minor source or at the Director's sole discretion, the Director may issue an administrative permit amendment.

(b) Except for a request to consolidate two or more minor source permits into one or to change ownership or operational control, an owner or operator requesting an administrative permit amendment may make the requested change immediately upon submittal of the request.

(c) Within sixty days of receipt of a written request for an administrative permit amendment, the Director shall take final action on the request and may amend the permit without providing notice to the public.

§ 76 Applications for modifications. (a) Every application for a modification to a minor source shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application. Application contents are specified in Subchapter 8, Section 145.

(b) The Director shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 5;
- (3) All applicable fees have been submitted; and
- (4) The Director has certified that the application is complete.

(c) During the processing of an application that has been determined or deemed complete if the Director determines that additional information is necessary to evaluate or take final action on the application, the Director may request such information in writing and set a reasonable deadline for a response.

An application for modification shall be approved only if the Director determines that the modification will be in compliance with all applicable requirements.

§§ 77-80 Reserved.

## SUBCHAPTER 5

### MAJOR SOURCES

§ 81 Definitions. As used in this subchapter, unless otherwise defined for purposes of a particular section or subsection of this subchapter:

(a) "Applicable requirement" has the same meaning as stated in section 1(j) with the addition of the following as they apply to emissions units in a major source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of permit issuance but have future-effective compliance dates):

(1) Any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking pursuant to Title I, including Part C of the Act;

(2) Any requirement approved pursuant to Section 504(b) of the Act;

(3) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone approved pursuant to Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit;

(4) Any NAAQS or increment or visibility requirement approved pursuant to Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;

(b) "Complete" means, in reference to an application for a major source permit, that the application and associated draft permit have undergone a 30-day public notice and comment period and a 45-day review without objections by EPA, as set forth in 40 CFR § 69.32.

(c) "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(d) "Final major source permit" means the version of a major source permit issued by the Director that has been approved pursuant to all review procedures required by 40 CFR Part 69.32.

(e) "Minor modification" means a modification which:

(1) Does not increase the emissions of any air pollutant above the permitted emission limits;

(2) Does not result in or increase the emissions of any air pollutant not limited by permit to levels equal to or above:

- (A) 500 pounds per year of a hazardous air pollutant;
- (B) twenty-five percent of the "significant" emission quantities defined in section 1, paragraph (iii);
- (C) five tons per year of carbon monoxide; or
- (D) two tons per year of each regulated air pollutant other than carbon monoxide;

(3) Does not violate any applicable requirement;

(4) Does not involve significant changes to existing monitoring requirements or any relaxation or significant change to existing reporting or recordkeeping requirements in the permit. Any change to the existing monitoring, reporting, or recordkeeping requirements that reduces the enforceability of the permit is considered a significant change;

(5) Does not require or change a case-by-case determination of an emission limitation or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(6) Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(A) A federally enforceable emissions cap assumed to avoid classification as a modification pursuant to any provision of Title I of the Act; and

(B) An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Act or subchapter 8; and

(7) Is not a modification pursuant to any provision of Title I of the Act.

(f) "Modification" means a physical change in or a change in the method of operation of a stationary source which requires a change to a permit. Modification includes minor and nonminor modifications. Routine maintenance, repair, and replacement of parts shall not be considered a modification.

(g) "Nonminor modification" means a modification which does not qualify as a minor modification or administrative amendment.

(h) "Proposed major source permit" means the version of a permit that the Director proposes to issue, and forwards to EPA for review pursuant to section 93.

(i) "Section 502(b)(10) changes" refers to a section of the Act and means changes that do not require a permit revision. Such changes do not include

changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions addressing monitoring (including test methods), recordkeeping, reporting, or compliance certification.

(j) "Timely application" means:

(1) An initial application for a major source permit filed during the transition period, in accordance with the submittal schedule in section 88; or

(2) An application for a major source permit renewal which is submitted to the Director no fewer than twelve months and no more than eighteen months prior to the permit expiration date, or the deadline as approved by the Director pursuant to subsection 98(b).

(k) "Transition period" means the three years following the effective date of this chapter.

§ 82 Applicability. Except as provided in sections 83(d) and (e) and section 88, the requirements of this subchapter are applicable to the construction, reconstruction, modification, relocation, or operation of any major source.

§ 83 Permit requirements. (a) A major source shall apply for and receive a major source permit prior to commencing or continuing any of the activities cited in section 82. The permit shall require the permittee to comply with all permit conditions, all other applicable requirements and all provisions of the permit application.

(b) The major source permit shall remain valid past the expiration date and the major source shall not be in violation for failing to have a major source permit, until the Director has issued or denied the renewal of the major source permit, provided:

(1) Prior to permit expiration, a timely and complete renewal application has been submitted and the owner or operator acts consistently with the permit previously granted, the application on which it was based, and all plans, specifications, and other information submitted as part of the application; and

(2) The owner or operator has submitted to the Director within the specified deadlines, all requested additional information deemed necessary to evaluate or take final action on the renewal application, as described in section 98(d).

(c) The major source permit shall not constitute, nor be construed to be an approval of the design of the major source. The major source permit shall be issued in accordance with this chapter and it is the responsibility of the applicant to

insure compliance with all applicable requirements in the construction and operation of any major source.

(d) The following are exempt from the requirements of subsection

(a):

(1) Ocean-going vessels, except for ocean-going vessels subject to any standard or other requirement for the control of air pollution from outer continental shelf sources, pursuant to 40 CFR Part 55;

(2) Internal combustion engines propelling mobile sources such as automobiles, trucks, cranes, forklifts, front-end loaders, graders, trains, helicopters, and airplanes;

(3) Diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support service to aircraft prior to start-up; and

(4) Air-conditioning or ventilating systems that do not contain more than 50 pounds of any Class I or Class II ozone depleting substance regulated under title VI and are not designed to remove air pollutants generated by or released from equipment.

(e) The construction, reconstruction, modification or operation of any insignificant activities identified in subsections (f) and (g) may commence without first obtaining a major source permit, provided:

(1) The insignificant activity does not cause a minor stationary source to become a major source;

(2) The insignificant activity does not cause the stationary source to become subject to PSD review;

(3) The owner or operator can demonstrate to the Director's satisfaction that each activity meets the size, emission level, or production rate criteria.

The insignificant activities listed in subsection (f) shall be identified in the major source permit application. The insignificant activity listed in subsection (g) need not be identified in the major source permit application, unless subject to an applicable requirement. The Director may request additional information on any insignificant activity to determine the applicability of, or to impose, any applicable requirement. Action to incorporate applicable requirements for insignificant activities into a major source permit shall be in accordance with section 89.

(f) With the exception of equipment burning off-spec used oil or fuel classified as hazardous waste, neither of which can be considered insignificant activities, insignificant activities based on size, emission level, or production rate, are as follows:

(1) Any storage tank, reservoir, or other container of capacity equal to or less than forty thousand gallons storing volatile organic compounds, except those storage tanks, reservoirs, or other containers subject to any standard or other requirement pursuant to Sections 111 and 112 of the Act;

(2) Other than smoke house generators and gasoline fired industrial equipment, fuel burning equipment with a heat input capacity less than one million BTU per hour, or a combination of fuel burning equipment operated simultaneously as a single unit having a total combined heat input capacity of less than one million BTU per hour;

(3) Steam generators, steam superheaters, water boilers, or water heaters, all of which have a heat input capacity of less than five million BTU per hour, and are fired exclusively with one of the following:

(A) Natural or synthetic gas;

(B) Liquefied petroleum gas; or

(C) A combination of natural, synthetic, or liquefied petroleum gas;

(4) Kilns used for firing ceramic ware heated exclusively by natural gas, electricity, liquid petroleum gas, or any combination of these and have a heat input capacity of five million BTU per hour or less;

(5) Paint spray booths that emit less than five hundred pounds per year of any regulated air pollutant, except for paint spray booths subject to any standard or other requirement pursuant to Section 112(d) of the Act; and

(6) Other activities which emit less than:

(A) 500 pounds per year of a hazardous air pollutant;

(B) twenty-five percent of significant amounts of emission as defined in section 1, paragraph (1) in the definition of "significant";

(C) five tons per year of carbon monoxide; and

(D) two tons per year of each regulated air pollutant other than carbon monoxide and which the Director determines to be insignificant on a case-by-case basis.

(7) Gasoline fired portable industrial equipment less than 25 horsepower in size;

(g) Insignificant activities in addition to those listed in subsection (f) are:

(1) Welding booths;

(2) Hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood, provided reasonable precautions are taken to

prevent particulate matter from becoming airborne. Reasonable precautions include the use of dust collection systems, dust barriers, or containment systems;

(3) Laboratory equipment used exclusively for chemical and physical analyses;

(4) Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;

(5) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of one thousand pounds or less;

(6) Fire water system pump engines dedicated for fire-fighting and maintaining fire water system pressure, which are operated only during fire fighting and periodically for engine maintenance, and fired exclusively by natural or synthetic gas; or liquefied petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;

(7) Smoke generating systems used exclusively for training in government or certified fire fighting training facilities;

(8) Plant maintenance and upkeep activities (e.g., grounds keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation,, and paving parking lots), including equipment used to conduct these activities, provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and are not otherwise subject to an applicable requirement triggering a permit modification;

(9) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers, or hot furnaces;

(10) Ovens, stoves, and grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;

(11) Stacks or vents to prevent escape of sewer gases through plumbing traps;

(12) Consumer use of office equipment and products; and

(13) Woodworking shops with a sawdust collection system.

(h) The following are required for the issuance of any major source permit, including general major source permits, permit renewals, or permit amendments for a modification:



(1) The owner or operator has submitted a complete major source permit application;

(2) Except for minor modifications and administrative amendments, there has been public notice of the opportunity for public comment on the draft major source permit in accordance with section 96;

(3) The permit provides for compliance with all applicable requirements and contains the applicable terms and conditions pursuant to Subchapter 8, section 147;

(4) If the source under review already holds a PSD permit, then the requirements of that permit must be included in the major source permit unless a requirement is in conflict with this subchapter, in which case the more stringent requirement shall apply; and

(5) The requirements for transmission of information to EPA and EPA oversight have been satisfied pursuant to sections 92 and 93.

(i) An owner or operator of a stationary source that is not subject to the requirements of subchapter 5 and that becomes subject to the requirements of subchapter 5, or becomes subject to additional requirements of subchapter 5, pursuant to a new or amended regulation under this chapter shall submit a complete and timely major source permit application to address the new requirements. For purposes of this subsection, "timely" means within twelve months after the effective date of the new or amended regulation, if not specified in the applicable regulation.

The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a major source permit addressing the new requirements only if the owner or operator has submitted to the Director a complete and timely major source permit application, and any additional information that the Director deems necessary to evaluate or take final action on the application, including additional information required pursuant to sections 84(c) and 85, and provided that the owner or operator constructs or operates in accordance with the authority to construct, permit to operate, or nonmajor source permit and any applicable laws, regulations, and rules in effect at the time of the authority to construct, permit to operate or nonmajor source permit issuance. Noncompliance with any condition of the authority to construct, permit to operate, or nonmajor source permit is considered a violation of this chapter.

(j) The Director, upon written request and submittal of adequate support information from the owner or operator of a major source, may provide written approval of the following activities to proceed without prior issuance or amendment of a major source permit. Under no circumstances will these activities be approved if the activity interferes with compliance with any applicable

requirement or the determination of whether a stationary source is subject to any applicable requirement.

(1) Installation of air pollution control devices. The Director may allow the installation of an air pollution control device prior to issuing a major source permit or amendment to a major source permit if the owner or operator of the source can demonstrate that the control device reduces the amount of emissions previously emitted, does not emit any new air pollutants, and does not adversely affect the ambient air quality impact assessment. The owner or operator of the major source shall submit with the written request, a complete major source permit application to install the air pollution control device.

(2) Test burns. The Director may allow an owner or operator of a major source to test alternate fuels not allowed by permit if the following conditions are met:

(A) The test burn period does not exceed one week, unless the Director, upon reasonable justification, approves a longer period, not to exceed three months;

(B) The purpose of the test burn is to establish emission rates, to determine if alternate fuels are feasible with the existing major source facility, or as an investigative measure to research the operational characteristics of a fuel;

(C) A stack performance test, a pre-approved monitoring program, or both, if requested by the Director, are conducted during the test burn to record and verify emissions;

(D) The owner or operator of the major source provides emission estimates of the test burn and demonstrates that no violation of the NAAQS and CNMI ambient air quality standards will occur;

(E) The owner or operator of the major source demonstrates that the use of the alternate fuel is allowed or not restricted by any applicable requirement, other than the permit condition(s) restricting the alternate fuel use; and

(F) If a performance test or monitoring is required, the owner or operator of the major source provides written test or monitoring results within sixty days of the completion of the test burn or such other time as approved by the Director. The results shall include the operational parameters of the major source at the time of the test burn, and any other significant factors that affected the test or monitoring results.

If the Director approves the test burn, the Director may set operational limitations or other conditions for the test burn. Deviations from those limits or conditions shall be considered a violation of this chapter.

§ 84 Initial major source permit application. (a) Every application for an initial major source permit shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Application contents are specified in Subchapter 8, Section 146.

(b) The Director shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required or requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 5;
- (3) All applicable fees have been submitted;
- (4) The application and associated draft permit have undergone a 30-day public notice and comment period and a 45-day review without objections by EPA; and
- (5) The Director has certified that the application is complete.

(c) During the processing of an application that has been determined or deemed complete if the Director determines that additional information is necessary to evaluate or take final action on the application, the Director may request such information in writing and set a reasonable deadline for a response.

(d) A major source permit application for a new major source or a nonminor modification shall be approved only if the Director determines that the construction or operation of the new major source or nonminor modification will be in compliance with all applicable requirements.

(e) The Director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on the draft major source permit in accordance with section 96.

(f) The Director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(g) Each application and proposed major source permit shall be subject to EPA oversight in accordance with section 93.

§ 85 Duty to supplement or correct permit applications. Any applicant for a major source permit who fails to submit any relevant facts or who has submitted incorrect information in any permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to the release of a draft permit.

§ 86 Compliance plan. (a) A compliance plan shall be submitted with every initial application for a major source or general major source permit, application for a major source permit renewal, and application for a nonminor modification to a major source, and at such other times as requested by the Director.

(b) The owner or operator of a major source shall submit to the Director for approval a compliance plan with the contents as specified in Subchapter 8, Section 151.

§ 87 Compliance certification of major sources. (a) A compliance certification shall be submitted with every initial application for a major source or general major source permit, application for any major source permit renewal, and application for a nonminor modification to a major source, and at such other times as requested by the Director. The responsible official of a major source shall submit to the Director and the Administrator a compliance certification with contents as specified in Subchapter 8, Section 152(a).

(b) During the permit term, the responsible official of a major source shall also submit to the Director and the Administrator at least annually, or more frequently as set by any applicable requirement, a compliance certification with contents as specified in Subchapter 8, Section 152(b).

(c) The responsible official, in submitting a compliance certification for insignificant activities, may certify compliance if:

(1) There were no observed, documented, or known instances of noncompliance during the reporting period where a permit does not require testing, monitoring, recordkeeping, or reporting; or

(2) The testing, monitoring, or recordkeeping required by the permit revealed no violations, and there were no observed, documented, or known instances of noncompliance during the reporting period.

(d) The compliance certification may reference information contained in a previous compliance certification submittal to the Director, provided such referenced information has been certified as being current and still applicable.

(e) Notwithstanding the provisions of subsection (b), a compliance certification may be submitted once per year, or more frequently as set by any applicable requirement, if allowed by CNMI statute. Other than the change in the submission period, this subsection does not affect any other requirement of subsection (b).

§ 88 Transition period. (a) During the transition period, all owners or operators of an existing major source shall submit to the Director a complete initial major source permit application according to the submission schedule in subsection (f).

(b) During the transition period, the owner or operator of a major source who has applied for but has not received a permit to construct and operate pursuant to repealed CNMI Air Pollution Control Regulations (9 CR 4861) shall submit to the Director a complete and timely major source permit application (less any permit to construct and operate fee previously submitted). A major source permit for the emission unit subject to the permit to construct and operate application must be obtained prior to commencement of construction, modification, relocation, or operation.

(c) During the transition period, the owner or operator of a major source that has been exempt pursuant to repealed CNMI Air Pollution Control Regulations (9 CR 4861), may continue to operate and shall not be in violation for failing to have a major source permit, only if the owner or operator has submitted to the Director a complete and timely major source permit application, and any additional information necessary for the processing of the application, including the additional information specified in section 84(c). The owner or operator shall continue to operate in accordance with any applicable laws, regulations, or rules until the major source permit is issued or denied.

(d) Except as provided in subsection (e), if a permit to construct and operate issued pursuant to repealed CNMI Air Pollution Control Regulations (9 CR 4861) expires prior to the issuance of the major source permit, the owner or operator may continue to construct or operate only if the owner or operator has submitted to the Director a complete and timely major source permit application, and any additional information necessary for the processing of the application, including the additional information specified in section 84(c). The permit to construct and operate shall continue to be in effect until the major source permit is issued or denied, provided the owner or operator constructs or operates in accordance with the

permit to construct and operate, within the time limits specified in section 10 and any applicable laws, regulations, or rules in effect at the time of issuance of the permit to construct and operate. Noncompliance with any condition of the permit to construct and operate is considered a violation of this chapter.

(e) In the event a permit to construct and operate expires prior to the required submission date for the initial application:

(1) The owner or operator may continue construction or operation for the submittal period, provided the owner or operator constructs or operates in accordance with the expired permit to construct and operate, within the time limits specified in section 10, and any applicable laws, regulations, or rules in effect at the time of issuance of the permit to construct and operate; and

(2) The owner or operator of the major source may continue to construct or operate after the required submission date, provided the owner or operator meets the requirements of section 10 and has submitted to the Director a complete and timely major source permit application, and any additional information necessary for the processing of the application, including the additional information specified in section 84(c).

The permit to construct and operate shall continue to be in effect until the major source permit is issued or denied, provided the owner or operator constructs or operates in accordance with the permit to construct and operate, section 10, and any applicable laws, regulations, or rules in effect at the time of issuance of the permit to construct and operate. Noncompliance with any condition of the permit to construct and operate is considered a violation of this chapter.

(f) All existing major sources shall submit to the Director in a timely manner, not to exceed six months from the effective date of this chapter, a complete initial major source permit application. The Director, upon written request from the owner or operator of a major source, may extend the application submittal deadline if the Director determines that reasonable justification exists for the extension. The written request for an extension shall be submitted at least thirty days prior to the required submission date and shall include the following information:

(1) Justification for the extension, including a showing that reasonable effort and resources have been and are being utilized in the preparation of the application;

(2) Description of the problems being encountered and the reasons for any delays in meeting the application submittal deadline;

(3) The current status of the major source permit application;

and

(4) The projected completion date of the major source application.

If the Director disapproves an extension for initial application submittal, the owner or operator shall meet the scheduled submission date. Under no circumstances shall the deadline for submitting an initial major source application be extended beyond twelve months from the effective date of this chapter.

(g) The Director shall complete processing of applications and issue permits to all existing major sources during the transition period.

(h) All major source permit applications, compliance plans, compliance certifications, and filing fees shall be submitted in accordance with sections 84, 86, and 87 and subchapter 6.

§ 90 Permit action on insignificant activities. For insignificant activities identified in a major source permit application (e.g., for an initial permit, a minor or nonminor modification, or permit renewal), the Director shall incorporate the applicable requirements for insignificant activities at the time of permit issuance.

§ 91 Permit term. (a) A major source permit shall be issued for a fixed term of five years unless the owner or operator of the major source requests a shorter term.

(b) A major source permit shall be renewed for a fixed term of five years unless the owner or operator of the major source requests a shorter term.

§ 92 Federally-enforceable permit terms and conditions. Terms and conditions included in a major source permit, including any provision designed to limit a source's potential to emit, are federally enforceable unless such terms, conditions, or requirements are specifically designated as not federally enforceable. Those terms and conditions left undesignated shall become federally enforceable upon permit issuance provided the Administrator does not object during the forty-five-day review pursuant to section 93.

§ 93 Transmission of information to the Administrator. (a) The Director shall submit to the Administrator a copy of each proposed major source permit and each final major source permit.

(b) The owner or operator shall simultaneously submit to the Administrator a copy of all major source permit applications, including any applications for a major source permit renewal and permit amendment reflecting a proposed minor or nonminor modification submitted to the Director.

(c) The DEQ shall maintain records on all major source permit applications, compliance plans, proposed and final permits, and other relevant information for a minimum of five years.

§ 93 EPA oversight. (a) Upon program approval, the Director shall not issue a major source permit, permit renewal, or permit amendment for minor and nonminor modifications, if the Administrator objects to its issuance in writing within forty-five days of receipt of the proposed major source permit and all necessary supporting information.

(b) Upon program approval, the Director shall submit to the Administrator an amended proposed major source permit within ninety days after receipt of any written objection from the Administrator. If EPA's objections are not resolved within 180 days of the date of receipt of those objections, then EPA shall issue the permit under 40 CFR part 71.

§ 94 Operational flexibility. (a) The Director shall allow emissions trading and Section 502(b)(10) changes within a permitted facility without requiring a permit amendment, provided:

(1) The emissions trading or Section 502(b)(10) changes are not modifications pursuant to any provision of Title I of the Act;

(2) The emissions trading or Section 502(b)(10) changes do not exceed the emissions allowable under the permit;

(3) The owner or operator of the major source provides the Administrator and Director a seven-day minimum advance written notification of the proposed emissions trading or Section 502(b)(10) changes; and

(4) The following criteria are exclusively met for emissions trading within the permitted facility:

(A) An applicable requirement provides for the trading of emissions, or the trading of emissions is solely for the purpose of complying with a federally-enforceable emission cap that is established in the major source permit independent of otherwise applicable requirements;

(B) The applicant requests such emissions trading provisions and includes in the major source permit application the proposed replicable procedures and permit terms and conditions that ensure the emission trades are quantifiable and enforceable;

(C) The Director has determined that the provisions for emissions trading ensure that emissions from each emission unit are quantifiable and enforceable; and



(D) Any emissions trading is in compliance with all applicable requirements.

(b) The seven-day advance written notification of any proposed emissions trading shall include, at a minimum, the date on which the change will occur, a description of the changes in emissions that will result, the permit requirements with which the source will comply, and how the source will comply with the terms and conditions of the permit and the applicable requirements authorizing the trade.

(c) The seven-day advance written notification of any Section 502(b)(10) changes shall include, at a minimum, a brief description of the proposed change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that will no longer be applicable as a result of the change.

(d) The owner or operator of a major source and the Director shall attach all written notifications of proposed emissions trading and Section 502(b)(10) changes to their copy of the relevant permit.

§ 95 Permit reopening. (a) The Director shall reopen and amend a major source permit if the Director determines that any one of the following circumstances exists:

(1) Additional applicable requirements pursuant to the Act or this chapter become applicable to a major source with a remaining permit term of three or more years. Such permit reopening shall be completed not later than eighteen months after promulgation or adoption of the applicable requirement. No such permit reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the expiration date of the original permit or any of its terms and conditions has been extended pursuant to section 98;

(2) The permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(3) The permit must be terminated, suspended, or amended to assure compliance with the applicable requirements.

(b) Procedures to reopen and amend a major source permit shall be the same as procedures which apply to initial permit issuance in accordance with section 83 and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(c) The Director shall provide written notification to the permittee on the reopening of the permit indicating the basis for reopening at least thirty days

prior to the reopening date, except that the Director may provide a shorter time period if it is determined that immediate action on the reopening of the permit is required to prevent an imminent peril to public health and safety or the environment.

(d) If requested by the Director, the owner or operator of a major source shall submit a new permit application or additional information related to the grounds for reopening the permit or those conditions affected by the reopening within thirty days of receipt of the notice of permit reopening. The Director may grant an extension for the application submittal if the owner or operator can provide adequate written justification for such an extension.

(e) Upon program approval, if the Administrator notifies the Director of any cause to terminate, suspend, reopen, or amend a major source permit, the Director shall submit to the Administrator within ninety days of receipt of such written notification a proposed determination of termination, suspension, reopening, or amendment as appropriate.

(f) Upon program approval, if the Administrator objects to the Director's proposed determination pursuant to paragraph (e) above, the Director shall terminate, suspend, reopen, or amend the major source permit in accordance with the Administrator's objection within ninety days from receipt of a written objection. If the Director fails to issue a permit which resolves EPA's objections within 180 days (including public notice and comment) of the date of receipt of the Administrator's initial notification of cause, then EPA will terminate, modify or revoke and reissue the permit under 40 CFR part 71 after providing the permittee and the public with notice and opportunity for comment.

§ 96 Public participation. (a) Except for administrative permit amendments and permit amendments reflecting minor modifications, the Director shall require the applicant to provide for public notice in a form approved by the Director, of the opportunity for public comment, including a request for public hearing, on all draft major source permits for initial issuance, for permit renewal, or for the nonminor modification of a major source. Any person requesting a public hearing shall do so during the public comment period. Any request from a person for a public hearing shall indicate the person's interest in the permit and why a public hearing is warranted.

(b) Procedures for public notice, public comment periods, and public hearings shall be as follows:

(1) The Director shall make available for public inspection in at least one location in the island affected by the proposed action, or in which the source is or would be located:

(A) Information submitted by the applicant, except for that determined to be confidential pursuant to section 14;  
(B) The DEQ's analysis and proposed action; and  
(C) Other information and documents determined to be appropriate by the DEQ;

(2) Notification of a public hearing shall be given at least thirty days in advance of the hearing date;

(3) A public comment period shall be no less than thirty days following the date of the public notice, during which time interested persons may submit to the DEQ written comments on:

(A) The application;  
(B) The DEQ's analysis;  
(C) The proposed actions; and  
(D) Other considerations as determined to be appropriate by the DEQ;

(4) The applicant shall provide notification of a public comment period and/or a public hearing in a form approved by the Director:

(A) By publication in a newspaper which is printed and issued at least twice weekly in the island affected by the proposed action, or in which the source is or would be located;

(B) To persons on a mailing list developed by the Director, including those who request in writing to be on the list; and

(C) If necessary by other means to assure adequate notice to the affected public;

(5) Notice of public comment and public hearing shall be approved by the Director before publication and distribution and shall identify:

(A) The affected facility;  
(B) The name and address of the permittee;  
(C) The name and address of the agency of the DEQ

processing the permit;

(D) The activity or activities involved in the permit action;

(E) The emissions change involved in any permit amendment reflecting a modification to the minor source;

(F) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials including any compliance plan and monitoring reports, and all other materials

available to the DEQ that are relevant to the permit decision, except for information that is determined to be confidential pursuant to section 15;

(G) A brief description of the comment procedures;

(H) The time and place of any hearing that may be held, including a statement of procedures to request a hearing if one has not already been scheduled; and

(I) The availability of the information listed in paragraph (1), and the location and times the information will be available for inspection; and

(6) The Director shall maintain a record of the commenters and the issues raised during the public participation process and shall provide this information to the Administrator upon request.

§ 97 Filing objections with EPA and DEQ. (a) Any person may object to the issuance of any proposed major source permit by petitioning the Administrator pursuant to 40 CFR Section 70.8(d).

(b) If the Administrator objects to the proposed major source permit as a result of a public petition, the Director shall not issue the permit until the Administrator's objection has been resolved. However, a permit that was issued after the end of the forty-five-day review period and prior to the Administrator's objection, and except as provided in subsection (h), shall remain in effect at least until the objection is resolved. If the Administrator amends or terminates the permit based on the public petition, the Director may issue only an amended permit that satisfies the Administrator's objection. If an amended permit is issued by the Director, the owner or operator of the source shall not be in violation of the requirement to have submitted a timely and complete application.

(c) The applicant and any person who participated in the public comment or hearing process and objects to the grant or denial of a major source permit or permit amendment may petition the DEQ for a contested case hearing by submitting a written request to the Director.

(d) The petition shall be based solely upon objections to the major source permit that were raised with reasonable specificity during the public participation process, unless the petitioner demonstrates that it was impracticable to raise such objections; for example, the grounds for such objections arose after the public participation process.

(e) Any petitioner shall file a petition for a contested case hearing within ninety days of the date of the DEQ's approval or disapproval of the proposed draft permit.

(f) Notwithstanding the provisions of subsection (e), a petition for a contested case hearing may be filed up to ninety days after the objections could be reasonably raised, if based solely on objections which were impracticable to raise during the public participation process,

(g) Any major source permit that has been issued shall not be invalidated by the filing of a petition for a contested case hearing. If an amended major source permit is subsequently issued by the Director, the owner or operator of the source shall not be in violation of the requirement to have submitted a timely and complete application.

(h) Any person may petition for a contested case hearing for the Director's failure to take final action on an application for a major source permit, major source permit renewal, or major source permit amendment within the time required by this chapter. Such petition shall be submitted in writing and may be filed any time before the Director issues a proposed draft permit or denies the application for a major source permit, major source permit renewal, or major source permit amendment.

(i) Any person aggrieved by a final administrative decision and order, including the denial of any contested case hearing, may petition for judicial review pursuant to the Administrative Procedures Act, 1 CMC § 9112. A petition for judicial review shall be filed no later than thirty days after service of the certified copy of the final administrative decision and order.

§ 98 Major source permit renewal applications. (a) Every application and issuance of a major source permit renewal is subject to the same requirements for an initial application of a major source permit including requirements of section 84. Applications shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Application contents are specified in Subchapter 8, Section 148.

(b) Each permit renewal application shall be submitted to the Director no fewer than twelve months and no more than eighteen months prior to the permit expiration date. The Director may allow a permit renewal application to be submitted no fewer than six months prior to the permit expiration date, if the Director determines that there is reasonable justification.

(c) The Director shall not continue to act upon or consider an incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required and requested pursuant to subsection (a) has been submitted;

(2) All documents requiring certification have been certified pursuant to section 5;

(3) All applicable fees have been submitted;

(4) The Director has certified that the application is complete; and

(5) The application and associated draft permit have undergone a 30-day public notice and comment period and a 45-day review without objections by EPA;

(d) During the processing of an application that has been determined or deemed complete, if the Director determines that additional information is necessary to evaluate or take final action on the application, the Director may request such information in writing and set a reasonable deadline for a response. As set forth in section 83, the major source ability to operate and the validity of the major source permit shall continue beyond the permit expiration date until the final permit is issued or denied, provided the applicant submits all additional information within the reasonable deadline specified by the Director.

(e) A major source permit renewal application shall be approved only if the Director determines that the operation of the major source will be in compliance with all applicable requirements.

(f) The Director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on the draft major source permit renewal in accordance with section 96.

(g) The Director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(h) Each application for renewal and proposed major source permit shall be subject to EPA oversight in accordance with section 93.

§ 99 Administrative permit amendment. (a) The Director, at the Director's sole discretion or upon written request from the owner or operator of a major source, may issue an administrative permit amendment.

(b) Except for a request to consolidate two or more major source permits into one or to change ownership or operational control, an owner or operator requesting an administrative permit amendment may make the requested change immediately upon submittal of the request.

(c) Within twenty-one days of receipt of a written request for an administrative permit amendment, the Director shall take final action on the request

and may amend the permit without providing notice to the public provided the Director designates any such permit amendments as having been made pursuant to this section.

(d) The DEQ shall submit a copy of the amended major source permit to the Administrator.

§ 100 Applications for minor modifications. (a) Every application for a minor modification to a major source shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Application contents are specified in Subchapter 8, section 149.

(b) The Director shall not continue to act upon or consider an incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required and requested pursuant to subsection (a) has been submitted;

(2) All documents requiring certification have been certified pursuant to section 5; and

(3) All applicable fees have been submitted.

(c) The Director shall notify the applicant in writing whether the application is complete. Unless the Director requests additional information or notifies the applicant of incompleteness within thirty days of receipt of an application, the application shall be deemed complete.

(d) During the processing of an application, if the Director determines that additional information is necessary to evaluate or take final action on the application, the Director may request such information in writing and set a reasonable deadline for a response.

(e) An application for a minor modification to a major source shall be approved only if the Director determines that the minor modification will be in compliance with all applicable requirements.

(f) The Director shall provide a statement that sets forth the legal and factual bases for the proposed permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(g) Each application and proposed permit reflecting the minor modification to a major source shall be subject to EPA oversight in accordance with section 93.

§ 101 Applications for nonminor modifications. (a) Every application for a nonminor modification to a major source is subject to the same requirements as for an initial major source permit application pursuant to section 83 as it pertains to the proposed nonminor modification. Applications shall be submitted to the Director on forms furnished by the Director. The applicant shall submit sufficient information to enable the Director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Application contents are specified in Subchapter 8, section 150.

(b) The Director shall not continue to act upon or consider an incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 5;
- (3) All applicable fees have been submitted;
- (4) The Director has certified that the application is complete; and

(5) The application and associated draft permit have undergone a 30-day public notice and comment period and a 45-day review without objections by EPA;

(c) During the processing of an application that has been determined or deemed complete if the Director determines that additional information is necessary to evaluate or take final action on the application, the Director may request such information in writing and set a reasonable deadline for a response.

(d) An application for a nonminor modification shall be approved only if the Director determines that the nonminor modification will be in compliance with all applicable requirements.

(e) The Director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on the draft nonminor modification to the major source in accordance with section 96.

(f) The Director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(g) Each application for a nonminor modification, and the proposed major source permit reflecting the nonminor modification shall be subject to EPA oversight in accordance with section 93.



§§ 102-110 Reserved.

SUBCHAPTER 6

FEES FOR MAJOR SOURCES, MINOR SOURCES,  
AND AGRICULTURAL BURNING

§ 111 Definitions. As used in this subchapter:

(a) "Actual emissions" means the actual rate of emissions of a regulated or hazardous air pollutant from a stationary source. Actual emissions for a time period as specified by the Director shall equal the average rate in pounds per hour at which the stationary source actually emitted the pollutant during the specified time period, and which is representative of the source's actual operation. The Director shall allow the use of a different time period upon a determination that it is more representative of the actual operation of a source. Actual emissions shall be calculated using the source's actual operating hours, production rates, and amounts of materials processed, stored, or combusted during the selected time period. Other parameters may be used in the calculation of actual emissions if approved by the Director.

(b) "Air permit application" means a minor or major source permit application.

(c) "Air permit program" means the program established pursuant to 2 CMC, Division 3, Chapter 1, and this chapter.

(d) "Allowable emission rate" means the quantity of regulated or hazardous air pollutant that may be emitted (per unit of time, tons of production, or other parameter) as established by an air permit limitation or an applicable requirement that establishes an emission limit.

(e) "Annual fee" means the fee imposed on each owner or operator of a stationary source on an annual basis.

"AP-42" means EPA's compilation of air pollutant emission factors, Volume 1: Stationary Point and Area Sources (latest edition).

(f) "Application fee" means the fee imposed on an owner or operator of:

(1) A stationary source upon the filing of any air permit application; or

(2) An agricultural operation upon the filing of any agricultural burning permit application.

(g) "Closure fee" means the annual fee that an owner or operator of a stationary source is assessed for the last year a source is in operation before permanent discontinuance.

(h) "Major source permit application" means an application for an initial major source permit, a renewal of a major source permit, a permit amendment for any modification to a major source, or an administrative permit amendment to a major source permit.

(i) "Fee worksheets" means the forms provided by the Director to aid the owner or operator of a stationary source in the calculation of annual fees.

(j) "Minor modification" has the same meaning as in section 81.

(k) "Non-toxic pollutant" means any pollutant that is not a toxic pollutant.

(l) "Non-toxic source" means a stationary source that is not a toxic source.

(m) "Minor source permit application" means an application for an initial minor source permit, a renewal of a minor source permit, a permit amendment for any modification to a minor source, or the written request for a change in location of a temporary minor source, or an administrative permit amendment to a minor source permit.

(n) "Nonminor modification" has the same meaning as in section 81.

(o) "Toxic pollutant" means any hazardous air pollutant listed pursuant to Section 112(b) of the Act, and any other hazardous air pollutant designated by this chapter.

(p) "Toxic source" means a minor source that emits or has the potential to emit two tons but less than 10 tons per year of any hazardous air pollutant or five tons but less than 25 tons per year of any combination of hazardous pollutants.

(q) "Verifiable documentation" means a record, certified pursuant to section 5, that best substantiates the operating characteristic or parameters of a stationary source. Records identified as verifiable documentation may include fuel usage records, production records, or other records that can be substantiated through the use of non-resetting fuel or hour meters, appropriate testing, and other methods or devices, as required or deemed acceptable by the Director. Records may be deemed unacceptable by the Director if found to be erroneous, incomplete, inaccurate, or inconsistent.

§ 112 General fee provisions for major sources. (a) Every applicant for a major source permit shall pay an application fee as set forth in section 113.

(b) Every owner or operator of a major source shall pay an annual fee as set forth in section 116.

(c) All application and annual fees collected pursuant to this chapter shall be used to cover the direct and indirect costs to develop, support, and administer the air permit program.

(d) All application fees for major sources shall be submitted by check or money order made payable to the CNMI Treasury/DEQ Special Fund, Air Program, and are not refundable, except as otherwise provided in this subchapter.

(e) All annual fees for major sources required by this chapter shall be submitted by check or money order, made payable to the CNMI Treasury/ DEQ Special Fund, Air Program, for fees determined by the dollar per ton charge pursuant to sections 116(i)(1) and (j); and are not refundable, except for any amount that constitutes an overpayment, as determined by the Director.

(f) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional \$15 handling charge. If a returned check results in a late payment, the owner or operator shall also be assessed a late payment penalty in accordance with section 116(m).

(g) The department shall reevaluate the provisions of this subchapter at least every three years to ensure that adequate fees are being generated to cover the direct and indirect costs to develop, support, and administer the air permit program. Notwithstanding the fee adjustments pursuant to section 116(j), and fee waivers allowed in paragraph (h) below, if fee adjustments are required based on the Director's reevaluation, the Director shall provide notice and the opportunity for public comment in accordance with CNMI Administrative Procedures Act, 1 CMC §§ 9101, *et seq.*

(h) With EPA's approval, the Director may waive annual fees due from owners or operators of major and minor sources for the following calendar year, provided that funds in excess of \$ 300,000 will exist in the DEQ Special Fund, Air Program account as of the end of the current calendar year. Nothing in this paragraph shall be construed to allow a waiver of any application fee, or a waiver of any other requirements under this chapter, including reporting requirements, such as annual emissions reporting. The owner or operator of a major source shall continue to report the source's actual emissions of regulated air pollutants, including toxic pollutants, in tons per year. The emissions report shall show the method, assumptions, emissions factors, and calculations used to obtain the tons per year emissions of each regulated air pollutant. The reporting of annual emissions shall be submitted within the time frame specified in the applicable permit.

§ 113 Application fees for major sources. (a) An application fee shall be submitted with the major source permit application and shall not be refunded or

applied to any subsequent application, except for any amount that constitutes an overpayment, as determined by the Director. No major source permit application shall be deemed complete unless the application fee is paid in full.

(b) The fee schedule for filing a major source permit application shall be as follows:

- |     |  |          |
|-----|--|----------|
| (1) | Major non-toxic sources:   |          |
| (A) | Initial permit   | \$ 4,000 |
| (B) | Renewal  | \$ 3,000 |
| (C) | Administrative permit amendment  | \$ 100   |
| (D) | Minor modification   | \$ 200   |
| (E) | Nonminor modification resulting in an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one tpy of any hazardous air pollutant                               | \$ 1,000 |
| (F) | Nonminor modification resulting in an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant | \$ 2,000 |

(c) If a modification changes the classification of a source, the modification fee shall no longer apply. The fee associated with the initial permit for the new source category shall apply. For example, a modification to a minor source which triggers a major source review shall be subject to the fee associated with the initial permit for a major source and not to the fee associated with a minor source modification.

(d) An application fee for an administrative permit amendment shall be assessed only if the administrative change is requested by the owner or operator of the major source.

§ 114 General fee provisions for minor sources. (a) Every applicant for a minor source permit shall pay an application fee pursuant to section 115.

(b) Except as specified in paragraph (e) below, every owner or operator of a minor source shall pay an annual fee as set forth in section 116.

(c) All application and annual fees for minor sources required by this chapter shall be submitted by check or money order made payable to the CNMI Treasury/DEQ Special Fund, Air Program, and are not refundable, except for any amount that constitutes an overpayment, as determined by the Director.

(d) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional \$15 handling charge. If a returned check results in a late payment, the owner or operator shall also be assessed a late payment penalty in accordance with section 116(m).

(e) Upon the approval of a waiver for major source annual fees pursuant to section 112(h), the Director may waive the annual fees due from owners or operators of minor sources. The waiver shall be for the same calendar year as the annual fee waiver for the major sources. Nothing in this paragraph shall be construed to allow a waiver of any application fee, or a waiver of any other requirements under this chapter, including reporting requirements, such as annual emissions reporting as required by permit.

§ 115 Application fees for minor sources. (a) An application fee shall be submitted with the minor source permit application and shall not be applied to any subsequent application, except for any amount that constitutes an overpayment, as determined by the Director. No minor source permit application shall be deemed complete unless the application fee is paid in full.

(b) The fee schedule for filing a minor source permit application shall be as follows:

- (1) Non-toxic sources:
  - (A) Initial permit \$ 500
  - (B) Renewal \$ 250
  - (C) Administrative permit amendment \$ 50
  - (D) Modification resulting in an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one

	tpy of any hazardous air pollutant	\$ 100
(E)	Modification resulting in an increase of emissions greater than or equal to forty tpy of any regulated air pollutant, other than hazardous air pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant	\$ 300
(2)	Temporary minor sources:	
(A)	Initial permit for a non-toxic source	\$ 500
(B)	Initial permit for a toxic source	\$ 500
(C)	Renewal of a non-toxic source	\$ 250
(D)	Renewal of a toxic source	\$ 250
(E)	Change in location for a non-toxic source	\$ 100
(F)	Change in location for a toxic source	\$ 100
(G)	Administrative permit amendment	\$ 50
(H)	Modification to a non-toxic source resulting in an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one tpy of any hazardous air pollutant	\$ 150
(I)	Modification to a non-toxic source resulting in an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air	

	pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant	\$ 150
(J)	Modification to a toxic source resulting in an increase of emissions less than one tpy of any hazardous air pollutant, or an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants	\$ 150
(K)	Modification to a toxic source resulting in an increase of emissions greater than or equal to one tpy of any hazardous air pollutant, or an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air pollutants	\$ 300
(3)	Sources seeking coverage under a general minor source permit:	
(A)	Initial permit for each remaining year before expiration of a general permit at the time of application submittal. Any fraction of a remaining year shall be rounded up to the next full year.	\$ 100
(B)	Renewal	\$ 50
(C)	Administrative permit amendment	\$ 25
(4)	Toxic sources:	
(A)	Initial permit	\$ 500
(B)	Renewal	\$ 250
(C)	Administrative permit amendment	\$ 50
(D)	Modification resulting in an increase of emissions less than	



- |     |   |        |
|-----|---|--------|
|     | one tpy of any hazardous air pollutant, or an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants  | \$ 150 |
| (E) | Modification resulting in an increase of emissions greater than or equal to one tpy of any hazardous air pollutant, or an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air pollutants | \$ 300 |

(c) Except for individual sources seeking coverage under a general minor source permit, if a minor source can be categorized under two or more types of sources listed in the fee schedule, the owner or operator of that source shall pay the highest application fee that is applicable to the source.

(d) If a modification changes the classification of a source, the modification fee shall no longer apply. The fee associated with the initial permit for the new source category shall apply. For example, a modification triggering a major source review will be subject to the fee associated with the initial permit for a major source and not to the fee associated with a minor source modification.

(e) An application fee for an administrative permit amendment shall be assessed only if the administrative permit amendment is requested by the owner or operator of the minor source.

§ 116 Annual fees for major and minor sources. (a) Except as specified in sections 112(h) and 114(e), an annual fee shall be paid in full within the first sixty days of each calendar year and a closure fee shall be paid within thirty days after the permanent discontinuance of the major or minor source.

(b) The Director, at the Director's sole discretion, or upon written request from the owner or operator of a major or minor source, may extend the annual fee submittal deadline if the Director determines that reasonable justification exists for the extension. The owner or operator's written request for an extension shall be submitted at least fifteen days prior to the required submission due date,

unless the Director with reasonable justification approves a lesser period, and shall include the following information:

(1) Justification for the extension, including a showing that reasonable effort and resources have been and are being utilized in the calculation of annual emissions and the corresponding annual fee as calculated pursuant to this section;

(2) Description of the problems being encountered and reasons for any delays in meeting the annual fee deadline;

(3) The current status of emission calculations; and

(4) The projected date of submitting the annual fee.

If the Director disapproves an extension for submitting the annual fee, the owner or operator shall pay the required annual fee within thirty days of receipt of the disapproval notice or by the original submittal deadline, whichever is later. If the Director approves an extension for submitting the annual fee, the owner or operator shall pay the required annual fee by the extended approved date. Any part of the annual fee that is not paid within the required time shall at once be assessed the late penalty fee pursuant to subsection (m).

(c) An annual fee due within the first sixty days of each calendar year shall be based upon the tons of regulated air pollutants emitted during the prior calendar year.

(d) A closure fee due within thirty days after the permanent discontinuance of the major or minor source shall be based upon the tons of regulated air pollutants emitted during the year of permanent discontinuance.

(e) An annual fee due within the first sixty days of a particular calendar year shall be referred to as the annual fee for that particular year. For example, the 2007 annual fee shall be due within the first sixty days of calendar year 2007 and shall be based on regulated air pollutants emitted in 2006.

(f) An annual fee shall be assessed for each ton of regulated air pollutant emitted by a major or minor source except for:

(1) Carbon monoxide emissions;

(2) Fugitive emissions if fugitive emissions are not included in the applicable requirements or AP-42;

(3) Emissions from insignificant activities listed in subsections 83(f) and (g) that are not regulated under any major source permit; and

(4) Each ton of each regulated air pollutant calculated in excess of four thousand tons per year.

(g) The annual fee assessed for each regulated air pollutant shall be determined by multiplying the appropriate dollar per ton charge pursuant to subsections (i) and (j) by the major or minor source emissions in tons per year

pursuant to section 117. The dollar per ton charge assessed for all regulated air pollutants (both toxic and non-toxic) shall be determined pursuant to the following subsections:

<u>Annual Fees Due</u>	<u>Subsection(s)</u>
2007 and thereafter	(i)(1) and (2), and (j)

(h) The submittal of an additional annual fee determined by the dollar per ton charge pursuant to subsections(i)(2) and (3) and (j) for toxic pollutants shall begin as established by rulemaking.

(i) The dollar per ton charge for each regulated air pollutant emitted by a regulated source shall be as follows:

(1) All regulated pollutants (toxic and non-toxic) from a major source- \$13.00 per ton (made payable to the CNMI Treasury/DEQ Special Fund, Air Program);

(2) All regulated pollutants (toxic and non-toxic) from a minor source- \$13.00 per ton (made payable to the CNMI Treasury/DEQ Special Fund, Air Program);

(3) Toxic pollutant emissions - additional charge to be set by rulemaking specifically for regulated toxic pollutants.

(j) After calendar year 2007, the Director may require that the consumer price index be applied to annual emissions fees in the following manner. At the beginning of each year, the previous dollar per ton charge shall be adjusted by the percentage, if any, by which the consumer price index for the last calendar year exceeds the consumer price index for the calendar year before. The consumer price index for any calendar year is the average of the consumer price index for all urban consumers published by the United States Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year. The adjusted annual fee rate shall be applied to those air pollutants emitted during the same calendar year.

(k) When submitting the annual fee, the owner or operator of a major or minor source shall submit a written report of emissions of all regulated air pollutants (toxic and non-toxic) greater than one ton per year.

(l) The minimum annual fee shall be \$1,000 for each major source facility in operation or each valid major source permit held during the prior calendar year, or \$84 per month for any fraction of the year the major source facility was in operation or the major source permit was valid. For purposes of this subsection,

"major source facility" means a major source under common control of the same person or persons that is located on one or more contiguous or adjacent properties.

(m) The minimum annual fee shall be \$500 for each minor source facility in operation or each valid minor source permit held during the prior calendar year, or \$42 per month for any fraction of the year the minor source facility was in operation or the minor source permit was valid. For purposes of this subsection, "minor source facility" means a minor source under common control of the same person or persons that is located on one or more contiguous or adjacent properties.

(n) If any part of the annual fee is not paid within thirty days after the due date, a late payment penalty of five percent of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each calendar month during which any part of the annual fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of five percent of the then unpaid balance shall accrue and be added thereto.

(o) If any annual fee, including the late payment penalty required by this chapter is not paid in full within thirty days after the due date, the Director may terminate or suspend any or all of the owner or operator's major or minor source permits, after providing notice and the opportunity for a hearing in accordance with the CNMI Administrative Procedures Act, 1 CMC §§ 9101, et seq.

(p) The owner or operator of a major or minor source may at any time request a meeting with the department to discuss the annual fee assessment or the computational methods used to determine the annual fee. If the owner or operator still feels that the annual fee is being miscalculated after meeting with the department, the owner or operator may request a contested case hearing in accordance with CNMI Administrative Procedures Act, 1 CMC §§ 9101, et seq.

§ 117 Basis of annual fees for major and minor sources. (a) For purposes of calculating annual fees for major and minor sources under section 116, the major or minor source actual emissions in tons per year shall be determined by using the following parameters:

(1) An emission factor derived from the actual rate of emissions as substantiated through stack test reports, continuous emissions monitoring data, or any other certified record as deemed acceptable by the Director;

(2) The actual production, operating hours, amount of materials processed or stored, or fuel usage of the major or minor source during the prior calendar year the annual fee is due. Other operating parameters of the major or minor source may be used in the fee calculation if approved by the Director; and

(3) If not already included in the emission factor identified in paragraph (1), a percentage reduction factor based upon the efficiency of the air

pollution control equipment, as provided by AP-42 or any verifiable documentation demonstrating the actual performance of the air pollution control equipment.

(b) If an actual rate of emissions referenced in subsection (a)(1) cannot be substantiated, the allowable emission rate shall be used to calculate the total annual tonnage of pollutants emitted. If an allowable emission rate is not specified in an air permit or an applicable requirement, the appropriate AP-42 air pollutant emission factor shall be used. If the owner or operator of a major or minor source cannot provide verifiable documentation on the parameters referenced in subsection (a)(2), the maximum allowable production, operating hours, amount of material processed or stored, or fuel usage shall be used in calculating the total annual tonnage of regulated air pollutants emitted from the major or minor source. Any fraction of a ton calculated shall be disregarded for fee purposes. Only the annual tonnage in whole tons of each regulated air pollutant shall constitute the basis of annual fees.

(c) The annual fee shall be calculated on fee worksheets furnished by the Director. If a fee worksheet is not available for a particular major or minor source, the owner or operator of a major or minor source shall provide their own worksheet showing the method, assumptions, emission factors, and calculations used to obtain the total annual emissions in tons per year, for each regulated air pollutant emitted.

§ 118 Application fees for agricultural burning permits. (a) Every applicant for an agricultural burning permit shall pay an application fee pursuant to this section. The application fee shall be made payable to the CNMI Treasury/DEQ Special Fund, Air Program

(b) An application fee shall be submitted with the application for an agricultural burning permit and shall not be refunded nor applied to any subsequent application. No application for an agricultural burning permit shall be acted upon or considered unless the application fee is paid in full.

(c) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional \$15 handling charge.

(d) From the effective date of this chapter, the fee schedule for filing an agricultural burning permit shall be as follows:

(1)	Less than ten acres	\$	250
(2)	Ten to less than one hundred acres	\$	500
(3)	One hundred or more acres	\$	1,000

(e) The acreage shall be the total acreage designated to be burned or cleared for burning as specified in the permit.

§§ 119-130 Reserved

## SUBCHAPTER 7

### HAZARDOUS AIR POLLUTANT SOURCES

§ 131 Definitions. As used in this subchapter:

(a) "Carcinogenic hazardous air pollutant" means any hazardous air pollutant recognized as known, probable, or potential human carcinogen by the EPA's Integrated Risk Information System (IRIS), or other documented studies or information by recognized authorities and approved by the Director.

(b) "EPA risk assessment guidelines" means the U.S. Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment, 51 FR 33992 (September 24, 1986).

(c) "Hazardous air pollutant" means those air pollutants listed in Section 112(b) of the Act and any other air pollutants the Administrator may add to that list by rule.

(d) "Threshold limit value" means the airborne concentration of a substance that, according to the American Conference of Governmental Industrial Hygienists, represents conditions under which nearly all workers may be repeatedly exposed day after day without adverse effects.

(e) "Threshold limit value-time weighted average" means the threshold limit value for a normal eight-hour workday and a forty-hour workweek as specified in the TLV book.

(f) "TLV-TWA" means threshold limit value-time weighted average.

(g) "TLV book" means the "Documentation of the Threshold Limit Value and Biological Exposure Indices," latest edition, published by the American Conference of Governmental Industrial Hygienists, Inc.

§ 132 Applicability. The provisions of this subchapter are applicable to any stationary source which emits or has the potential to emit any hazardous air pollutant.

§ 133 Permit Requirements. (a) Permit applications for major sources of hazardous air pollutants shall be submitted to the EPA.

(b) Permit applications for minor sources of hazardous air pollutants shall be submitted to the Director in accordance with Subchapters 4 and 8.

§ 134 Ambient air concentrations of hazardous air pollutants. (a) No person shall emit or cause to emit from any stationary source, hazardous air pollutants in such quantities that result in, or contribute to, an ambient air concentration which endangers human health.

(b) The Director shall not approve any application for a permit required by this chapter, for a new minor source of hazardous air pollutants, or for the modification or reconstruction of any minor source of hazardous air pollutants, or for any stationary source that the Director has reason to believe that the emissions of hazardous air pollutants from the source may result in an unacceptable ambient air concentration, unless the owner or operator of the source, and except as provided in subsection (d), complies with one or more of the following:

(1) Demonstrate that the emissions of hazardous air pollutants from the source will not result in, or contribute to, any significant ambient air concentrations as defined in subsection (c); or

(2) Demonstrate that the applicable significant ambient air concentration in subsection (c) is inappropriate for the hazardous air pollutant in question and that the emissions of hazardous air pollutants from the source will not result in, or contribute to, any ambient air concentration which endangers human health. The demonstration shall include documented studies or information by recognized authorities on the specific health effects of such hazardous air pollutants and a detailed analysis, including a risk assessment, that demonstrates that the emissions from the sources will not endanger human health.

(c) For purposes of this subchapter, "significant ambient air concentration of any hazardous air pollutant" shall be defined as follows:

(1) For any non-carcinogenic hazardous air pollutant with a TLV-TWA, and except as provided in subsection (e), any eight-hour average ambient air concentration in excess of 1/100 of the TLV-TWA, and any annual average ambient air concentration in excess of 1/420 of the TLV-TWA;

(2) For any non-carcinogenic hazardous air pollutant not having a TLV-TWA, any ambient air concentration greater than the concentration which the Director determines to cause, to have the potential to cause, or to contribute to, the unreasonable endangerment of human health. The determination shall be made on a case-by-case basis, consider documented studies or information by recognized authorities on the specific health effects of such hazardous air pollutants, and include a reasonable margin of safety for the protection of the general public; or

(3) For any carcinogenic hazardous air pollutant, any ambient air concentration that may result in an excess individual lifetime cancer risk of more than ten in one million assuming continuous exposure for seventy years.



The ambient air concentration of a carcinogenic hazardous air pollutant shall be determined by performing a risk assessment based on procedures consistent with EPA's risk assessment guidelines or other alternative risk assessment procedures approved by the Director.

(d) The emission of any hazardous air pollutants from a stationary source shall be exempt from the provisions of subsection (b) if the total allowable emissions of the hazardous air pollutant from the stationary source are below 0.1 pounds per hour.

(e) Notwithstanding subsection (c)(1), the Director may at any time establish a lower concentration than the significant ambient air concentration specified in subsection (c)(1) if the Director determines that such lower concentration is required for the protection of the public health or welfare.

§§ 135-140 Reserved.



## SUBCHAPTER 8

### APPLICATIONS, PERMITS, COMPLIANCE DOCUMENTS AND RELOCATION REQUEST CONTENT

§ 141 Minor source permit application . A minor source permit application shall include:

- (a) Name, address, and phone number of:
  - (1) The company;
  - (2) The facility, if different from the company;
  - (3) The owner and owner's agent; and
  - (4) The plant site manager or other contact;
- (b) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; a description of all processes and products; and, if reasonably anticipated, a detailed description of alternative operating scenarios;
- (c) If available, maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;
- (d) Identification and description of all points of emissions, including stack parameters;
- (e) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the minor source, and to the extent of available information, an estimate of emissions before and after controls;
- (f) Current operational limitations or work practices, or for minor sources that have not yet begun operation, such limitations or practices which the owner or operator of the minor source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;
- (g) A schedule for construction or modification of the minor source, if applicable;
- (h) All calculations and assumptions on which the information in paragraphs (b), (d), (e), and (f) is based;

(i) If requested by the Director, an assessment of the ambient air quality impact of the minor source or modification. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;

(j) If requested by the Director, a risk assessment of the air quality related impacts caused by the minor source or modification to the surrounding environment;

(k) If requested by the Director, results of source emission testing,

(l) If requested by the Director, information on other available

(m) An explanation of all proposed exemptions from any applicable requirement;

(o) A compliance plan in accordance with sections 66 and 151; and

(p) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 142 Minor source permit . The Director shall consider and incorporate the following elements into a minor source permit as applicable:

(a) Emission limitations and standards, including operational requirements and limitations to assure compliance with all applicable requirements at the time of permit issuance;

(b) Permit term pursuant to section 68;

(c) Requirements for the installation of devices, at the expense of the owner or operator, for the measurement or analysis of source emissions or ambient concentrations of air pollutants;

(d) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the minor source permit and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator;

(e) Monitoring and related recordkeeping and reporting requirements to assure compliance with all the terms and conditions of the permit, including:

(1) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;

(2) Requirements concerning the use, maintenance, and installation of monitoring equipment. The installation, operation, and maintenance of the monitoring equipment shall be at the expense of the owner or operator;

(3) Appropriate monitoring methods;

(4) Monitoring records including:

(A) Place as defined in the permit, date, and time of sampling or measurements;

(B) Dates the analyses were performed;

(C) The name and address of the company or entity that performed the analyses;

(D) Analytical techniques or methods used;

(E) Analyses results; and

(F) Operating conditions during the time of sampling or measurement;

(5) Other records including support information, such as calibration and maintenance records, original stripchart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the Director;

(6) A requirement for the retention of records of all required monitoring data and support information for a period of at least three years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit; and

(7) Provisions for the owner or operator to annually report in writing emissions of hazardous air pollutants;

(f) Terms and conditions for reasonably anticipated operating scenarios identified by the source in the minor source permit application as approved by the Director. Such terms and conditions shall include:

(1) A requirement that the owner or operator, contemporaneously with making a change from one operating scenario to another, record in a log at the permitted facility the scenario under which it is operating and, if required by the Director, submit written notification to the Director; and

(2) Provisions to ensure that the terms and conditions under each alternative scenario meet all applicable requirements;

(g) General provisions including:

(1) A statement that the owner or operator shall comply with all terms and conditions of the minor source permit and that any permit noncompliance constitutes a violation of this chapter, and is grounds for

enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application;

(2) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;

(3) A statement that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the terms and conditions of the permit;

(4) A statement that the permit may be terminated, suspended, reopened, or amended for cause pursuant to sections 10 and 72. The filing of a request by the permittee for a permit termination, suspension, reopening, or amendment or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(5) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;

(6) A provision that, if construction is not commenced, continued, or completed in accordance with section 9, the minor source permit for the subject emission unit shall become invalid;

(7) A provision that the owner or operator shall notify the Director in writing of the anticipated date of initial start-up for each emission unit of a new minor source or modification to the source not more than sixty days or less than thirty days prior to such date. The Director shall also be notified in writing of the actual date of construction commencement and start-up within fifteen days after such dates;

(8) A requirement pursuant to sections 16 and 17 for reporting of equipment shutdown and malfunction;

(9) A statement that the owner or operator shall furnish in a timely manner any information or records requested in writing by the department to determine whether cause exists for terminating, suspending, reopening, or amending the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish such records to the department with a claim of confidentiality;

(10) A provision for the designation of confidentiality of any records pursuant to section 15;

(11) A requirement that the owner or operator shall submit fees in accordance with subchapter 6;

(12) Certification requirements pursuant to section 5; and

(13) A requirement that the owner or operator allow the Director or an authorized representative, upon presentation of credentials or other documents required by law:

(A) To enter the owner or operator's premises where a source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit and inspect at reasonable times all facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and

(B) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;

(h) Compliance plan submittal requirements pursuant to sections 66 and 151; and

(i) Any other provision to assure compliance with all applicable requirements.

§ 143 Minor source general permit application . A minor source general permit application shall include:

(a) Name, address, and phone number of:

- (1) The company;
- (2) The facility, if different from the company;
- (3) The owner and owner's agent; and
- (4) The plant site manager or other contact;

(b) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; and a description of all processes and products;

(c) If available, maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

(d) Identification and description of all points of emissions including stack parameters;

(e) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner

or operator of the source, and to the extent of available information, an estimate of emissions before and after controls;

(f) Current operational limitations or work practices, or for minor sources that have not yet begun operation, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;

(g) A schedule for construction of the minor source, if applicable;

(h) All calculations and assumptions on which the information in paragraphs (b), (d), (e), and (f) is based;

(i) If requested by the Director, an assessment of the ambient air quality impact of the minor source. The assessment shall include all supporting data, calculations, and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;

(j) If requested by the Director, a risk assessment of the air quality related impacts caused by the minor source to the surrounding environment;

(k) If requested by the Director, results of source emission testing, ambient air quality monitoring, or both;

(l) If requested by the Director, information on other available control technologies;

(m) An explanation of all proposed exemptions from any applicable requirement;

(n) A compliance plan in accordance with section 66 and 151; and

(o) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 144 Minor source permit renewal application . A minor source permit renewal application shall include:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) Statement certifying that no changes have been made in the design or operation of the source as proposed in the initial and any subsequent



minor source permit applications. If changes have occurred or are being proposed, the applicant shall provide a description of those changes such as work practices, operations, equipment design, and monitoring procedures;

(c) A compliance plan in accordance with sections 66 and 151; and

(d) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

(b) Each application for permit renewal shall be submitted to the Director a minimum of sixty days prior to the date of permit expiration.

§ 145 Minor source modification application . A minor source modification application shall include:

(a) The name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) A description of the modification, identifying all proposed changes, including any changes to the source operations, work practices, equipment design, source emissions, or any monitoring, recordkeeping, and reporting procedures;

(c) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions of any proposed addition or modification of any source of emissions; specifications and drawings showing the design of the source and plant layout; a description of all processes and products; and, if reasonably anticipated, a detailed description of alternative operating scenarios;

(d) If available, maximum emissions rates, including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

(e) Identification and description of all points of emissions including stack parameters;

(f) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the minor source or modification, and to the extent of available information, an estimate of emissions before and after controls;

(g) Operational limitations or work practices which the owner or operator of the minor source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;

(h) A schedule for construction or modification of the minor source;

(i) All calculations and assumptions on which the information in paragraphs (c), (e), (f), and (g) is based;

(j) If requested by the Director, an assessment of the ambient air quality impact of the minor source or modification. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the national and CNMI ambient air quality standards;

(k) If requested by the Director, a risk assessment of the air quality related impacts caused by the minor source or modification to the surrounding environment;

(l) If requested by the Director, results of source emission testing, ambient air quality monitoring, or both;

(m) If requested by the Director, information on other available control technologies;

(n) An explanation of all proposed exemptions from any applicable requirement;

(o) A compliance plan in accordance with sections 66 and 151; and

(p) Other information:

(1) As requested and deemed necessary by the Director to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 146 Major source permit application . A major source permit application shall include:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

- (4) The plant site manager or other contact;
- (b) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as listed in section 112(c) of the Act); reasonably anticipated alternative operating scenarios, and processes and products by Standard Industrial Classification Code and source category or categories (as listed in section 112(c) of the Act) associated with each alternative operating scenario;
- (c) Information to define permit terms and conditions for any proposed emissions trading within the facility pursuant to section 94;
- (d) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;
- (e) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
- (f) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source, and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;
- (g) Citation and description of all applicable requirements, and a description of or reference to any applicable test method for determining compliance with each applicable requirement;
- (h) Current operational limitations or work practices, or for covered sources that have not yet begun operation, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source.
- (i) All calculations and assumptions on which the information in paragraphs (b), (d), (e), (f), and (h) is based;

- (j) A detailed schedule for construction or reconstruction of the source or modification, if applicable;
- (k) For existing covered sources, an assessment of the ambient air quality impact of the covered source. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;
- (l) For new covered sources, and nonminor modifications which increase the emissions of any air pollutant or result in the emission of any air pollutant not previously emitted, an assessment of the ambient air quality impact of the covered source or significant modification, with the inclusion of any available background air quality data. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;
- (m) For new covered sources or nonminor modifications subject to the requirements of 40 CFR § 52.21, all analyses, assessments, monitoring, and other application requirements of 40 CFR § 52.21;
- (n) If requested by the Director, a risk assessment of the air quality related impacts caused by the covered source or significant modification to the surrounding environment;
- (o) If requested by the Director, results of source emission testing, ambient air quality monitoring, or both;
- (p) If requested by the Director, information on other available control technologies and associated analysis;
- (q) An explanation of all proposed exemptions from any applicable requirement;
- (r) A list of insignificant activities pursuant to section 83(e) to (g);
- (s) A compliance plan in accordance with sections 86 and 151;
- (t) A source compliance certification in accordance with sections 87 and 152; and
- (u) Other information:
  - (1) As required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application; and
  - (2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 147 Major source permit . The Director shall consider and incorporate the following elements into all major source permits, as applicable:

(a) Emission limitations and standards, including operational requirements and limitations to assure compliance with all applicable requirements at the time of permit issuance;

(b) Requirements regarding fugitive emissions regardless of whether the source category in question is included in the list of sources contained in the definition of "major source";

(c) The origin of and authority for each term or condition and any differences in form as compared to the applicable requirement upon which the term or condition is based;

(d) Permit term pursuant to section 90;

(e) Requirements for the installation of devices, at the expense of the owner or operator, for the measurement or analysis of source emissions or ambient concentrations of air pollutants;

(f) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the major source permit, and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator;

(g) All monitoring and related recordkeeping and reporting requirements to assure compliance with all terms and conditions of the permit. Each major source permit shall address the following with respect to monitoring, recordkeeping, and reporting:

(1) All reporting, emissions monitoring and analysis procedures, or test methods, required pursuant to the applicable requirements, including any procedures or methods promulgated pursuant to Section 114(a)(3) or 504(b) of the Act;

(2) If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, periodic monitoring or recordkeeping sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit. Use of terms, test methods, units, averaging periods, and other statistical conventions used for these requirements shall be consistent with applicable requirements;

(3) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;

(4) Requirements concerning the use, maintenance, and installation of monitoring equipment. The installation, operation, and maintenance of the monitoring equipment shall be at the expense of the owner or operator;

(5) Appropriate monitoring methods;

(6) Monitoring records including:

(A) Place as defined in the permit, date, and time of sampling or measurements;

(B) Dates the analyses were performed;

(C) The name and address of the company or entity that performed the analyses;

(D) Analytical techniques or methods used;

(E) Analyses results; and

(F) Operating conditions during the time of sampling or measurement;

(7) Other records including support information, such as calibration and maintenance records, original stripchart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the Director;

(8) A requirement for the retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

(9) A requirement for submission of reports of any required monitoring at least every six months. Deviations from the permit requirements shall be clearly identified and addressed in these reports;

(10) A requirement for prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The term "prompt" shall be delineated on a permit-by-permit basis in relation to the degree and type of deviation likely to occur and the applicable requirements; and

(11) Provisions for the owner or operator to annually report in writing, emissions of hazardous air pollutants;

(h) If requested by the owner or operator of a major source, terms and conditions to allow emissions trading within the facility pursuant to section 94, including provisions to insure compliance with all applicable requirements, and requiring the owner or operator to provide a minimum seven-day advance written notification to the Administrator and Director prior to any proposed emissions trading;

(i) Terms and conditions for reasonably anticipated operating scenarios identified by the source in the major source permit application as approved by the Director. Such terms and conditions shall include:

(1) A requirement that the owner or operator, contemporaneously with making a change from one operating scenario to another, record in a log at the permitted facility the scenario under which it is operating and, if required by any applicable requirement or the Director, submit written notification to the Director; and

(2) Provisions to ensure that the terms and conditions under each alternative scenario meet all applicable requirements;

(j) General provisions including:

(1) A statement that the owner or operator shall comply with all the terms and conditions of the major source permit and that any permit noncompliance constitutes a violation of this chapter and the Act and is grounds for enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application;

(2) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;

(3) A statement that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the terms and conditions of the permit;

(4) A statement that the permit may be terminated, suspended, reopened, or amended for cause pursuant to sections 10 and 95. The filing of a request by the permittee for a permit termination, suspension, reopening, or amendment, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(5) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;

(6) A provision that, if construction is not commenced, continued or completed in accordance with section 9, the major source permit for the subject emission unit shall become invalid;

(7) A provision that the owner or operator shall notify the Director in writing of the anticipated date of initial start-up for each emission unit of a new major source or nonminor modification not more than sixty days or less than thirty days prior to such date. The Director shall also be notified in writing of the actual date of construction commencement and start-up within fifteen days after these dates;

(8) A statement that the owner or operator shall furnish in a timely manner any information or records requested in writing by the department to determine whether cause exists for terminating, suspending, reopening, or amending

the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit. For information claimed to be confidential, the Director may require the permittee to furnish such records not only to the department but also directly to the Administrator along with a claim of confidentiality;

(9) A requirement that a copy of applicable correspondence or records submitted to the department be provided to the Administrator;

(10) A provision for the designation of confidentiality of any records pursuant to section 14;

(11) A requirement that the owner or operator shall submit fees in accordance with subchapter 6;

(12) Certification requirements pursuant to section 5; and

(13) A requirement that the owner or operator allow the Director or an authorized representative, upon presentation of credentials or other documents required by law:

(A) To enter the owner or operator's premises where a source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit and inspect at reasonable times all facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and

(B) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;

(k) Compliance plan and compliance certification submittal requirements pursuant to sections 86, 87, 151, and 152; and

(l) Any other provision to assure compliance with all applicable requirements.

§ 148 Major Source Permit Renewal Application . A major source permit renewal application shall include:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) Statement certifying that no changes have been made in the design or operation of the source as proposed in the initial and any subsequent major source permit applications. If changes have occurred or are being proposed, the



applicant shall provide a description of those changes such as work practices, operations, equipment design, and monitoring procedures, including the affected applicable requirements associated with the changes and the corresponding information to determine the applicability of all applicable requirements;

(c) A compliance plan in accordance with sections 86 and 151;

(d) A source compliance certification in accordance with sections 87 and 152; and

(e) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 149 Minor modification to a major source application . A minor modification to a major source application shall include:

(a) A clear description of all changes;

(b) A statement of why the modification is determined to be minor, and a request that minor modification procedures be used;

(c) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants resulting from the change. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

(d) The identification of any new applicable requirements that will apply if the minor modification occurs;

(e) The suggested changes to permit terms or conditions;

(f) Certification by a responsible official that the proposed modification meets the criteria for minor modification;

(g) All information submitted with the application for the initial major source permit or any subsequent application for a major source permit. The owner or operator may reference information contained in a previous application submittal, provided such referenced information has been certified as being current and still applicable; and

(h) Other information, as required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application.

§ 150 Nonminor modification to a major source application . A nonminor modification to a major source shall include:

- (a) The name, address, and phone number of:
  - (1) The company;
  - (2) The facility, if different from the company;
  - (3) The owner and owner's agent; and
  - (4) The plant site manager or other contact;
- (b) A description of the nonminor modification, identifying all proposed changes, including any changes to the source operations, work practices, equipment design, source emissions, or any monitoring, recordkeeping, and reporting procedures;
- (c) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions of any proposed addition or modification of any source of emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as listed in section 112(c) of the Act) affected by the proposed modification; reasonably anticipated alternative operating scenarios, and processes and products by Standard Industrial Classification Code and source category or categories (as listed in section 112(c) of the Act) associated with each alternative operating scenario affected by the proposed modification;
- (d) Information to define permit terms and conditions for any proposed emissions trading within the facility pursuant to section 94;
- (e) Maximum emissions rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit related to the modification. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;
- (f) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
- (g) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source or modification, and to the extent of available information,

an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;

(h) Citation and description of all applicable requirements, and a description of or reference to any applicable test method for determining compliance with each applicable requirement;

(i) Operational limitations or work practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source. For sources subject to an Equivalent Maximum Achievable Control Technology limitation pursuant to 40 CFR Part 63, a proposed emission limitation consistent with the requirements set forth in 40 CFR Part 63;

(j) All calculations and assumptions on which the information in paragraphs (c), (e), (f), (g), and (i) is based;

(k) A detailed schedule for construction or reconstruction of the source or modification;

(l) For nonminor modifications which increase the emissions of any air pollutant or result in the emission of any air pollutant not previously emitted, an assessment of the ambient air quality impact of the major source with the inclusion of any available background air quality data. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;

(m) For new major sources or nonminor modifications subject to the requirements of 40 CFR §52.21, a copy of the PSD application and PSD permit issued by EPA;

(n) If requested by the Director, a risk assessment of the air quality related impacts caused by the major source or significant modification to the surrounding environment;

(o) If requested by the Director, results of source emission testing, ambient air quality monitoring, or both;

(p) If requested by the Director, information on other available control technologies and associated analysis;

(q) An explanation of all proposed exemptions from any applicable requirement;

(r) A list of any new insignificant activities pursuant to section 83(e) to (g);

(s) A compliance plan in accordance with sections 86 and 151;

(t) A source compliance certification in accordance with sections 87 and 152; and

(u) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Director to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 151 Compliance plan. (a) A compliance plan shall include at a minimum the following information:

(1) A description of the compliance status of the existing minor source or proposed source with respect to all the applicable requirements; and

(2) The following statement or description and compliance schedule, as applicable:

(A) For applicable requirements with which the source is in compliance, a statement that the source is in compliance and will continue to comply with such requirements;

(B) For applicable requirements which become applicable during the permit term, a statement that the source on a timely basis will meet all such applicable requirements and a detailed schedule if required by the applicable requirement. The statement shall include documentation on the proposed method the owner or operator plans to initiate to obtain compliance; and a compliance schedule demonstrating that the source will meet such applicable requirement by the date specified in the applicable requirement; or

(C) For applicable requirements with which the source is not in compliance, a narrative description of how the source will achieve compliance with all such applicable requirements; and a detailed compliance schedule containing specific milestones of remedial measures to obtain compliance, allowing for an enforceable sequence of actions. Any compliance schedule shall resemble and shall be at least as stringent as any judicial consent decree or administrative order that applies to the source. The schedule shall not sanction noncompliance with the applicable requirements on which the schedule is based.

(b) If a compliance plan is to remedy a violation, a progress report certified pursuant to section 5 shall be submitted to the Director no less frequently than every six months and shall include:

(1) Dates for achieving the activities, milestones, or compliance, and dates when such activities, milestones, or compliance were achieved; and

(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

§ 152 Compliance certification.

(a) The compliance certification with each major source permit application shall include:

(1) A detailed description of the methods to be used in determining compliance with all applicable requirements, including any monitoring, recordkeeping, and reporting requirements and test methods;

(2) A schedule for submission of compliance certifications during the permit term; and

(3) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements, including the requirements of Section 114(a)(3) of the Act or any applicable monitoring and analysis provisions of Section 504(b) of the Act.

(b) The compliance certification submitted at least annually shall include:

(1) The identification of each term or condition of the permit that is the basis of the certification;

(2) The compliance status;

(3) Whether compliance was continuous or intermittent;

(4) The methods used for determining the compliance status of the source currently and over the reporting period;

(5) Any additional information indicating the source's compliance status with any applicable enhanced monitoring and compliance certification including the requirements of Section 114(a)(3) of the Act or any applicable monitoring and analysis provisions of Section 504(b) of the Act; and

(6) Any additional information as required by the Director including information to determine compliance.

§ 153 Temporary source relocation request. A relocation request shall include at a minimum the following information:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

- (3) The owner and owner's agent; and
- (4) The plant site manager or other contact;
- (b) Temporary major or minor source permit identification number and expiration date;
- (c) Location map of the new temporary location, identifying the surrounding commercial, industrial, and residential developments;
- (d) Projected dates of operation at the new location;
- (e) Identification of any other air pollution source at the new location; and
- (f) Certification that no modification will be made to the equipment, and operational methods will remain similar as permitted under the temporary major or minor source permit at the new location.

§§ 154-160 Reserved.



*Northern Mariana Islands*  
**R E T I R E M E N T F U N D**  
*"Investing For The Future Financial Security Of Our Members"*

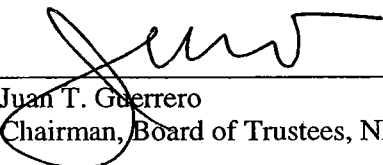
**PUBLIC NOTICE**  
**PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING**  
**THE NORTHERN MARIANA ISLANDS RETIREMENT FUND**

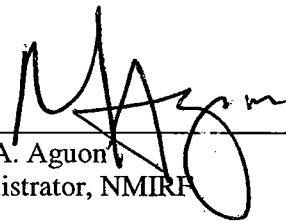
The Board of Trustees of the Northern Mariana Islands Retirement Fund ("NMI Retirement Fund"), as authorized pursuant to 1 CMC § 8315(f), hereby gives notice to its members and the general public that it has proposed amendments to the NMI Retirement Fund's Regulations pursuant to the Administrative Procedures Act, 1 CMC § 9101, *et. seq.* The attached proposed amendments would modify the Regulations published in the Commonwealth Register, Volume 29, Number 06, at pages 26567 and 26568, on June 18, 2007 (effective date July 28, 2007).

The purpose of these amendments is to effectuate the provisions of Public Law 15-70 by amending the language under Part 2 – Section 2.01(JJ). The Board is soliciting comments and recommendations regarding these proposed amendments, which must be received by the NMI Retirement Fund within thirty (30) days of publication of this notice in the Commonwealth Register.

Written comments on these amendments should be sent to Mark A. Aguon, Administrator, NMI Retirement Fund, Retirement Fund Building, Isa Drive, Capital Hill, P.O. Box 501247, Saipan, MP 96950-1247, or by facsimile to (670) 664-8080. Copies of these amendments may be obtained at the NMI Retirement Fund offices on Saipan, Tinian and Rota.

Dated this 25<sup>th</sup> day of SEPT. 2007.

  
\_\_\_\_\_  
Juan T. Guerrero  
Chairman, Board of Trustees, NMIRF

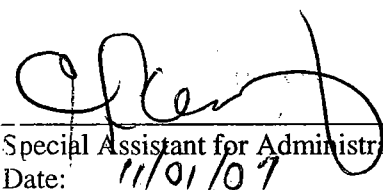
  
\_\_\_\_\_  
Mark A. Aguon  
Administrator, NMIRF

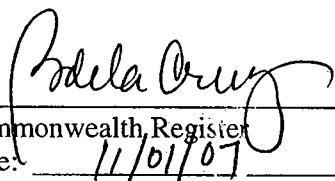
Reviewed for legal sufficiency this 25<sup>th</sup> day of SEPT. 2007 by:

  
\_\_\_\_\_  
Fund Legal Counsel

RECEIVED BY:

FILED BY:

  
\_\_\_\_\_  
Special Assistant for Administration  
Date: 11/01/07

  
\_\_\_\_\_  
Commonwealth Register  
Date: 11/01/07

**Certification by the Office of the Attorney General**

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

Dated this 31 day of October 2007.

*Gregory Baka*  
\_\_\_\_\_  
Acting Attorney General





*Northern Mariana Islands*  
**R E T I R E M E N T F U N D**  
*"Investing For The Future Financial Security Of Our Members"*


**NOTISIAN PUPBLIKU  
MAN MAPROPONE NA AMENDASION SIHA PARA I  
AREKLAMENTO YAN REGULASION SIHA NI GUMUBEBIETNA I  
FUNDON RITIRÃO I SANKATTAN SIHA NA ISLAN MARIANAS**

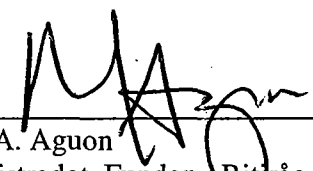
I Kuetpon Trustees i Fundon Ritirão i Sankattan Siha na Islan Marianas, ("NMI Retirement Fund"), ni ma'aturisa sigun i lai gi 1 CMC Seksiona 8315(f), ha nãã'i' notisia para i membru siha yan i pupbliku henerat na ha propopone i amendasion siha para i Regulasion i Fundon Ritirão i Sankattan Siha na Islan Marianas sigun i Akton i Areklamenton Atministrasion, 1 CMC Seksiona 9101, *et. seq.* I man che'che'ton ni man mapropone na amendasion siempre a tulaika i Regulasion ni mapublika gi Rehistran i Commonwealth, Baluma 29, Numiru 06, gi pãhinan 26567 yan 26568, gi Junio 18, 2007 (ha'ãnen anai u efektibu Julio 28, 2007).

I rason este siha na amendasion pot para u na efektibu i probension i Lai Pupbliku 15-70 ni ma'omentãyi i lengguãhe papa Pãtte' 2 – Seksiona 2.01(JJ). I Kuetpo magãgãgão opinion yan rekomendasion siha ni tineteka este man mapropone na amendasion siha, ni debi di u maresibe' ni i Fundon Ritirão i Sankattan Siha na Islan Marianas gi hãlom trenta (30) diha siha gi publikasion este na notisia gi Rehistran i Commonwealth.

I tinige' opinion siha debi di u mana fan hãlom guatu gi as Mark A. Aguon, i Atministradot, i Fundon Ritirão i Sankattan Siha na Islan Marianas, gi Isa Drive, Capital Hill, P.O. Box 501247, Saipan, MP 96950-1247, osino facsimile guatu gi (670) 664-8080. Siãna man machule' i kopian este mapropone na amendasion siha gi maseha amãnu na Ofisinan i Fundon i Ritirão giya Saipan, Luta yan Tinian.

Mafecha este gi mina 25<sup>th</sup> na diha gi SEPT. 2007.

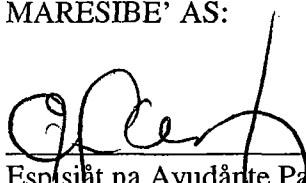
  
\_\_\_\_\_  
Juan T. Guerrero  
Kabiseyu, Kuetpon i Trustee Siha, NMIRF

  
\_\_\_\_\_  
Mark A. Aguon  
Atministradot, Fundon Ritirão gi NMI

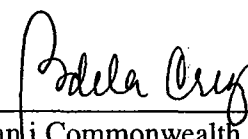
Ma'ina para u ligat suficiente gi mina 25<sup>th</sup> na diha gi SEPT. 2007 as:

  
\_\_\_\_\_  
Konseherun Ligat i Fundon Ritirão

MARESIBE' AS:

  
\_\_\_\_\_  
Espisãt na Ayudãnte Para i Atministrasion

PINELO' AS:

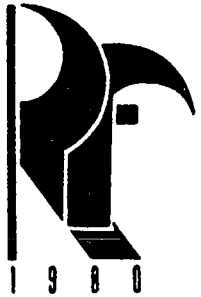
  
\_\_\_\_\_  
Rehistran i Commonwealth

**Setifikasion ginen i Ofisinan i Abugão Henerát:**

Sigun i lai 1 CMC Seksiona 2153, ni inamenda ni Lai Pupbliku 10-50, i mapropone na amendasion siha para i Areklamento yan Regulasion siha ni man che'che'ton man ma'ina yan ma'aprueba pot para u fotma yan ligát sufisiente ni i Ofisinan i Abugão Henerát.

Mafecha este gi mina 31 na diha gi Okubre2007.

Segundon i Gregory Baka  
Abugádu Henerát



*Northern Mariana Islands*  
**R E T I R E M E N T F U N D**  
*"Investing For The Future Financial Security Of Our Members"*


**ARONGOL TOULAP  
POMWOL SSIWEL KKAAL NGÁLI ALLÉGH YE E LEMELI  
NORTHERN MARIANA ISLANDS RETIREMENT FUND**

Mwiisch (Board of Trustees) mellól Northern Mariana Islands Retirement Fund ("NMI Retirement Fund"), iye re ngálleey bwángil mereel 1 CMC Tálil 8315(f), ekke arongaar membro me toulapeer aramas bwe pomwol ssiwel kkaal ngáli Alléghúl NMI Retirement Fund sáangi alléghúl Administrative Procedure Act, 1 CMC Tálil 9101, *et seq.*. Pomwol kka e appasch ebwe ssiweli Allégh kka aa akkatééló llól Commonwealth Register, Volume 29, Numero 06, llól peighil 26567 me 26568, otol Alimaté (June) 18, 2007 (schescheel ótol Wuun (July) 28, 2007).

Bwulul ssiwel kkaal bwelle igha rebwe ghitipwotchuw aweweel Alléghél Toulap ye 15-70 igha ebwe toolong faal kkapas ye Peigh 2 – Tálil 2.01(JJ). Schóóy mwiisch yeel e tittingór aghiyegh me tipáng bwelle pomwol ssiwel kkaal. Ikka NMI Retirement Fund ebwe bwughil llól eliigh (30) ráálil yaal akkatééló arong yeel mellól Commonwealth Register.


Ischil mángemáng reel ssiwel kkaal ebwe akkafang ngáli Mark A. Aguon, Samwoolul NMI Retirement Fund, Retirement Fund Building, Isa Drive, Capital Hill, P.O. Box 501247, Seipél, MP 96950-1247, me ngare facsimile reel (670) 664-8080. Tilighial ssiwel kkaal nge Emmwel óubwe bwughil mereel Bwulasiyool NMI Retirement Fund mewóól Seipél, Tchúlúyól me Luuta.

Ráálil ye 26<sup>th</sup> llól SEPT. 2007.

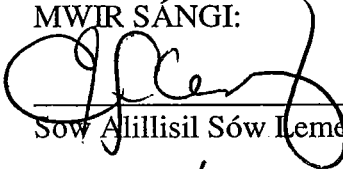
  
\_\_\_\_\_  
Juan F. Guerrero  
Samwoolul, Mwiischil Trustees, NMIRF

  
\_\_\_\_\_  
Mark A. Aguon  
Samwoolul, NMIRF

Alúghúlugh 25<sup>th</sup> llól ráálil SEPT. 2007 sangi:

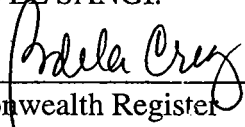
  
\_\_\_\_\_  
Sow Allégh ngáli Fund

MWIR SÁNGI:

  
\_\_\_\_\_  
Sow Alillisil Sów Lemelem

Rál: 11/01/07

AMMWEL SÁNGI:

  
\_\_\_\_\_  
Commonwealth Register

Rál: 11/1/07

**Alúghúlúgh mereel Bwulasiyool Sów Bwungul Allégh Lapalap**

Sáangi allégh ye 1 CMC Tálil 2153, iye aa lliwelló mereel Alléghél Toulap 10-50, pomwol lliwel ngáli allégh kka e appasch nge raa takkal amweri fischi me aléghéléghéló mereel Bwulasiyool Sów Bwungul Allégh Lapalap.

Raalil ye 31 loll Sarobwél 2007.

*Gregory Baka*  
\_\_\_\_\_  
Acting Ngáli Sów Bwungul Allégh Lapalap

**PROPOSED AMENDMENTS  
TO THE RULES AND REGULATIONS  
GOVERNING THE NORTHERN MARIANA ISLANDS RETIREMENT FUND**

**Citation of Statutory Authority:**

The Board of Trustees ("Board") of the Northern Mariana Islands Retirement Fund ("Retirement Fund") has statutory power to promulgate and effect Rules and Regulations pursuant to 1 CMC § 8315(f).

**Statement of Goals and Objectives:**

The Rules and Regulations provide guidelines for the Board to manage the government retirement program, as well as provide government employees and retirees information on how the program functions. The primary goals and objectives of the proposed amendments are to effectuate the changes outlined by Public Law 15-70, with respect to contribution rollover amount to the Defined Contribution Plan less any amounts due for loans under the Member Home Loan Program and other obligations to the Fund.

**Summary of Amendments:**

These proposed amendments to the Rules and Regulations includes provisions of Public 15-70, which would require that contribution account balances being transferred and directly rolled over to the Defined Contribution Plan for an Eligible Defined Benefit Member, who has elected to transfer/convert, be deducted the amounts due for loans (i.e. Member Home Loan Program), hardship withdrawals, or for other obligations to the Fund under any applicable law, regulation or program of the Fund.

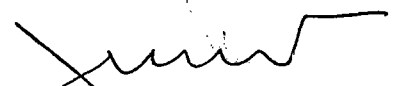
**For Further Information:**

Contact Mark A. Aguon, Administrator, NMI Retirement Fund, by telephone (670) 322-3863 or facsimile (670) 664-8080.

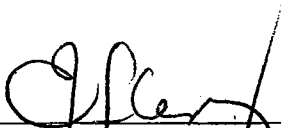
**Citation of Related and/or Affected Statutes, Regulations and Orders:**


Public Laws 15-13; 15-70; Part 2 – 2.01(JJ) as published in the Commonwealth Register, Volume 29, Number 06, dated June 18, 2007, effective July 28, 2007.

Dated this 25<sup>th</sup> day of SEPT 2007.

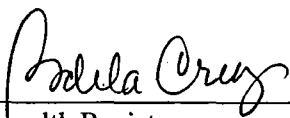
  
\_\_\_\_\_  
Chairman, Board of Trustees, NMIRF

RECEIVED BY:

  
\_\_\_\_\_  
Special Assistant for Administration  
Date: 11/01/07

  
\_\_\_\_\_  
Administrator, NMIRF

FILED AND RECORDED BY:

  
\_\_\_\_\_  
Commonwealth Register  
Date: 11/1/07

**Proposed Amendments to the  
NORTHERN MARIANA ISLANDS RETIREMENT FUND  
ADMINISTRATIVE RULES AND REGULATIONS**

---

*PAR T 2, SECTION 2.01 (JJ) is amended to add the following language:*

- JJ.** “**Employee Contribution Account Balance**” means the amount to be transferred from the Defined Benefit Plan into the Defined Contribution Plan on the behalf of the Eligible Defined Benefit Plan Member and shall include:
- (i) the amount of the employee’s contributions into the Defined Benefit Plan;
  - (ii) the amount of “regular” interest” accrued on these employee contributions as fixed by the Board Resolution pursuant to 1 CMC § 8313(n), to be 7.5% per annum; ~~and~~,
  - (iii) any amount of matching employer contribution legislatively appropriated for that purpose, subject to the applicability of 26 U.S.C. § 415(c); and
  - (iv) less any amounts owed to the Fund for obtaining various types of credit authorized under any applicable law, regulation, or program of the Fund, such as amounts due for Member Home Loan Program, hardship withdrawals, or other obligations to the Fund.



Commonwealth of the Northern Mariana Islands  
Commonwealth Board of Accountancy

David Burger, Chair  
Caller Box 10007, Capitol Hill, Saipan, MP 96950  
(Office of the Governor, 2nd Floor Juan A. Sablan Building, Capital Hill, Saipan)  
tel: 670.664.2200 fax: 670.664.2211

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION  
OF REGULATIONS OF  
the Commonwealth Board of Accountancy**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS  
Volume 29, Number 09, pp 026735-784, of Sep. 17, 2007

**Regulations of the Commonwealth Board of Accountancy: Parts 100 - 2500**

Please take notice that the Commonwealth Board of Accountancy hereby adopts as permanent the referenced Proposed Regulations. I also certify by signature below that such adopted regulations are being adopted without modification or amendment, except for the following editorial changes:

1. First change:

The "History", § 1-10-00102(c)(3)(ii) and (iii) has been amended to fill in date and page numbers, as follows:

(ii) Proposed Regulations adopted by resolution of the Board of Accountancy on April 26, 2006 and December 26, 2006. Proposed regulations were published in the Commonwealth Register, Vol. 29, No.09 026735-784 (9/17/2007).

(iii) Final regulations were promulgated by publication in the Commonwealth Register Vol. 29, No. 11 (11/\_\_\_/2007).

2. Second change: The bracketed editorial comments, or signals, in the table of contents and referenced headings has been deleted, specifically: "[Moved from ...]", "[Moved. No change]", "[New]", "[Updated]", or "[Replaces ....]".

I further request and direct that this Notice and the revised, final regulations be published in the Commonwealth Register.

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

The prior publication was as stated above. The Board adopted the regulations as final at its meeting of November 9, 2007.

Comments and agency concise statement. Pursuant to 1 CMC § 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. Note: There were no filed comments.

Attorney General approval. The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law). Due to the further, editorial changes, the Attorney General has approved this final version for promulgation. (*Id.*)

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 9th day of November, 2007, at Saipan, Commonwealth of the Northern Mariana Islands.

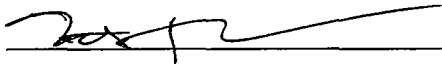
Certified and ordered by:

  
\_\_\_\_\_  
David Burger,  
Chair, Commonwealth Board of Accountancy

Date 11/9/07

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 16<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_

MATTHEW T. GREGORY,  
Attorney General

Filed and  
Recorded by:

  
\_\_\_\_\_  
BERNADITA B. DE LA CRUZ  
Commonwealth Register

Date 11/14/07



Commonwealth of the Northern Mariana Islands

Northern Mariana Islands Administrative Code Title 1  
Office of the Governor

Chapter 1-10 - Commonwealth Board of Accountancy Regulations

Chapter Authority: 4 CMC § 3402(h); PL 13-52 § 4(h), as amended.

Regulation History: PL 13-52 (effective when approved by Governor Juan N. Babauta, May 20, 2003), the "Accountancy Act of 2002," 4 CMC §§ 3401-40. The Act created a Board of Accountancy, without placing it in a Department. The Board is authorized to license accountants in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the act. See PL 13-52. 4 CMC § 3402(h), PL 13-52 § 4(h), empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions.

[Comment on numbering outline format: The hierarchy /outline is as follows, from top to bottom: Title; Chapter; Part 001-2500; Section x01-x99, where "x" is the Part's first digit(s); (a); (1); (i); (A). The numbering for the title and chapter generally follow the format set out in the pocket part to volume 1 of the Northern Mariana Islands Administrative Code. Citations are to PL 13-52, as amended.]

Table of Contents

Chapter 1-10 - Commonwealth Board of Accountancy Regulations ..... Page 1 of 42  
Table of Contents ..... Page 1 of 42  
§ 1-10- 001 PART 001. Reserved ..... Page 5 of 42  
§ 1-10- 00100 PART 100. General Provisions ..... Page 5 of 42  
§ 1-10- 00101 Currency of these regulations. .... Page 5 of 42  
§ 1-10- 00102 History. .... Page 5 of 42  
§ 1-10- 00103 Numbering of resolutions and other acts. .... Page 6 of 42  
§ 1-10- 00104 Office. .... Page 6 of 42  
§ 1-10- 00105 Organization and officers. .... Page 6 of 42  
§ 1-10- 00106 Appointments, vacancies and removal from office. .... Page 6 of 42  
§ 1-10- 00107 Oath. .... Page 7 of 42  
§ 1-10- 00108 Record keeping. .... Page 7 of 42  
§ 1-10- 00109 Seal. .... Page 7 of 42  
§ 1-10- 00110 Authority of Officers and Committees. .... Page 7 of 42  
§ 1-10- 00111 Operations, staff and contractors. .... Page 8 of 42  
§ 1-10- 00112 Advisory Committees. .... Page 8 of 42

1			
2	§ 1-10- 00113	<b>Conflict of Interest.</b>	<u>Page 8 of 42</u>
3			
4	§ 1-10- 00114	<b>Purpose.</b>	<u>Page 9 of 42</u>
5			
6	§ 1-10- 00200	<b>PART 200. Administration and Conduct of Meetings (sec. 4(h)(1))</b>	<u>Page 9 of 42</u>
7			
8	§ 1-10- 00201	<b>Business meetings.</b>	<u>Page 9 of 42</u>
9			
10	§ 1-10- 00202	<b>Executive session.</b>	<u>Page 10 of 42</u>
11			
12	§ 1-10- 00203	<b>Notice.</b>	<u>Page 10 of 42</u>
13			
14	§ 1-10- 00204	<b>Robert's Rules of Order.</b>	<u>Page 10 of 42</u>
15			
16	§ 1-10- 00205	<b>Reserved</b>	<u>Page 10 of 42</u>
17			
18	§ 1-10- 00206	<b>Reserved</b>	<u>Page 10 of 42</u>
19			
20	§ 1-10- 00207	<b>Public Meetings.</b>	<u>Page 10 of 42</u>
21			
22	§ 1-10- 00300	<b>PART 300. Definitions</b>	
23			<u>Page 12 of 42</u>
24			
25	§ 1-10- 00301	<b>Definitions.</b>	<u>Page 12 of 42</u>
26			
27	§ 1-10- 00302	<b>Additional definitions.</b>	<u>Page 12 of 42</u>
28			
29	§ 1-10- 00400	<b>PART 400. Professional Conduct and Ethics Rules</b>	<u>Page 13 of 42</u>
30			
31	§ 1-10- 00401	<b>Obligation to follow the rules.</b>	<u>Page 13 of 42</u>
32			
33	§ 1-10- 00402	<b>Reference to the rules on Board forms.</b>	<u>Page 13 of 42</u>
34			
35	§ 1-10- 00403	<b>Adoption of AICPA Rules of Professional Conduct</b>	<u>Page 13 of 42</u>
36			
37	§ 1-10- 00500	<b>PART 500. Educational and Experience Qualifications for Certificates and Continuing Education; Semester Hours; Accredited Colleges, Universities, Schools and Programs; Credit for Courses; Exams; Discipline (§§ 4(h)(3), 5(i), 6(c)(2)(C), 6(d))</b>	<u>Page 15 of 42</u>
38			
39			
40			
41	§ 1-10- 00501	<b>Accreditation.</b>	<u>Page 15 of 42</u>
42			
43	§ 1-10- 00502	<b>Education Requirements for Examination and Certification</b>	<u>Page 17 of 42</u>
44			
45	§ 1-10- 00503	<b>Applications for Examination</b>	<u>Page 19 of 42</u>
46			
47	§ 1-10- 00504	<b>Type, Time and Place of Examination</b>	<u>Page 19 of 42</u>
48			
49	§ 1-10- 00505	<b>Examination content</b>	<u>Page 19 of 42</u>
50			
51	§ 1-10- 00506	<b>Determining and Reporting Examination Grades</b>	<u>Page 19 of 42</u>
52			
53	§ 1-10- 00507	<b>Retaking an Examination Section and Granting of Credits</b>	<u>Page 20 of 42</u>

1  
2 § 1-10- 00508 **Candidate Testing Fee** ..... Page 21 of 42  
3  
4 § 1-10- 00509 **Cheating** ..... Page 21 of 42  
5  
6 § 1-10- 00510 **Security and Irregularities** ..... Page 23 of 42  
7  
8 § 1-10- 00600 **PART 600. Issuance of Certificates and Renewal of Certificates, Continuing Professional**  
9 **Education,** ..... Page 23 of 42  
10  
11 § 1-10- 00601 **Identification as a licensee** ..... Page 23 of 42  
12  
13 § 1-10- 00602 **Applications** ..... Page 23 of 42  
14  
15 § 1-10- 00603 **Experience required for initial certificate** ..... Page 23 of 42  
16  
17 § 1-10- 00604 **Evidence of applicant’s experience** ..... Page 24 of 42  
18  
19 § 1-10- 00605 **Continuing professional education requirements for renewal of the certificate** ..... Page 24 of 42  
20  
21 § 1-10- 00606 **Programs qualifying for continuing professional education credit** ..... Page 24 of 42  
22  
23 § 1-10- 00607 **Continuing professional education records** ..... Page 25 of 42  
24  
25 § 1-10- 00608 **Exceptions** ..... Page 25 of 42  
26  
27 § 1-10- 00700 **PART 700. Permits to Practice, Peer Review – Firms and Individuals.** ..... Page 26 of 42  
28  
29 § 1-10- 00701 **Applications.** ..... Page 26 of 42  
30  
31 § 1-10- 00702 **Notification of changes by firms** ..... Page 26 of 42  
32  
33 § 1-10- 00703 **Peer review as a condition for renewal of permit** ..... Page 27 of 42  
34  
35 § 1-10- 00704 **Equivalent reviews as a condition for renewal of a permit** ..... Page 28 of 42  
36  
37 § 1-10- 00705 **Peer review for certificate holders who do not practice in a licensed firm** ..... Page 28 of 42  
38  
39 § 1-10- 00706 **Submission of peer review reports to the Board** ..... Page 28 of 42  
40  
41 § 1-10- 00800 **PART 800. Interstate or International Reciprocity Practice** ..... Page 29 of 42  
42  
43 § 1-10- 00801 **Interstate practice** ..... Page 29 of 42  
44  
45 § 1-10- 00802 **International reciprocity** ..... Page 30 of 42  
46  
47 § 1-10- 00900 **PART 900. Enforcement Actions Against Licensees.** ..... Page 31 of 42  
48  
49 § 1-10- 00901 **Grounds for enforcement actions against licensees and others** ..... Page 31 of 42  
50  
51 § 1-10- 00902 **Return of certificate or permit to practice** ..... Page 33 of 42  
52  
53 § 1-10- 001000 **PART 1000. Enforcement Procedures – Investigations (§ 4(h)(2))** ..... Page 33 of 42

1  
2 § 1-10- 001001 **Review of professional work product** ..... Page 33 of 42  
3  
4 § 1-10- 001002 **Reporting convictions, judgments, and administrative proceedings** ..... Page 33 of 42  
5  
6 § 1-10- 001100 **PART 1100. Enforcement Procedures -- Hearings by the Board. (§ 4(h)(2))** ..... Page 34 of 42  
7  
8 § 1-10- 001101 **Complaints and notices of hearing** ..... Page 35 of 42  
9  
10 § 1-10- 001102 **Examination and copying of documents** ..... Page 35 of 42  
11  
12 § 1-10- 001103 **Conduct of hearing** ..... Page 35 of 42  
13  
14 § 1-10- 001104 **Evidentiary rules** ..... Page 35 of 42  
15  
16 § 1-10- 001105 **Decisions** ..... Page 35 of 42  
17  
18 § 1-10- 001200 **PART 1200. Reinstatement.** ..... Page 36 of 42  
19  
20 § 1-10- 001201 **Applications for relief from disciplinary penalties** ..... Page 36 of 42  
21  
22 § 1-10- 001202 **Action by the Board** ..... Page 36 of 42  
23  
24 § 1-10- 001300 **PART 1300. Unlawful Acts and Safe Harbor.** ..... Page 36 of 42  
25  
26 § 1-10- 001301 **Misleading CPA firm names.** ..... Page 36 of 42  
27  
28 § 1-10- 001302 **Fictitious firm names** ..... Page 37 of 42  
29  
30 § 1-10- 001303 **Safe harbor language** ..... Page 37 of 42  
31  
32 § 1-10- 001400 **PART 1400. Construction of Requirement for a Public Audit.** ..... Page 37 of 42  
33  
34 § 1-10- 001500 **PART 1500. Other Licensee Obligations** ..... Page 38 of 42  
35  
36 § 1-10- 001501 **Notify of changes.** ..... Page 38 of 42  
37  
38 § 1-10- 001502 **Timely respond.** ..... Page 38 of 42  
39  
40 § 1-10- 001503 **Pay fees.** ..... Page 38 of 42  
41  
42 § 1-10- 001504 **Internet practice** ..... Page 38 of 42  
43  
44 § 1-10- 001600 **PART 1600. Fees** ..... Page 38 of 42  
45  
46 § 1-10- 001601 **Board schedule for fees** ..... Page 38 of 42  
47  
48 § 1-10- 001602 **Fees, initially** ..... Page 38 of 42  
49  
50 § 1-10- 001700 **PART 1700. Reports.** ..... Page 40 of 42  
51  
52 § 1-10- 001701 **Annual reports** ..... Page 40 of 42  
53

1 § 1-10- 001702 **Other reports** ..... Page 40 of 42  
2  
3 § 1-10- 001800 **PART 1800. Papers; Retention; Attest Documentation.** ..... Page 40 of 42  
4  
5 § 1-10- 001801 **Documentation and retention** ..... Page 40 of 42  
6  
7 § 1-10- 001802 **Retention Period for Attest Documentation** ..... Page 40 of 42  
8  
9 § 1-10- 001900 **PART 1900. Reserved** ..... Page 40 of 42  
10  
11 § 1-10- 002000 **PART 2000. Reserved.** ..... Page 40 of 42  
12  
13 § 1-10- 002100 **PART 2100. Reserved.** ..... Page 41 of 42  
14  
15 § 1-10- 002200 **PART 2200. Reserved.** ..... Page 41 of 42  
16  
17 § 1-10- 002300 **PART 2300. Substantial Equivalency.** ..... Page 41 of 42  
18  
19 § 1-10- 002301 **Notification.** ..... Page 41 of 42  
20  
21 § 1-10- 002302 **Non-reportable activities.** ..... Page 41 of 42  
22  
23 § 1-10- 002303 **Minimum reportable information.** ..... Page 42 of 42  
24  
25 § 1-10- 002400 **PART 2400. Reserved.** ..... Page 42 of 42  
26  
27 § 1-10- 002500 **PART 2500. Reserved.** ..... Page 42 of 42


28  
29 [Comment: The Table of Contents is not part of the regulation, but is placed here for the convenience of the reader.]  
30  
31  
32

33   
34 § 1-10- 001 **PART 001. Reserved.**  
35  
36

37   
38 § 1-10- 00100 **PART 100. General Provisions**  
39

40 § 1-10- 00101 **Currency of these regulations.**  
41

42 These regulations are intended to be current through the cutoff date for the CNMI Register Volume 29 No. 09 (Sept., 17,  
43 2007). They include all Board regulations, including (for the convenience of the reader) those previously adopted.  
44


45   
46 § 1-10- 00102 **History.**  
47

- 48 (a) History is not part of the operative language of the Regulation, and is included by the Board for the  
49 convenience of the reader.
- 50
- 51 (b) The Board shall attempt to publish a brief history with each change to these regulations,  
52 identifying date and Commonwealth Register citation for the change.
- 53
- 54 (c) The history is:

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22
- (1) Accountancy Act of 2002 signed by Governor Juan N. Babauta, May 20, 2003, 4 CMC §§ 3401-3440, PL 13-52.
  - (2) Meetings, procedure, definitions, other general:
    - (i) Proposed Regulations adopted by resolution of the Board of Accountancy on October 19, 2005. Proposed regulations were published in the Commonwealth Register, Vol. 27, No.10 (11/25/2005).
    - (ii) Final regulations were promulgated by publication in the Commonwealth Register Vol. 28, No. 1 (1/30/2006).
  - (3) Regulation, licensing, discipline, fees, appeals:
    - (i) Emergency Regulations adopted by resolution of the Board of Accountancy on December 26, 2006. No further action, and the regulations lapsed.
    - (ii) Proposed Regulations adopted by resolution of the Board of Accountancy on April 26, 2006 and December 26, 2006. Proposed regulations were published in the Commonwealth Register, Vol. 29, No.09 026735-784 (9/17/2007). .
    - (iii) Final regulations were promulgated by publication in the Commonwealth Register Vol. 29, No. 11 (11/\_\_\_/2007).

23   
24 § 1-10- 00103 **Numbering of resolutions and other acts.**

- 25  
26  
27  
28  
29  
30  
31  
32
- (a) Resolutions shall be signed by the Secretary, Chair or Acting Chair and numbered to indicate year, month and successive number of resolutions in the month, and shall indicate briefly their subject matter. For example: "Res. 2004-10-04 (Budget)".
  - (b) Other actions of the Board shall be similarly identified. For example: "Personnel Policy Amendment 2005-03-01 (Travel)".

33   
34 § 1-10- 00104 **Office.**

35  
36 The board shall designate the location of its principal office, of testing centers, and may establish branch offices in other  
37 locations.

38  
39  
40   
41 § 1-10- 00105 **Organization and officers.**

- 42  
43  
44  
45  
46  
47  
48  
49  
50  
51
- (a) The officers of the Board are Chair, Vice-Chair, Secretary, and a Secretary-Treasurer, or a Secretary and a Treasurer.
  - (b) The Board shall elect its officers for the calendar year at the first regular meeting of the year.
  - (c) The officers shall assume the duties of their respective offices as soon as they have been elected.
  - (d) The officers of the Board shall continue in office until their successors are elected and qualify.
  - (e) The Chair shall preside at all meetings of the board, and in the event of his absence or inability to act, the Vice-Chair shall preside. Other duties of the officers shall be such as the Board may prescribe.

52   
53 § 1-10- 00106 **Appointments, vacancies and removal from office.**

- 54  
55
- (a) Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in

- 1 the same capacity as the person being replaced.  
2 (b) The Board shall remove from the Board any member who has become unqualified to serve.  
3 (c) The Board shall recommend to the Governor, after hearing, the removal of any member of the  
4 Board for neglect of duty or other just cause.  
5

6 §  
7 **§ 1-10- 00107 Oath.**

- 8  
9 (a) The Board shall adopt an oath of office.  
10 (b) Within 30 days after their appointment, the members of the board shall take and subscribe to an  
11 oath of office administered by a suitable public official and shall file a signed copy of the same  
12 with the Board.  
13 (c) The Executive Director shall take and sign an oath of office, administered by the Chair of the  
14 Board or other suitable public official.  
15

16 §  
17 **§ 1-10- 00108 Record keeping.**

- 18  
19 (a) The Board shall keep records of all proceedings and actions by and before the Board and before  
20 its committees.  
21 (b) In any proceeding in court, civil or criminal, copies of those records certified as correct by the  
22 executive officer of the Board or the Secretary, and under seal of the Board, shall be admissible in  
23 evidence and shall be prima facie evidence of the correctness of the contents thereof.  
24

25 §  
26 **§ 1-10- 00109 Seal.**

27  
28 The Board shall have a seal and shall provide for its use.  
29

30 §  
31 **§ 1-10- 00110 Authority of Officers and Committees.**

- 32  
33 (a) All officers, as between themselves and the Board, shall have such authority, and perform such  
34 duties, as may be provided by or pursuant to resolution or order of the Board, or, in the absence  
35 thereof, as may be determined from these regulations.  
36  
37 (b) An Executive Committee, consisting of the Chair, Vice-Chair, and the Secretary or the Treasurer  
38 shall have the power to act on behalf of the Board between Board meetings as follows:  
39  
40 (1) In emergencies;  
41 (2) Where Board action is required on a ministerial act and convenience requires that the  
42 action be taken; and  
43 (3) Other actions where Board action is required but it is unreasonable to schedule and  
44 conduct a Board meeting;  
45 (4) Provided that no such action shall violate the Open Meetings Act, 1 CMC §§ 9901-16.  
46  
47 (5) Exception: The Executive Committee shall not have any power or authority as to the  
48 following:  
49  
50 (i) The adoption, amendment or repeal of these regulations.  
51 (ii) The amendment or repeal of any resolution or decision of the Board.  
52 (iii) Vacating or discharging Board members.  
53  
54 (6) The Executive Committee shall meet from time to time, as the Chair requires.  
55

1 (7) The meetings of the Executive Committee may be conducted virtually, and shall be  
2 noticed to the Board with instructions on how to attend a meeting, if virtual.

3  
4 (8) Any Board member shall have the right to attend a meeting of the Executive Committee.

5  
6 (c) Standing Committees. The Board, or the Chair with the Board's subsequent approval, may  
7 determine and create such standing committees as it believes reasonable or necessary; and it  
8 shall determine the duties and responsibilities of each standing committee.

9  
10 (d) Special Committees. The Board or the Chair, respectively, may determine and create such  
11 special committees as they believe reasonable or necessary.



14 § 1-10- 00111 **Operations, staff and contractors.**

15  
16 (a) The Board may enter into such contracts, leases, licenses, and other agreements as it may  
17 determine necessary for the conduct of its affairs.

18  
19 (b) The Board may employ such staff, agents and contractors, except as provided otherwise  
20 specifically by statute or in these regulations, to assist in the performance of its duties, and pay  
21 salaries, costs and expenses.

22  
23 (c) The Board may appoint an executive officer as its chief operating officer.

24  
25 (1) Such person may be an employee or a contractor.

26  
27 (2) Such person shall serve ex officio on all committees, without vote.

28  
29 (3) Such person shall attend the meetings of the Board and may attend committee meetings,  
30 and shall make recommendations to the Board.

31  
32 (4) Except as otherwise provided by law, the Board may furnish a bond for the executive  
33 officer and other staff, the cost of which bond shall be paid by from among the Board's  
34 funds.

35  
36 (d) The Board may collect, receive and disburse funds as provided by law, and may delegate such  
37 functions to its executive officer.

38  
39  
40 § 1-10- 00112 **Advisory Committees.**

41  
42 The Board may, for the purpose of obtaining technical expertise and public input, appoint advisory committees of non-  
43 Board-members to provide advice and assistance related to the Board's functions. Such committees shall act only in an  
44 advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized  
45 to report findings and/or make recommendations from any investigation, deliberation or hearing.



49 § 1-10- 00113 **Conflict of Interest.**

50  
51 (a) No member of the Board, or any business in which a Board member or her/his immediate family  
52 serves as staff, officer, owner or director, or by contract represents, shall transact any pecuniary  
53 business of any kind with the Board, unless the following preconditions are met:

54  
55 (1) Notification to all Members in advance, in writing, or by oral notification to the Members in



1 a meeting at which the notification is transcribed and placed in the minutes of the Board,  
2 of his/her potential business or personal interest in the transaction; and

3  
4 (2) The Member abstains from Board vote regarding the transaction; and

5  
6 (3) The vote of each Member is recorded.

7  
8 (b) Loans to Officers and Members Prohibited.

9  
10 (1) No loans shall be made by the Board to its Members or to members of their immediate  
11 families.

12  
13 (2) The Members who vote for, or assent to, the making of a loan to a Member, and any  
14 officer of officers participating in the making of such loan, shall be jointly and severally  
15 liable to the Board for the amount of such loan until the repayment thereof, and their  
16 action shall not be subject to indemnification.

17  
18 (3) Exception: The following undertaken on behalf of, or for the benefit of, the Board shall not  
19 be a loan within the meaning of these regulations:

20  
21 (i) An advance to participate in a conference, meeting or other event.;

22 (ii) An advance for a filing with a government agency or membership organization; or

23 (iii) An advance made pursuant to an indemnification.  
24  
25



27 § 1-10- 00114 **Purpose.**

28  
29 The purpose of these regulations is to promote and protect the public interest by implementing the provisions of CNMI  
30 Accountancy Act of 2002, which provide for the issuance and renewal of certificates for certified public accountants, the  
31 issuance and renewal of permits to firms and the regulation of licensees, all to enhance the reliability of information which  
32 is used for guidance in financial transactions or accounting for or assessing the financial status or performance of  
33 commercial, noncommercial and governmental enterprises.  
34  
35



37 § 1-10- 00200 **PART 200. Administration and Conduct of Meetings (sec. 4(h)(1))**

38  
39  
40 § 1-10- 00201 **Business meetings.**

41 (a) The Board shall conduct its affairs at its meetings.

42 (b) All meetings of the Board shall be open and public, as provided by law.

43 (c) A majority of the Board shall constitute a quorum for the transaction of any business at any  
44 meeting of the Board.

45 (d) Notice to the members of regular meetings shall be given at least seven days in advance by the  
46 Chair or, upon the Board's designation, by the Chair, Acting Chair or executive officer.

47 (e) Notice of meetings may be waived in writing either before or after the meeting by unanimous  
48 consent of all members.

49 (f) The Board shall meet at the call of the Chair or the executive officer, but not less than twice each  
50  
51  
52  
53  
54  
55

1 year.

- 2  
3 (g) Any two members of the Board may call a special meeting, and the executive officer, upon  
4 receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.  
5

6   
7 § 1-10- 00202 **Executive session.**  
8

- 9 (a) The Board may hold executive sessions as provided by law.  
10  
11 (b) Specifically, and without limitation, the Board may deliberate in executive session:  
12  
13 (1) on the decision to be reached upon the evidence introduced in a quasi-judicial  
14 proceeding;  
15 (2) on personnel matters;  
16 (3) on litigation;  
17 (4) on matters related to individual tests; and  
18 (5) to prepare, approve, grade, or administer examinations.  
19  
20

21 § 1-10- 00203 **Notice.**  
22

- 23 (a) Notice to the members shall be given in any way, including virtually, reasonably calculated to give  
24 actual notice. When actual notice may not be given, notice shall be given by US Postal Service,  
25 first class mail, and shall be deemed given when mailed.  
26  
27 (b) Notice to the public shall be given as provided by statute.  
28  
29

30   
31 § 1-10- 00204 **Robert's Rules of Order.**  
32

33 Meetings of the Members shall be conducted according to Robert's Rules of Order, most recent revision, unless:  
34

- 35 (a) otherwise specified in these Regulations, or otherwise by law; or  
36 (b) the Rules are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.  
37  
38  
39

40 § 1-10- 00205 **Reserved**

41 § 1-10- 00206 **Reserved**  
42

43 § 1-10- 00207 **Public Meetings.**  
44

- 45 (a) In general.  
46  
47 (1) The Board shall act at its meetings, or as otherwise provided in these Regulations.  
48 (2) The Board shall make provision for the virtual attendance of Members, if a Member so  
49 requests.  
50 (3) Meetings shall be noticed as required by law.  
51 (4) A copy of meeting materials distributed to the Members shall be available to any person  
52 for review at the meeting site, except for materials subject to confidentiality or privilege as  
53 permitted or required by law.  
54

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

- (b) Time. The time for the regular meetings of the Board shall be set by the Board each year and published, except as otherwise permitted or provided by law.
- (c) Location.
  - (1) Meetings shall be held at such place as the Chair may determine unless otherwise provided by the Board, and the location shall be properly noticed to the public.
  - (2) The Board may meet virtually, and any Member may attend a meeting virtually.
  - (3) When the Board meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any person attending shall have the same access to the meeting as each attending Member at the site. Typically this will include use of a speaker phone for a conference call meeting.
  - (4) Votes of Members may be received by electronic means and announced at a meeting.
- (d) Regular Meetings. Regular meetings shall be held as determined by the Board's Regulations and as additionally determined by the Board.
- (e) Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Board.
- (f) Executive Session. Ordinarily the Board's meetings shall be open to the public. The Board may meet privately, in Executive Session, for the following purposes:
  - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
  - (2) To discuss pending or potential litigation or investigations;
  - (3) To discuss aspects of the Board's business affairs that are confidential and/or proprietary by law;
  - (4) To address a matter that may give rise to a conflict of interest, or an appearance of a conflict, in the absence of the Member(s) related thereto; and
  - (5) To address other matters permitted by law.
- (g) Virtual discussions.
  - (1) The Board may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given so that a person seeking to review the discussion as it happens shall have substantially the same access to the discussion as each participating Member.
  - (2) Typically such a discussion shall be by electronic bulletin board open to the view of the public.
  - (3) Such discussion shall be noticed according to these Regulations and shall comply with CNMI law regarding open meetings.
  - (4) The Board shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
- (h) Accessibility. The Board shall comply with the accessibility requirements required by law and may, upon a person's request accommodate other special needs relating to sight, sound, language or location.

(This section is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and PL 13-52 § (4)(h)(8) of the Accountancy Act of 2002.)

1 §  
2 § 1-10- 00300 **PART 300. Definitions**

3  
4  
5 § 1-10- 00301 **Definitions.**

6  
7 For the purposes of this Chapter, and the administration and/or interpretation of the Accountancy Act, the following terms  
8 shall be defined as set forth in Public Law 13-52, sec. 3:

- 9  
10 (a) Board;  
11 (b) Certificate;  
12 (c) Firm;  
13 (d) License;  
14 (e) Licensee;  
15 (f) Permit;  
16 (g) Practice of (or practicing) public accountancy;  
17 (h) Quality review;  
18 (i) Report;  
19 (j) Rule;  
20 (k) State;

21  
22 §  
23 § 1-10- 00302 **Additional definitions.**

24  
25 For the purposes of this Chapter, and the administration and/or interpretation of the Accountancy Act, the following  
26 definitions shall apply:

- 27  
28 (a) "Act" or "Accountancy Act" means the Accountancy Act of 2002, PL 13-52, as amended and  
29 codified.  
30  
31 (b) "AICPA" means the American Institute of Certified Public Accountants, a nonprofit organization.  
32  
33 (c) "Certified public accountant" or "CPA" means a person who has received from the Board a  
34 certificate of certified public accountant and who holds a valid certificate or permit to practice  
35 under the provisions of this chapter.  
36  
37 (d) "Client", as used in any context in this Chapter, means a person for whom public accountancy  
38 services are performed or to whom financial products, financial services, or securities are sold or  
39 provided at a public accountancy practice or through referral to another location or business in  
40 which the accountant has a material interest.  
41  
42 (e) "CBT" means Computer Based Test, and applies to a testing center for delivering the Uniform  
43 CPA Examination.  
44  
45 (f) "CPE" means Continuing Professional Education.  
46  
47 (g) "Electronic means" includes telephone, video-conference, electronic-telecommunications-  
48 mediated written, aural and/or video means, including mediated through the internet and/or email.  
49  
50 (h) "Financial statements" means statements and footnotes related thereto that undertake to present  
51 an actual or anticipated financial position as of a point in time, or results of operations, cash flow,  
52 or changes in financial position for a period of time, in conformity with generally accepted  
53 accounting principles or another comprehensive basis of accounting. The term does not include  
54 incidental financial data included in management advisory service reports to support  
55 recommendations to a client; nor does it include tax returns and supporting schedules.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

- (i) "Firm" shall also include a a limited liability company.
- (j) "Include" or "including" shall be read as though followed by "but not limited to".
- (k) "Jurisdictional Testing Center" means a high security CBT center operated by the Board or its designee, for the purpose of delivering the Uniform CPA Examination in computer format.
- (l) "Manager" means the same as the term "manager" in a limited liability company.
- (m) "Member", when used to refer to a person in an accounting firm or other business, means the same as the term "member" in a limited liability company.
- (n) "PCAOB" means the Public Company Accounting Oversight Board.
- (o) "Person" includes individual, partnership, firm, association, government entity, limited liability company, or corporation, unless otherwise provided by law.
- (p) "Public accountant" means a person who has registered with the Board as a public accountant and who holds a valid certificate or permit for the practice of public accountancy.
- (q) "Rule" means a rule, regulation, or other written directive of general application duly adopted by the Board, including "regulation" as defined in the Administrative Procedure Act, 1 CMC § 9101(k).
- (r) Rules of construction: In construing these regulations, the singular shall also mean the plural, the masculine the feminine, and conversely.
- (s) "State" means a State of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and the CNMI.
- (t) "Virtual" or "Virtually" when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.

A  
 § 1-10- 00400 **PART 400. Professional Conduct and Ethics Rules (§ 4(h)(4)).**

§ 1-10- 00401 **Obligation to follow the rules.**

- (a) A licensee shall follow the Board's rules of professional conduct.
- (b) Every applicant for a certificate or permit shall subscribe to the Board's rules of professional conduct on a form supplied by the Board.

§ 1-10- 00402 **Reference to the rules on Board forms.**

The Board's rules of professional conduct shall be identified on the application for a certificate, permit or other registration.

1 § 1-10- 00403 **Adoption of AICPA Rules of Professional Conduct.**

2  
3  
4

(a) The Board hereby adopts as its rules of professional conduct those published by the American Institute of CPA's entitled Code of Professional Conduct. Those Rules shall be known as the


1 CNMI CPA Code of Professional Conduct. Those Rules are included herein by reference, and  
2 shall have the full force and effect of regulations of this Board.

3  
4 (b) The CNMI CPA Code of Professional Conduct is promulgated for the purpose of maintaining high  
5 standards of professional conduct by those licensed and registered as Certified Public  
6 Accountants.

7  
8 (c) It is the Board's purpose and intent that amendments which the AICPA adopts to its Code of  
9 Professional Conduct shall be automatically adopted herein.

10  
11 (1) The amendments which the AICPA adopts to its Code of Professional Conduct shall be  
12 automatically adopted herein.

13  
14 (2) If a court of competent jurisdiction finds, or would find, that the Board may not  
15 automatically adopt such amendments by reference, the Board shall consider each  
16 amendment which the AICPA adopts to its Code of Professional Conduct and, after  
17 publication of notice thereof, issue an order adopting, adopting with changes, or declining  
18 to adopt the amendment.

19  
20  
21  § 1-10- 00500 **PART 500. Educational and Experience Qualifications for Certificates and Continuing Education;  
22 Semester Hours; Accredited Colleges, Universities, Schools and Programs; Credit for Courses;  
23 Exams; Discipline (§§ 4(h)(3), 5(i), 6(c)(2)(C), 6(d))**

24  
25  
26 § 1-10- 00501 **Accreditation.**

27  
28 (a) Semester hour. A "semester hour" means the conventional college semester hour. Quarter hours  
29 may be converted to semester hours by multiplying them by two-thirds.

30  
31 (b) Accreditation. "Accreditation" refers to the process of quality control of the education process.  
32 There are three different levels of accreditation referred to in these Regulations and the degree to  
33 which the Board relies on accreditation differs according to the level at which the degree-granting  
34 institution is accredited. The three levels of accreditation are:

35  
36 (1) Level one accreditation (the educational institution) is granted to a four-year degree-  
37 granting college or university that is accredited by one or more recognized regional  
38 accrediting agencies (or successor agencies). The following regional accrediting  
39 agencies are recognized by the Board.

40  
41 (i) Middle States Association of Colleges and Schools (MSA), Middle States  
42 Commission on Higher Education, Web: [www.msche.org](http://www.msche.org).

43  
44 (ii) Northwest Commission on Colleges and Universities (NWCCU), Web:  
45 [www.nwccu.org](http://www.nwccu.org).

46  
47 (iii) New England Association of Schools and Colleges (NEASC-CIHE), Commission  
48 on Institutions of Higher Education, Web: [www.neasc.org](http://www.neasc.org).

49  
50 (iv) Southern Association of Colleges and Schools (SACS) Commission on Colleges,  
51 Web: [www.sacscoc.org](http://www.sacscoc.org).

52  
53 (v) North Central Association of Colleges and Schools (NCA-HLC), The Higher  
54 Learning Commission, Web: [www.ncahigherlearningcommission.org](http://www.ncahigherlearningcommission.org).

1 (vi) Western Association of Schools and Colleges (WASC-ACSCU) Accrediting  
2 Commission for Senior Colleges and Universities, Web: [www.wascweb.org](http://www.wascweb.org).  
3 (Note: As of April 2006, the Northern Marianas College was accredited by WASC-  
4 ACSCU).  
5

6 (2) Level two accreditation (the business school) is granted to a business school or college of  
7 business that has been accredited by a national accreditation agency recognized by the  
8 Board such as the "American Assembly of Collegiate Schools of Business" (AACSB)  
9 (Web: [www.aacsb.edu](http://www.aacsb.edu)) following a specific and comprehensive review of their faculty,  
10 resources, and curricula. In evaluating a candidate's credentials, the Board may choose  
11 to rely on this accreditation as evidence that the institution's business school has met  
12 minimum overall standards of quality for such schools.  
13

14 (3) Level three accreditation (the accounting program or department) is granted to an  
15 accounting program or department that has been accredited by a national accreditation  
16 agency recognized by the Board such as the AACSB. Accounting programs or  
17 departments accredited in this manner have met standards substantially higher and much  
18 more specific than those required for level one or level two accreditation. For level three  
19 accreditation the accounting program or department must meet a stringent set of  
20 standards that addresses faculty credentials, student quality, physical facilities, and  
21 curricula. Graduates who submit transcripts from accredited accounting programs may  
22 be deemed to have met the Board's specific accounting and business course  
23 requirements.  
24

25 (c) An applicant is considered as having graduated from an accredited educational institution:

26 (1) If the educational institution was accredited at the appropriate level pursuant to these  
27 Regulations at the time it granted the applicant's degree.

28 (2) If an educational institution was not accredited at the time it granted the applicant's  
29 degree but is so accredited at the time the application is filed with the Board, the  
30 institution will be deemed to be accredited for the purpose of this subsection, if it:

31 (i) certifies that the applicant's total educational program would qualify the applicant  
32 for graduation with a baccalaureate degree during the time the institution has  
33 been accredited; and

34 (ii) furnishes the Board satisfactory proof, including college catalogue course  
35 numbers and descriptions, that the pre-accrediting courses used to qualify the  
36 applicant as an accounting major are substantially equivalent to post-accrediting  
37 courses.  
38

39 (d) If an applicant's degree was received at an accredited educational institution, but the educational  
40 program which was used to qualify the applicant as an accounting major included courses taken  
41 at institutions which were non-accredited either before or after graduation, such courses will be  
42 deemed to have been taken at the accredited institution from which applicant's degree was  
43 received, provided the accredited institution either:

44 (1) has accepted such courses by including them in its official transcript; or

45 (2) has certified to the Board that it will accept such courses for credit toward graduation.  
46

47 (e) If the applicant is a graduate of a four-year degree-granting college or university not accredited at  
48 the time applicant's degree was received or at the time the application was filed, the applicant will  
49 be deemed to be a graduate of an accredited educational institution if:  
50  
51  
52  
53  
54  
55



- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25
- (1) a credentials evaluation service approved by the Board certifies that the applicant's degree is equivalent to a degree from an accredited educational institution defined in this section; or
  - (2) an accredited educational institution as defined in this section accepts applicant's non-accredited baccalaureate degree for admission to a graduate business degree program; and
    - (i) the applicant satisfactorily completes at least fifteen (15) semester hours, or the equivalent, in post-baccalaureate education at the accredited educational institution, of which at least nine (9) semester hours, or the equivalent, shall be in accounting; and
    - (ii) the accredited educational institution certifies that the applicant is in good standing for continuing the graduate program, or has maintained a grade point average in these courses that is necessary for graduation.
  - (f) The advanced subjects for the graduate program completed to qualify under the preceding subsection [(e)(2)] may not be used to satisfy the requirements of the following subsection [(g)].
  - (g) The accounting and business concentration or equivalent contemplated by Section 5(c) of the Act shall consist of the semester hours specified in the following section on education requirements. No more than six (6) hours shall be recognized for internships or life experience.



27 **§ 1-10- 00502 Education Requirements for Examination and Certification.**

- 28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54
- (a) Examination Education Requirement. For purposes of Section 5(c)(1) of the Act, an applicant will be deemed to have met the Examination Education Requirement if the applicant has met any one of the following five conditions:
    - (1) Earned a graduate degree with a concentration in accounting from an accounting program or department that is accredited (to a level three accreditation) by an accrediting agency recognized by the Board.
    - (2) Earned a graduate degree from a business school or college of business that is accredited (to a level two accreditation) by an accrediting agency recognized by the Board and completed at least 24 semester hours in accounting at the undergraduate level or 15 semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting.
    - (3) Earned a baccalaureate degree from a business school or college of business that is accredited (to a level two accreditation) by an accrediting agency recognized by the Board, and
      - (i) completed 24 semester hours in accounting at the undergraduate or graduate level, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; and
      - (ii) completed at least 24 semester hours in business courses (other than accounting) at the undergraduate or graduate level.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55

- (4) Earned a baccalaureate or higher degree from an accredited educational institution (level one accreditation) including:
  - (i) at least 24 semester hours of accounting at the upper division or graduate level, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting (Upper division is normally defined as junior or senior level. In accounting, this would normally be all courses taken beyond the elementary level.); and
  - (ii) at least 24 semester hours in business courses (other than accounting) at the undergraduate or graduate level.
- (5) Earned an Associate of Arts degree or higher degree from an accredited educational institution (to a level one accreditation) including at least 21 semester credit hours in upper division accounting as follows:
  - (i) 3 credits earned in Auditing, and
  - (ii) 6 credits earned in Federal Taxation, and
  - (iii) 12 additional credits must be earned in upper division accounting courses.
- (b) Certification Education Requirement. For purposes of Section 5(c)(2) of the Act, an applicant will be deemed to have met the Certification Education Requirement if the applicant has met any one of the following four conditions:
  - (1) Earned a graduate degree with a concentration in accounting from an accounting program or department that is accredited (to a level three accreditation) by an accrediting agency recognized by the Board.
  - (2) Earned a graduate degree from a business school or college of business that is accredited (to a level two accreditation) by an accrediting agency recognized by the Board and completed at least 24 semester hours in accounting at the undergraduate level or 15 semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting.
  - (3) Earned a baccalaureate degree from a business school or college of business that is accredited (to a level two accreditation) by an accrediting agency recognized by the Board and completed 24 semester hours in accounting at the undergraduate or graduate level, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; and completed at least 24 semester hours in business courses (other than accounting) at the undergraduate or graduate level.
  - (4) Earned a baccalaureate or higher degree from an accredited educational institution (to a level one accreditation) including:
    - (i) at least 24 semester hours of accounting at the upper division or graduate level, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting. Upper division is normally defined as junior or senior level. In accounting, this would normally be all courses taken beyond the elementary level; and
    - (ii) at least 24 semester hours in business courses (other than accounting) at the undergraduate or graduate level.

1   
2 § 1-10- 00503 **Applications for Examination.**  
3

- 4 (a) Applications to take the CPA Examination must be made on a form provided by the Board and  
5 filed with the Board by a due date specified by the Board. An applicant who has been found  
6 eligible to take the CPA Examination may be known as a “candidate”.  
7  
8 (b) An application shall not be considered filed until the application fee and examination fee required  
9 by these Regulations and all required supporting documents have been received, including proof  
10 of identity as determined by the Board and specified on the application form, official transcripts  
11 and proof that the applicant has satisfied the education requirement.  
12  
13 (c) A candidate who fails to appear for the examination shall forfeit all fees charged for both the  
14 application and the examination.  
15  
16 (d) The Board or its designee shall forward notification of eligibility for the computer-based  
17 examination to NASBA’s National Candidate Database.  
18

19   
20 § 1-10- 00504 **Type, Time and Place of Examination.**  
21

- 22 (a) The Board may provide by contract for the administration and grading of the Uniform CPA  
23 Examination, pursuant to Section 5(d) of the Act. The AICPA owns the Uniform CPA  
24 Examination, and will only allow it to be administered in a high security environment approved by  
25 NASBA per the CBT Services Agreement.  
26  
27 (b) The Board may provide by contract for the development and maintenance of a high security  
28 environment test center, including a jurisdictional testing center.  
29  
30 (c) Upon the implementation of a computer-based examination, candidates shall be notified of the  
31 time and place of the examination or shall independently contact the Board or a test center  
32 operator identified by the Board, to schedule the time and place for the examination at an  
33 approved test site. Scheduling reexaminations must be made in accordance with the Section on  
34 retaking the examination, § 1-10- 00507, *infra*.  
35  
36

37 § 1-10- 00505 **Examination content.**  
38

39 The examination required by Section 5 of the Act shall test the knowledge and skills required for performance as an entry-  
40 level certified public accountant. The examination shall include the subject areas of accounting and auditing and related  
41 knowledge and skills as the Board may require.  
42

43  
44 § 1-10- 00506 **Determining and Reporting Examination Grades.**  
45


- 46 (a) A candidate shall be required to pass all Test Sections of the examination provided for in  
47 subsection 5(d) of the Act in order to qualify for a certificate. Upon receipt of advisory grades from  
48 the examination provider, the Board will review and may adopt the examination grades and will  
49 report the official results to the candidate.  
50  
51 (b) Prior to the implementation of a computer-based examination, a passing grade for each Test  
52 Section shall be 75. Upon implementation of a computer-based examination, a passing grade for  
53 each Test Section shall be 75.  
54

55 

1 § 1-10- 00507 **Retaking an Examination Section and Granting of Credits.**

- 2
- 3 (a) An applicant shall be required to pass all sections of the examination provided for in Section 5(d)
- 4 of the Act in order to qualify for a certificate. Prior to the implementation of a computer-based
- 5 examination, if at a given sitting of the examination a candidate passes two or more but not all
- 6 sections, then the candidate shall be given credit for those sections that the candidate has passed
- 7 and need not sit for reexamination in those sections, provided that:
- 8
- 9 (1) at that sitting the candidate wrote all sections of the examination for which the candidate
- 10 does not have credit;
- 11
- 12 (2) the candidate attained a minimum grade of 50 on each section taken at that sitting;
- 13
- 14 (3) the candidate passes the remaining sections of the examination within six (6) consecutive
- 15 examinations given after the one at which the first sections were passed;
- 16
- 17 (4) at each subsequent sitting at which the candidate seeks to pass an additional section, the
- 18 candidate sits for all sections for which the candidate does not have credit;
- 19
- 20 (5) in order to receive credit for passing additional sections in any such subsequent sitting,
- 21 the Candidate attains a minimum grade of 50 on sections taken at that sitting.
- 22
- 23 (b) Upon the implementation of a computer-based examination, a candidate may take the required
- 24 Test Sections individually and in any order. Credit for a Test Section(s) passed shall be valid for
- 25 eighteen (18) months from the actual date the candidate took that Test Section, without having to
- 26 attain a minimum score on a failed Test Section(s) and without regard to whether the candidate
- 27 has taken other Test Sections.
- 28
- 29 (1) Candidates must pass all four (4) Test Sections of the Uniform CPA Examination within a
- 30 rolling eighteen-month (18-month) period, which begins on the date that the first Test
- 31 Section(s) passed was taken.
- 32
- 33 (2) Candidates cannot retake a failed Test Section(s) in the same examination window. An
- 34 examination window refers to a three-month period in which candidates have an
- 35 opportunity to take the CPA examination (comprised of two months in which the
- 36 examination is available to be taken and one month in which the examination will not be
- 37 offered while routine maintenance is performed and the item bank is refreshed). Thus,
- 38 candidates will be able to test two out of the three months within an examination window.
- 39
- 40 (3) In the event all four Test Sections of the Uniform CPA Examination are not passed within
- 41 the rolling eighteen-month period, credit for a Test Section(s) passed outside the
- 42 eighteen-month period will expire and that Test Section(s) must be retaken.
- 43
- 44 (c) Candidates having earned conditional credits on the paper-and-pencil examination, as of the
- 45 launch date of the computer-based Uniform CPA Examination, will retain conditional credits for
- 46 the corresponding Test Sections of the computer-based CPA examination as follows:
- 47

48

49 

50

Paper-and-Pencil Examination	Computer-Based Examination
Auditing	Auditing and Attestation
Financial Accounting & Reporting (FARE)	Financial Accounting & Reporting

51

52

53

54


55

Accounting and Reporting (ARE)	Regulation
Business Law & Professional Responsibilities (LPR)	Business Environment & Concepts

- (1) Candidates who have attained conditional status as of the launch date of the computer-based Uniform CPA Examination will be allowed a transition period to complete any remaining Test Sections of the CPA examination. The transition is the maximum number of opportunities that candidates who have conditioned under the paper-and-pencil examination have remaining, at the launch of the computer-based CPA examination, to complete all remaining Test Sections, or the number of remaining opportunities under the paper-and-pencil examination, multiplied by six months, whichever is first exhausted.
- (2) If a previously conditioned candidate does not pass all remaining Test Sections during the transition period, conditional credits earned under the paper-and-pencil examination will expire and the candidate will lose credit for the Test Sections earned under the paper-and-pencil examination. However, a Test Section(s) passed during the transition period is subject to the conditioning provisions of the computer-based examination as indicated in the aforementioned conditioning recommendation, except that a previously conditioned candidate will not lose conditional credit for a Test Section of the computer-based examination that is passed during the transition period, even though more than eighteen (18) months may have elapsed from the date the Test Section is passed, until the end of the transition period.
- (d) A candidate shall retain credit for any and all Test Sections of an examination passed in another state if such credit would have been given, under then applicable requirements, if the candidate had taken the examination in the CNMI.
- (e) The Board may in particular cases extend the term of conditional credit validity notwithstanding the requirements of subsections (a), (b), (c), and (d), just *supra*, upon a showing that the credit was lost by reason of circumstances beyond the candidate's control.
- (f) A candidate shall be deemed to have passed the Uniform CPA Examination once the candidate holds at the same time valid credit for passing each of the four Test Sections of the examination. For purposes of this section, credit for passing a Test Section of the computer-based examination is valid from the actual date of the Testing Event for that Test Section, regardless of the date the candidate actually receives notice of the passing grade.

 § 1-10- 00508 **Candidate Testing Fee**

The candidate shall, for each Test Section scheduled by the candidate to the Board or its designee, pay a candidate Testing Fee that includes the actual fees charged by the AICPA, NASBA, and the Test Delivery Service Provider, as well as reasonable application fees established by the CNMI Board.

 § 1-10- 00509 **Cheating**

- (a) Cheating by a candidate in applying for, taking, during or subsequent to the examination shall invalidate each grade earned by a candidate on each Test Section of the examination, and may warrant summary expulsion from the test site and disqualification from taking the examination for a specified period of time.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55

- (b) For purposes of this Regulation, the following actions or attempted activities, among others, may be considered cheating:
  - (1) Falsifying or misrepresenting educational credentials or other information required for admission to the examination;
  - (2) Communication with others inside or outside the test site while the examination is in progress;
  - (3) Copying another candidate's answers while the examination is in progress;
  - (4) Substitution of another person to sit in the test site in the stead of a candidate;
  - (5) Reference to crib sheets, textbooks or other material or electronic media (other than that provided to the candidate as part of the examination) inside or outside the test site while the examination is in progress;
  - (6) Violating the nondisclosure prohibitions of the examination, or aiding or abetting another in doing so; and/or
  - (7) Retaking or attempting to retake a Test Section by an individual holding a valid certificate or by a candidate who has unexpired credit for having already passed the same Test Section, unless the individual has been directed to retake a Test Section pursuant to Board order or unless the individual has been expressly authorized by the Board to participate in a "secret shopper" program.
  
- (c) In a case where it appears that cheating has occurred or is occurring, the Board or its representatives may either summarily expel the candidate involved from the examination or move the candidate to a position in the Test Center away from other examinees where the Candidate can be watched more closely.
  
- (d) In a case where the Board believes that it has evidence that a candidate has cheated on the examination, including a case in which the candidate has been expelled from the examination, the Board shall conduct an investigation and may conduct a hearing pursuant to the Administrative Procedure Act for the purpose of determining whether or not there was cheating, and if so what remedy should be applied. In such a proceeding, the Board shall decide:
  - (1) Whether the candidate shall be given credit for any portion of the examination completed in that session; and
  - (2) Whether the candidate shall be barred from taking the examination and if so, for what period of time.
  
- (e) In a case where the Board or its representative permits a candidate to continue taking the examination, it may, depending on the circumstances:
  - (1) Admonish the candidate;
  - (2) Seat the candidate in a segregated location for the rest of the examination;
  - (3) Keep a record of the candidate's seat location and identifying information, and the names and identifying information of the candidates in close proximity of the candidate, and notify the National Candidate Database and the AICPA and/or the Test Center of the circumstances, so that the Candidate may be more closely monitored in future examination sessions.

- 1  
2 (f) In a case in which a candidate is refused credit for a Test Section of an examination taken,  
3 disqualified from taking a Test Section, or barred from taking the examination in the future, the  
4 Board shall provide to the Board of Accountancy of each other state to which the candidate may  
5 apply for the examination information as to the Board's findings and actions taken.  
6

7 §  
8 **§ 1-10- 00510 Security and Irregularities**  
9

10 Notwithstanding any other provision of these regulations, the Board may postpone scheduled examinations, the release of  
11 grades, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of  
12 the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an  
13 examination; or for any other reasonable cause or unforeseen circumstance.  
14

15  
16 §  
17 **§ 1-10- 00600 PART 600. Issuance of Certificates and Renewal of Certificates, Continuing Professional**  
18 **Education,**  
19

20 **§ 1-10- 00601 Identification as a licensee.**  
21

22 No one shall practice accountancy as a claimed licensee of the Board unless they shall have a certificate or permit issued  
23 and maintained pursuant to these Regulations and the Act.  
24

25  
26 **§ 1-10- 00602 Applications for certificates. (§ § 4(h)(8), 6(b))**  
27

- 28 (a) An application for an initial certificate and for renewal of a certificate pursuant to the Act shall be  
29 made on a form provided by the Board and, in the case of an application for renewal, shall be filed  
30 no later than 63 days (9 weeks) prior to the expiration date set by these Regulations. Applications  
31 shall not be considered filed until the applicable fee prescribed in the Regulations is received. If  
32 an application for renewal is filed late, the delinquency fee prescribed in the Regulations shall also  
33 accompany it.  
34  
35 (b) Applications for renewal of certificates shall be accompanied by evidence satisfactory to the Board  
36 that the applicant has complied with the continuing professional education requirements under  
37 Section 6(d) of the Act and of these Regulations.  
38

39 §  
40 **§ 1-10- 00603 Experience required for initial certificate.**  
41

42 The experience required to be demonstrated for issuance of an initial certificate pursuant to Section 5(f) of the Act shall  
43 meet the requirements of this regulation.  
44

- 45 (a) Experience may consist of providing a service or advice using accounting, attest, compilation,  
46 management advisory, financial advisory, tax or consulting skills.  
47  
48 (b) The applicant shall have experience verified to the Board by a licensee as defined in the Act or  
49 from another state. Acceptable experience shall include employment in industry, government,  
50 academia or public practice. The Board shall look at such factors as the complexity and diversity  
51 of the work.  
52

- 1 (c) One year of experience shall consist of full or part-time employment that extends over a period of  
2 no less than a year and no more than three years and includes no fewer than 2,000 hours of  
3 performance of services described in subsection (a), of this Section.  
4

5   
6 **§ 1-10- 00604 Evidence of applicant's experience.**  
7

- 8 (a) A licensee who has been requested by an applicant to submit to the Board evidence of the  
9 applicant's experience and has refused to do so shall, upon request of the Board, explain in  
10 writing or in person the basis for such refusal.  
11  
12 (b) The Board may require a licensee who has furnished evidence of an applicant's experience to  
13 substantiate the information.  
14  
15 (c) An applicant may be required to appear before the Board or its representative to supplement or  
16 verify evidence of experience.  
17  
18 (d) The Board may inspect documentation relating to an applicant's claimed experience.  
19

20   
21 **§ 1-10- 00605 Continuing professional education requirements for renewal of the certificate.**  
22

23 The following requirements of continuing professional education apply to the renewal of certificates pursuant to Section  
24 6(d) of the Act.  
25

- 26 (a) An applicant seeking renewal of a certificate shall show that the applicant has completed no less  
27 than 120 hours of continuing professional education complying with these Regulations during the  
28 three-year period preceding renewal, with a minimum of 20 hours in each year. An applicant  
29 seeking renewal of a certificate shall demonstrate participation in a program of learning which  
30 meets the standards set forth in the Statement on Standards for Continuing Professional  
31 Education (CPE) Programs jointly approved by NASBA and AICPA.  
32  
33 (b) An applicant whose certificate has lapsed shall complete no less than 120 hours of CPE  
34 complying with these Regulations during the three-year period preceding the date of reapplication.  
35 An applicant whose certificate has lapsed shall be required to identify and complete a program of  
36 learning designed to demonstrate the currency of the licensee's competencies directly related to  
37 his or her area of service.  
38  
39 (c) A licensee granted an exception from the competency requirement by the Board may discontinue  
40 use of the word "inactive" in association with their CPA or PA title upon showing that they have  
41 completed no less than 120 hours of continuing professional education complying with these  
42 regulations during the three-year period preceding their request to discontinue use of the word  
43 "inactive", with a minimum of 20 hours in each year.  
44  
45 (d) Of the 120 hours of CPE required by this Section, subsection (a), at least four (4) hours in every  
46 three (3) years must be in ethics, earned from a location in the CNMI. The course or courses  
47 must be either an accounting ethics class or a business ethics class which includes accounting  
48 ethics. The course must include core values, such as ethical reasoning, integrity, objectivity, and  
49 independence, and refer to relevant Board statutory provisions and/ or regulations.  
50  
51 (e) Until the Board identifies a regularly offered course in the CNMI, this requirement may be met in  
52 any other place by any other 4-hour accounting ethics class or 4-hour business ethics class.  
53


54   
55 **§ 1-10- 00606 Programs qualifying for continuing professional education credit.**



- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26
- (a) Standards. A program qualifies as acceptable continuing professional education for purposes of Section 6(d) of the Act and these Regulations if it is a program of learning, which contributes to the growth in the professional knowledge and professional competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA, or such other standards acceptable to the Board.
  - (b) Subject Areas. The Board will accept credits from programs meeting the standards set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA or standards deemed by the Board to be comparable thereto. Each individual must earn six (6) CPE credits per reporting period in Ethics.
  - (c) Compliance. A non-resident licensee seeking renewal of a certificate in the CNMI shall be determined to have met the CPE requirement of this regulation by meeting the CPE requirements for renewal of a certificate in the state in which the licensee's principal office is located.
    - (1) Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal office is located by signing a statement to that effect on the renewal application of the CNMI.
    - (2) If a non-resident licensee's principal office state has no CPE requirements for renewal of a certificate, the non-resident licensee must comply with all CPE requirements for renewal of a certificate in the CNMI.

27   
28 § 1-10- 00607 **Continuing professional education records.**

- 29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43
- (a) An applicant for renewal of a certificate pursuant to the Act shall file with the application a signed statement indicating s/he has met the requirements for participation in a program of continuing learning set forth by the Board or contained in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by the NASBA and the AICPA.
  - (b) Responsibility for documenting the acceptability of the program and the validity of the credits rests with the applicant. The applicant should retain such documentation for a period of five (5) years following completion of each learning activity.
  - (c) The Board shall verify on a test basis information submitted by an applicant for renewal of a certificate. In a case in which the Board determines that the requirement is not met, the Board may grant an additional period of time in which the deficiencies can be cured. Fraudulent reporting is a basis for disciplinary action.

44   
45 § 1-10- 00608 **Exceptions.**

- 46  
47  
48  
49  
50  
51  
52  
53  
54  
55
- (a) The Board may make an exception to the CPE requirements of these Regulations for a licensee who is retired or who does not perform or offer to perform for the public services involving the use of accounting or auditing skills. Provided, however, performing or offering to perform the following requires compliance with CPE requirements:
    - (1) the issuance of reports on financial statements or other compilation communication;
    - (2) management advisory, financial advisory or consulting services;
    - (3) preparation of tax returns; or
    - (4) furnishing advice on tax matters.

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18
- (b) The Board may in particular cases make exceptions to the CPE requirements for good cause, including:
    - (1) individual hardship;
    - (2) health;
    - (3) military service; or
    - (4) foreign residence.
  - (c) A licensee granted such an exception by the Board must place the word "inactive" adjacent to his/her CPA title on any business card, letterhead and/or other document or device on which the CPA title appears, with the exception of the CPA certificate.
  - (d) A licensee granted an exception by the Board must comply with the Board's re-entry competency requirements before s/he may discontinue use of the word "inactive" in association with the CPA title. Such requirements include the provisions of this Part.



20 § 1-10- 00700 **PART 700. Permits to Practice, Peer Review – Firms and Individuals.**

21  
22 § 1-10- 00701 **Applications.**

- 23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41
- (a) Applications by firms for initial issuance and for renewal of permits pursuant to Section 7 of the Act shall be made on a form provided by the Board and, in the case of applications for renewal, shall be filed no earlier than four (4) months and no later than two (2) months prior to the expiration date. Applications shall not be considered filed until the applicable fee and all required documents prescribed in these Regulations are received. If an application for permit renewal is filed late, it shall also be accompanied by the delinquency fee prescribed through these Regulations.
  - (b) A sole proprietor may apply jointly for
    - (1) a certificate, or a renewal of a certificate, and
    - (2) a firm permit.
  - (c) Applications shall include the firm name, addresses and telephone numbers of the main office and of each branch office of the firm in the CNMI, the name of the person in charge of each such branch office, and the names of the partners, shareholders, members, managers, directors and officers practicing in the CNMI.



43 § 1-10- 00702 **Notification of changes by firms.**

- 44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54
- (a) A firm registered pursuant to Section 7 of the Act shall file with the Board a written notification of any of the following events concerning the practice of public accountancy within the CNMI within 28 days (4 weeks) after its occurrence:
    - (1) Formation of a new firm;
    - (2) Addition of a partner, member, manager or shareholder;
    - (3) Retirement, withdrawal or death of a partner, member, manager or shareholder;
    - (4) A change in the name of the firm;
    - (5) Termination of the firm;
    - (6) Change in the management of a branch office in the CNMI;

- 1 (7) Establishment of a new branch office or the closing or change of address of a branch  
 2 office in the CNMI; and  
 3 (8) The occurrence of an event or events which would cause such firm not to be in conformity  
 4 with the provisions of the Act or these Regulations.  
 5  
 6 (b) In the event of a change in legal form of a firm, such new firm shall within thirty 28 days (4 weeks)  
 7 of the change file an application for an initial permit in accordance with these Regulations and pay  
 8 the fee required by these Regulations.  
 9



11 § 1-10- 00703 **Peer review as a condition for renewal of permit. (§§ 4(h)(7), 7(g), 9(b))**

- 12 (a) The Board may require a licensee to undergo a peer review as a condition of renewed licensing.  
 13 A peer review report shall issue.  
 14  
 15 (b) The Board may establish procedures to perform the following functions:  
 16  
 17 (1) Review of financial statements and the reports of licensees thereon, to assess their  
 18 compliance with applicable professional standards;  
 19  
 20 (2) Improvement of reporting practices of licensees through educational and rehabilitative  
 21 measures;  
 22  
 23 (3) Referrals to the Board of cases requiring further investigation by the Board or its  
 24 designees;  
 25  
 26 (4) Verification that individuals in the firm responsible for supervising compilation or attest  
 27 services and signing the accountants' report on financial statements on behalf of the firm  
 28 meet the competency requirements set out in applicable professional standards;  
 29  
 30 (5) Verification that a certificate holder who issues compilation reports for the public other  
 31 than through a CPA firm, who supervises such services, and/or signs the compilation  
 32 report on such financial statements, meets the competency requirements set out in  
 33 applicable professional standards; and  
 34  
 35 (6) Such other functions as the Board may assign to its designees.  
 36  
 37 (c) The Board may also solicit for review reports of licensees and related financial statements from  
 38 clients, public agencies, banks, and other users of financial statements.  
 39  
 40 (d) The review of financial statements and reports of the licensees thereon shall be directed toward  
 41 the following:  
 42  
 43 (1) Presentation of financial statements in conformity with generally accepted accounting  
 44 principles;  
 45  
 46 (2) Compliance by licensees with generally accepted auditing standards;  
 47  
 48 (3) Compliance by licensees with other professional standards; and  
 49  
 50 (4) Compliance by licensees with the Regulations of the Board and other rules or regulations  
 51 relating to the performance of compilation and attest services.  
 52  
 53 (e) In gathering information about the professional work of licensees, the Board may make use of  
 54 investigators, either paid or unpaid, who are not members of the Board.  
 55

- 1  
2 (f) In an instance in which the Board finds a deficiency in the professional work of a licensee, it shall  
3 advise the licensee in writing of the deficiency. The Board may request the licensee to meet with  
4 it to discuss deficiencies. If the Board determines that a report is substandard or seriously  
5 questionable, the Board may direct that an independent reviewer other than the person who  
6 performed the review of the report conduct a review of the workpapers. The findings of such  
7 review of the workpapers shall be transmitted by the reviewer to the Board.  
8



9  
10 § 1-10- 00704 **Equivalent reviews as a condition for renewal of a permit.**

- 11  
12 (a) The requirements of Section 003 of this Part shall not apply with respect to a firm or a certificate  
13 holder which/who, within the three years immediately preceding the application, has been  
14 subjected to a satisfactory peer review conducted in accordance with a peer review program  
15 approved by the Board.  
16  
17 (b) Reserved.  
18  
19 (c) The Board shall establish procedures and take all action necessary to ensure that the above-  
20 mentioned peer-reviewed materials remain privileged as to third parties.  
21



22  
23 § 1-10- 00705 **Peer review for certificate holders who do not practice in a licensed firm.**

24  
25 A certificate holder who issues compilation reports as defined in the Act, other than through a CPA firm that holds a permit  
26 under Section 7 of the Act, must undergo a peer review as required under this Part governing firm practice.  
27



28  
29 § 1-10- 00706 **Submission of peer review reports to the Board.**

- 30  
31 (a) The objective of this peer review regulation is to reinforce the Board's efforts to ensure that only  
32 appropriately qualified CPA firms are engaged in the offering and rendering of services subject to  
33 peer review.  
34  
35 (b) Regarding peer reviews conducted pursuant to these Regulations, the reviewed firm or individual  
36 must submit to the Board:  
37  
38 (1) each adverse peer review report, and  
39  
40 (2) each second consecutive peer review report that is adverse or modified, including a  
41 review report that contains significant comments.  
42  
43 (c) The reviewed firm or individual shall submit a report described in § 1-10- 00703, to the Board  
44 within forty-two days (6 weeks) after acceptance of such report by the administering entity;  
45  
46 (d) Regarding a peer review report required to be submitted to the Board pursuant to this Part:  
47  
48 (1) the reviewed firm must retain, for a period of seven (7) years from the date of the report  
49 acceptance, all of the following:  
50  
51 (i) peer review report;  
52 (ii) letter of comments;  
53 (iii) letter of response;

- (iv) acceptance letter signed by the reviewed firm agreeing to take corrective actions; and
- (v) letter of completion indicating that the firm's peer review is complete.

(2) Upon request of the Board, the reviewed firm or individual shall timely submit such documentation to the Board.

(e) Based upon its review of the reports submitted pursuant to this regulation, the Board may order additional corrective actions or discipline, including:

- (1) probation, practice limits, additional continuing education, pre-issuance reviews, more frequent peer reviews, and other measures; or
- (2) in severe cases, discipline against the reviewed firm and individual licensees employed or contracted by the reviewed firm.

(f) Such order shall be pursuant to notice and an opportunity for hearing, either of which the reviewed firm may waive.



§ 1-10- 00800 **PART 800. Interstate or International Reciprocity Practice**



§ 1-10- 00801 **Interstate practice.**

(a) These regulations provide two distinct methods for an individual already licensed in another state to be authorized to practice in the CNMI. The applicable method depends upon whether the individual will establish a principal place of business in the CNMI.

- (1) Individuals establishing a principal place of business in the CNMI may qualify for a reciprocal certificate or license either by:
  - (i) substantial equivalence (see the Act, Section 6); or
  - (ii) experience (see the Act, Section 6(c)(1) and Section 001(b) of this Part *infra*).
- (2) Individuals with a principal place of business in another state may offer or render services in the CNMI either pursuant to:
  - (i) substantial equivalence (see Section 6 of the Act); or
  - (ii) experience (see Section 001(c) of this Part, *infra*).

(b) Reciprocal certificate or license. Regarding an individual establishing a principal place of business in the CNMI, if the substantial equivalency standard set out in the Act, Section 6, is not applicable, the Board shall issue a reciprocal certificate, or license, to the holder of a certificate issued by another state provided that the applicant meets each of the following requirements:

- (1) Has successfully completed the CPA examination. Successful completion of the examination means that the applicant passed the examination in accordance with the rules and regulations of the other state at the time that state granted the applicant's initial certificate.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

- (2) Has, in addition to meeting the requirements of the Act, Section 6(a), satisfied the 5-in-10 experience requirement set out in Section 6(c)(2)(C) of the Act.
  - (3) Has experience required under the Act and these Regulations for issuance of the initial certificate.
  - (4) Has met the CPE requirement pursuant to the Act, Section 6(c)(4), if applicable.
- (c) Out of state services. Regarding an individual whose principal place of business is, and remains, outside the CNMI, the Board may authorize the individual to exercise practice privileges in the CNMI provided the individual meets each of the following requirements:
- (1) The individual has an active CPA license in good standing issued by another state;
  - (2) The individual has met the 5-in-10 experience requirement specified in Section 6(c)(2)(C) of the Act;
  - (3) The individual provides notice to the Board, in the same manner and on comparable forms as required for substantially equivalent practitioners under Section 6 of the Act and regulations promulgated thereunder; and,
  - (4) The individual consents to each of the terms and conditions pertaining to the use of practice privileges as specified in Section 6 of the Act and the regulations promulgated thereunder.

26  § 1-10- 00802 **International reciprocity.**

- (a) The Board may designate a professional accounting credential issued in a foreign country as substantially equivalent to a CPA certificate under the following conditions:
- (1) The Board shall rely on the International Qualifications Appraisal Board for evaluation of foreign credential equivalency; and
  - (2) The Board may accept a foreign accounting credential in partial satisfaction of its domestic credentialing requirements if:
    - (i) the holder of the foreign accounting credential met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates; and
    - (ii) the foreign credential is valid and in good standing at the time of application for a domestic credential.
- (b) The Board shall further satisfy itself through qualifying examination(s) that the holder of a foreign credential deemed by the Board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. practice standards and the Board's regulations:
- (1) The Board may rely on the National Association of State Boards of Accountancy and/or the American Institute of Certified Public Accountants to develop, administer, and grade such qualifying examination(s).
  - (2) The Board shall specify the qualifying examination(s) and process by resolution or order.

- 1 (c) An applicant for renewal of a CPA certificate originally issued in reliance on a foreign accounting  
 2 credential shall:  
 3  
 4 (1) Make application for renewal at the time and in the manner prescribed by the Board for all  
 5 other certificate renewals;  
 6  
 7 (2) Pay such fees as are prescribed for the similar domestic certificate renewal;  
 8  
 9 (3) Demonstrate good standing of the foreign credential:  
 10  
 11 (i) If the applicant has a foreign credential in effect at the time of the application for  
 12 renewal of the CPA certification, present documentation from the foreign  
 13 accounting credential issuing body that the applicant's foreign credential has not  
 14 been suspended or revoked and the applicant is not the subject of a current  
 15 investigation; or  
 16  
 17 (ii) If the applicant for renewal no longer has a foreign credential, the applicant must  
 18 present proof from the foreign credentialing body that the applicant for renewal  
 19 was not the subject of a disciplinary proceeding or investigation at the time that  
 20 the foreign credential lapsed; and  
 21  
 22 (4) Either show completion of continuing professional education substantially equivalent to  
 23 that required under § 1-10- 00605, within the three-year period preceding renewal  
 24 application, or petition the Board for complete or partial waiver of the CPE requirement  
 25 based on the ratio of foreign practice to practice in the CNMI.  
 26  
 27 (d) The holder of a CPA certificate issued in reliance on a foreign accounting credential shall report  
 28 any investigation undertaken, or sanction imposed, by a foreign credentialing body against the  
 29 CPA's foreign credential.  
 30  
 31 (e) Suspension or revocation of, or refusal to renew, the CPA's foreign accounting credential by the  
 32 foreign credentialing body may be evidence of conduct reflecting adversely upon the CPA's fitness  
 33 to retain the certificate and may be a basis for Board action.  
 34  
 35 (f) Conviction of a felony or a crime involving dishonesty or fraud under the laws of a foreign country  
 36 is evidence of conduct reflecting adversely on the CPA's fitness to retain the certificate and may  
 37 be a basis for Board action.  
 38  
 39 (g) The Board shall notify the appropriate foreign credentialing authorities of a sanction imposed  
 40 against a CPA subject to its jurisdiction.  
 41  
 42 (h) The Board may participate in joint investigations with foreign credentialing bodies and may rely on  
 43 evidence supplied by such bodies in disciplinary hearings.  
 44  
 45



47 § 1-10- 00900 **PART 900. Enforcement Actions Against Licensees.**

49 § 1-10- 00901 **Grounds for enforcement actions against licensees and others.**

- 50  
 51 (a) The grounds for revocation and suspension of certificates and permits, and other disciplinary  
 52 action against licensees, persons with privileges granted pursuant to Section 6 of the Act, and  
 53 other persons, are set out in Section 9 of the Act in both specific and general terms. The general

1 terms of those provisions of the Act include the following particular grounds for such disciplinary  
2 action:

- 3
- 4 (1) Fraud or deceit in obtaining a certificate or permit, within the meaning of Section 9(a)(2) of  
5 the Act, include the submission to the Board of knowingly false or forged evidence in, or in  
6 support of, an application for a certificate or permit, and/or cheating on an examination.  
7
- 8 (2) Dishonesty, fraud or gross negligence, within the meaning of Section 9(a)(5) of the Act,  
9 include knowingly, or through gross negligence, making misleading, deceptive or untrue  
10 representations in the performance of services.

11

12 (b) Violations of the Act or of Rules promulgated under the Act, within the meaning of Section 9(a)(6)  
13 of the Act, include:

- 14
- 15 (1) Using the CPA title or providing attest or compilation services in the CNMI without a  
16 certificate or permit to practice issued under Sections 6 and 7 or without properly  
17 qualifying to practice across state lines under the substantial equivalency provision of the  
18 Act.  
19
- 20 (2) Using or attempting to use a certificate or permit which has been suspended or revoked;  
21
- 22 (3) Making a false or misleading statement, in support of any application for a certificate or a  
23 permit;  
24
- 25 (4) Failure of a licensee to provide an explanation requested by the Board regarding evidence  
26 submitted by the licensee in support of an application filed by another, or regarding a  
27 failure or refusal to submit such evidence;  
28
- 29 (5) Failure by a licensee to furnish for inspection upon request by the Board or its  
30 representative documentation relating to evidence submitted by the licensee in support of  
31 any application;  
32
- 33 (6) Failure to satisfy the continuing professional education requirements set out in Section  
34 6(d) of the Act and/or failure to comply with the continuing education requirements of  
35 these Regulations;  
36
- 37 (7) Failure to comply with professional standards as to the attest and/or compilation  
38 competency requirement for those who supervise attest and/or compilation engagements  
39 and sign reports on financial statements or other compilation communications with  
40 respect to financial statements;  
41
- 42 (8) Failure to comply with the peer review requirements of the Act and these Regulations;  
43 and  
44
- 45 (9) Failure to renew a license or privileges related to substantial equivalency, unless the  
46 licensee or privilege holder has notified the Board in writing or electronically in advance.  
47

48 (c) Conduct reflecting adversely upon the licensee's fitness to engage in the practice of  
49 public accountancy, within the meaning of Section 9(a)(10) of the Act, includes:

- 50
- 51 (1) Adjudication as mentally incompetent;  
52
- 53 (2) Fiscal dishonesty of any kind;  
54
- 55 (3) Presenting as one's own a certificate or permit issued to another;



- (4) Concealment of information regarding violations by other licensees of the Act or the Rules thereunder when questioned or requested by the Board; and
- (5) Willfully failing to file a report or record required by CNMI, state or federal law; willfully impeding or obstructing the filing of such a report or record, or inducing another person to impede or obstruct such filing by another; and the making or filing of such a report or record which one knows to be false.

§ 1-10- 00902 **Return of certificate or permit to practice.**

A licensee whose certificate or permit issued by the Board is subsequently suspended or revoked shall promptly return such certificate or permit to the Board.

§ 1-10- 001000 **PART 1000. Enforcement Procedures – Investigations (§ 4(h)(2))**

§ 1-10- 001001 **Review of professional work product.**

- (a) The Board may solicit and receive the following without regard to whether an application for renewal of the particular licensee is then pending or whether there is a formal complaint or suspicion of impropriety regarding a particular licensee or an individual with privileges granted pursuant to the Act:
  - (1) publicly available reports of licensees and individuals with privileges granted pursuant to the Act; and
  - (2) related financial statements from clients, public agencies, banks, and other users of financial statements on a general and random basis.
- (b) After its review, the Board may proceed pursuant to the peer review scheme of § 1-10- 00703.

§ 1-10- 001002 **Reporting convictions, judgments, and administrative proceedings.**

- (a) Licensees shall notify the Board, on a form and in the manner prescribed by the Board, within 42 days (6 weeks) of:
  - (1) Receipt of an adverse peer review or a PCAOB firm inspection report containing criticisms of or identifying potential defects in the quality control systems;
  - (2) Receipt of a second consecutive peer review report that is adverse or modified, including a peer review report that contains significant comments;
  - (3) Imposition upon the licensee of discipline, including censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, suspension, revocation, or modification of a license, certificate, permit or practice rights, by:
    - (i) the Securities and Exchange Commission (SEC), PCAOB, Internal Revenue Service (IRS) (actions by the Director of Practice);

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

- (ii) another state board of accountancy for a cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy;
  - (iii) a federal or state agency regarding the licensee's conduct while rendering professional services; or
  - (iv) a foreign authority or credentialing body that regulates the practice of accountancy;
- (4) Occurrence of a matter reportable by the licensee to the PCAOB pursuant to Sarbanes-Oxley Section 102(b)(2)(f) and/or PCAOB rules and forms;
  - (5) Notice of disciplinary charges filed by or before the SEC, PCAOB, IRS, or another state board of accountancy, or a CNMI or federal or state taxing, insurance or securities regulatory authority, or foreign authority or credentialing body that regulates the practice of accountancy;
  - (6) A judgment, award or settlement of a civil action or arbitration proceeding involving \$150,000 or more in which the licensee was a party, if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, that licensed firms shall only notify the Board regarding civil judgments, settlements or arbitration awards directly involving the firm's practice of public accounting in the CNMI; or
  - (7) Criminal charges, deferred prosecution or conviction, or plea of no contest, to which the licensee is a defendant, if the crime is:
    - (i) a felony under the laws of the United States or of a state of the United States or a foreign jurisdiction; or
    - (ii) a misdemeanor if an element of the offense is dishonesty, deceit, or fraud.
- (b) The licensee designated by each CPA firm as responsible for the proper registration of the firm shall report a matter reportable under this Section to which a non-licensee owner with a principal place of business in the CNMI is a party.
  - (c) Reports of pending matters or reports of private litigation resolved by settlement or arbitration shall be treated as under investigation, and, therefore, confidential records not subject to public disclosure, unless and until the pending matters are concluded or the Board commences a contested case proceeding based upon the subject matter of such reports.
  - (d) During the pendency of an investigation into a reported matter, the reporting licensee may submit a written explanation to be included in the licensee's record. Documents received pursuant to said report shall be expunged from the Board's records, if:
    - (1) the reported charges or allegations are subsequently concluded in the licensee's favor or otherwise closed without disciplinary action by the Board, and
    - (2) the reporting licensee so requests.

1  
2 § 1-10- 001101 **Complaints and notices of hearing.**

- 3  
4 (a) A complaint issued by the Board pursuant to Section 11(a) of the Act shall include  
5  
6 (1) A plain statement of matters asserted or charged; and  
7  
8 (2) Reference to sections of the Act or of the Regulations related to the alleged unlawful  
9 conduct.  
10  
11 (b) The Board shall make available a copy of the Act and the Board's Regulations;  
12  
13 (c) The Board shall make available a brief statement calling attention to the procedural rights of the  
14 respondent to examine reports and evidence in advance of the hearing, to appear by counsel at  
15 the hearing, to present evidence and argument, and to appeal an adverse decision.  
16  
17

18 § 1-10- 001102 **Examination and copying of documents.**

- 19  
20 (a) A respondent shall have the right in advance of the hearing to examine and copy a report of  
21 investigation and documentary or testimonial evidence and summaries of evidence in the Board's  
22 possession relating to the subject matter of the complaint.  
23  
24 (b) The right of examination may be exercised by the respondent or the respondent's attorney or  
25 agent at the Board's office where the records in question are kept, during regular business hours,  
26 on three days' advance notice in writing. Copies shall be promptly furnished of any documents or  
27 other materials designated for copying, but the Board may charge a fee for such copying.  
28

29 Ⓜ  
30 § 1-10- 001103 **Conduct of hearing.**

- 31  
32 (a) A hearing shall be conducted by a presiding officer appointed by the Board.  
33  
34 (b) The hearing shall comply with the requirements of the Administrative Procedure Act and due  
35 process. Rebuttal and surrebuttal evidence shall be allowed.  
36  
37

38 § 1-10- 001104 **Evidentiary rules.**

- 39  
40 (a) The Board shall not be bound by the technical rules of evidence, and in its discretion may  
41 consider evidence of a kind commonly relied upon by reasonably prudent persons in the conduct  
42 of their affairs.  
43  
44 (b) Evidence need not be admitted if it is irrelevant, immaterial or unduly repetitious.  
45  
46 (c) Rulings on evidence which have been reserved shall be disposed of before closing statements.  
47  
48

49 Ⓜ  
50 § 1-10- 001105 **Decisions.**

- 51  
52 (a) The Board's decision shall be by written vote of a majority of the Board.  
53

- 1 (b) The Board's post-hearing decision shall, if it sustains a charge, be made public. A decision that  
2 does not sustain a charge may be made public at the Board's discretion.  
3  
4

5   
6 § 1-10- 001200 **PART 1200. Reinstatement.**  
7

8 § 1-10- 001201 **Applications for relief from disciplinary penalties.**  
9

- 10 (a) An application may be filed with the Board for modification of a suspension, limitation, revocation  
11 or probation:  
12  
13 (1) by a person,  
14  
15 (2) after completion of all requirements contained in the Board's disciplinary order.  
16  
17 (b) The application shall demonstrate the good cause for the relief sought, and shall be accompanied  
18 by at least two supporting recommendations, under oath, from licensees who have personal  
19 knowledge of the activities of the applicant since the discipline was imposed.  
20

21 § 1-10- 001202 **Action by the Board.**  
22

- 23 (a) The Board may make its decision based on the submissions, or upon a hearing record.  
24  
25 (b) The Board may impose reasonable terms and conditions for reinstatement.  
26  
27 (c) The Board's decision may consider:  
28  
29 (1) the offense for which the applicant was disciplined;  
30  
31 (2) the applicant's activities during the time the certificate, privileges or permit was in good  
32 standing;  
33  
34 (3) all activities of the applicant since the disciplinary penalty from which relief is sought was  
35 imposed;  
36  
37 (4) the applicant's rehabilitative efforts;  
38  
39 (5) restitution to damaged parties in the matter for which the penalty was imposed; and  
40  
41 (6) the applicant's reputation for truth and professional probity.  
42  
43 (d) No application for reinstatement shall be considered while the applicant is under sentence for a  
44 criminal offense, including a period during which the applicant is on probation or parole.  
45  
46

47   
48 § 1-10- 001300 **PART 1300. Unlawful Acts and Safe Harbor.**  
49

50 § 1-10- 001301 **Misleading CPA firm names. (§ 4(h)(6), 13(d)-(f))**  
51

52 A person shall not use the tile "CPA" in a misleading way. "CPA" is misleading within the meaning of Section 13 of the Act  
53 if, among other things:  
54

- 1 (a) The CPA firm name implies the existence of a corporation when the firm is not a corporation;
- 2
- 3 (b) The CPA firm name implies existence of a partnership when there is not a partnership (as in
- 4 "Smith & Jones, CPAs");
- 5
- 6 (c) The CPA firm name includes the name of a person who is neither a present nor a past partner,
- 7 member or shareholder of the firm; or
- 8
- 9 (d) The CPA name includes the name of a person who is not a CPA.
- 10
- 11

12 § 1-10- 001302 **Fictitious firm names.**

- 13
- 14 (a) A fictitious CPA firm name is one consisting in part of the names or initials of someone other than
- 15 present or former: partners; members; or shareholders.
- 16
- 17 (b) A fictitious CPA firm name may not be used by a CPA firm. Exception: It may be used if such
- 18 name has been registered with and approved by the Board as not being false or misleading.
- 19
- 20

21 § 1-10- 001303 **Safe harbor language.**

- 22
- 23 (a) Safe harbor language is language that, if used clearly and prominently, may eliminate the claim
- 24 that a reported review of financial statements violates the Regulations or the Act.
- 25
- 26 (b) Pursuant to the Act, only licensees may issue reports on financial information that imply they were
- 27 performed in accordance with professional standards. Unlicensed individuals may issue financial
- 28 statements as long as they do not use report language that purports to be in accordance with
- 29 professional standards applicable to licensees. Safe harbor language provides clear guidance to
- 30 unlicensed individuals as to report language that is acceptable.
- 31
- 32 (c) The use of safe harbor language by a non-licensee is voluntary. A licensee may not use or rely
- 33 on safe harbor language.
- 34
- 35 (d) The objective of the safe harbor language is to provide unlicensed individuals with some report
- 36 language that is clearly acceptable and not in violation of the law.
- 37
- 38 (e) The following safe harbor language may serve as a disclaimer in connection with financial
- 39 statements:

40  
41 "I (we) have prepared the accompanying (financial statements) of (name  
42 of entity) as of (time period) for the (period) then ended. This presentation  
43 is limited to preparing in the form of financial statements information that  
44 is the representation of management (owners).

45  
46 "I (we) have not audited or reviewed the accompanying financial  
47 statements and accordingly do not express an opinion or any other form  
48 of assurance on them."  
49

50  
51  § 1-10- 001400 **PART 1400. Construction of Requirement for a Public Audit.**

52 Whenever a statute, regulation, order or contract requires that a report, financial statement, and/or other document for the  
53  
54 CNMI Government, including a department, division, board, commission, agency, or other instrumentality, be prepared by  
55

1 a certified public accountant, the requirement shall be construed to mean a licensee with a valid certificate or permit from  
2 the Board to practice public accountancy.

3  
4  
5 §  
6 **§ 1-10- 001500 PART 1500. Other Licensee Obligations**

7  
8 **§ 1-10- 001501 Notify of changes.**

9  
10 Each licensee shall notify the Board in writing within 28 days (4 weeks) of a change of address and/or, in the case of  
11 individual licensees, change of employment.

12  
13  
14 **§ 1-10- 001502 Timely respond.**

15  
16 A licensee shall respond in writing to any communication from the Board requesting a response within 28 days (4 weeks)  
17 of the mailing of such communication.

18  
19  
20 **§ 1-10- 001503 Pay fees.**

21  
22 A licensee shall timely pay all fees which the Board requires.

23  
24 §  
25 **§ 1-10- 001504 Internet practice.**

26  
27 A CPA firm offering or rendering professional services via an internet web site shall provide in the web site's homepage, a  
28 name, an address, an email address, a telephone number, and principal state of licensure as a means for regulators and  
29 the public to contact a responsible licensee in charge at the firm regarding complaints, questions, and/or regulatory  
30 compliance.

31  
32  
33 §  
34 **§ 1-10- 001600 PART 1600. Fees (§ 4(h)(8)).**

35  
36 **§ 1-10- 001601 Board schedule for fees.**

37  
38 The Board shall, by resolution, adopt a schedule or schedules of fees for the following services. Fees charged by the  
39 Board shall be as established from time to time.

40  
41  
42 **§ 1-10- 001602 Fees, initially.**

43  
44 The fees shall be in effect initially as follows:

- 45  
46 (a) Exam applications (Initial and Re-Exam) ( § 5(h)(exam)).
- 47
  - 48 (1) Application Processing Fee, Forty Dollars (\$40.00)/exam part.
  - 49 (2) NASBA/Prometric/AICPA Fees, Actual amounts specified in the CBT Services Agreement
  - 50 between AICPA, NASBA, and Prometric.
  - 51 (3) Jurisdictional Testing Fee, Fifty Dollars (\$50)/part to be given to the CNMI Board of
  - 52 Accountancy plus Fifty Dollars (\$50)/part to be given to the Jurisdictional Testing Center
  - 53 operator designated by the CNMI Board of Accountancy.
  - 54

- 1 (b) Certification/licensure. (§ 6(e) (certificate), § 7(e) (permit))  
2  
3 (1) Initial.  
4  
5 (i) Active, One Hundred Fifty Dollars (\$150.00).  
6 (ii) Inactive, One Hundred Fifty Dollars (\$150.00).  
7 (iii) Foreign, One Hundred Fifty Dollars (\$150.00).  
8 (iv) Substantial Equivalency, One Hundred Fifty Dollars (\$150.00).  
9  
10 (2) Renewal/annual.  
11  
12 (i) Active, One Hundred Dollars (\$100.00).  
13 (ii) Inactive, One Hundred Dollars (\$100.00).  
14 (iii) Foreign, One Hundred Dollars (\$100.00).  
15 (iv) Substantial Equivalency, One Hundred Dollars (\$100.00).  
16  
17 (3) Reinstatement.  
18  
19 (i) Active, Two Hundred Dollars (\$200.00).  
20 (ii) Inactive, Two Hundred Dollars (\$200.00).  
21 (iii) Foreign, Two Hundred Dollars (\$200.00).  
22 (iv) Substantial Equivalency, One Hundred Fifty Dollars (\$150.00).  
23  
24 (4) Provisional (every ninety (90) days).  
25  
26 (i) Active, One Hundred Dollars (\$100.00).  
27 (ii) Inactive, One Hundred Dollars (\$100.00).  
28 (iii) Foreign, One Hundred Dollars (\$100.00).  
29 (iv) Substantial Equivalency, One Hundred Dollars (\$100.00).  
30  
31 (5) Firm Permits to Practice/annual:  
32  
33 (i) Initial Two Hundred Fifty Dollars (\$250.00).  
34 (ii) Renewal Two Hundred Dollars (\$200.00) (annually).  
35 (iii) Reinstatement Two Hundred Fifty Dollars (\$250.00).  
36 (iv) Provisional Two Hundred Dollars (\$200.00) (every ninety (90) days).  
37  
38 (c) Delinquency fee for Certification, Licensee, or Firm Permit to Practice Renewal applications  
39 received after due date: Two Dollars (\$2.00)/day, but minimum Fifty Dollars (\$50.00).  
40  
41 (d) Copies of records: Twenty Cents (\$0.20)/ page plus additional research at fully burdened lowest  
42 clerical staff cost.  
43  
44 (e) Annual reports of the Board, Ten Dollars (\$10.00)/copy.  
45  
46 (f) Such other charges and fees as shall be required for licensee-related services, as performed in-  
47 house or through a contract.  
48  
49 (g) Other fees and charges to be published by the Board:  
50  
51 (1) Disciplinary system assessment  
52 (2) *In forma pauperis* waiver  
53 (3) Special services  
54 (4) Continuing education application fee  
55 (5) Continuing education application renewal

- 1 (6) Verification of license fee
- 2 (7) Certified copies
- 3 (8) Research of licensure status
- 4 (9) Hearing transcripts
- 5 (10) Preparation of record on appeal
- 6 (11) Administrative fines (§ 9(a))
- 7 (12) Costs of enforcement proceedings (§ 9(c))

10   
 11 § 1-10- 001700 **PART 1700. Reports. (§ 4(h)(8))**

12  
 13 § 1-10- 001701 **Annual reports.**

14  
 15 The Board shall, from time to time, but not less than twice each year, prepare and distribute to all licensees, a report of the  
 16 activities of the Board, including amendments to this chapter and regulations adopted by the Board, and may likewise  
 17 distribute reports of other matters of interest to the public and to practitioners.

18  
 19  
 20 § 1-10- 001702 **Other reports.**

21  
 22 The Board shall compile and maintain, or may have compiled and maintained on its behalf, a register of licensees that  
 23 contains information that the Board determines is necessary for the purposes for which the Board was established. The  
 24 Board shall make the register available to a licensee and to the public.

25  
 26  
 27   
 28 § 1-10- 001800 **PART 1800. Papers; Retention; Attest Documentation.**

29  
 30 § 1-10- 001801 **Documentation and retention.**

31  
 32 With respect to documents and retention, licensees shall comply with all professional standards applicable to particular  
 33 engagements, including standards adopted by recognized standards setting bodies such as the Public Company  
 34 Accounting Oversight Board (PCAOB), the Comptroller General of the United States, and the Auditing Standards Board.

35  
 36   
 37 § 1-10- 001802 **Retention Period for Attest Documentation.**

- 38
- 39 (a) The retention period for attest documentation shall be seven (7) years and shall be measured
- 40 from the report date.
- 41
- 42 (b) If attest documentation is required to be kept for longer than seven (7) years because of a
- 43 pending Board investigation or disciplinary action, attest documentation shall not be destroyed
- 44 until the licensee has been notified in writing by the Board of the closure of a Board investigation
- 45 or disciplinary proceeding.
- 46
- 47

48   
 49 § 1-10- 001900 **PART 1900. Reserved.**

50  
 51   
 52 § 1-10- 002000 **PART 2000. Reserved.**

53  
 54 



1 § 1-10- 002100 **PART 2100. Reserved.**

2

3 

4 § 1-10- 002200 **PART 2200. Reserved.**

5

6

7 

8 § 1-10- 002300 **PART 2300. Substantial Equivalency.**

9

10 § 1-10- 002301 **Notification.**

11

12 A person from another jurisdiction practicing accountancy in the CNMI shall notify the Board in writing, preferably by  
13 electronic means:

14

15 (a) A qualified person from another jurisdiction seeking practice privileges in the CNMI pursuant to  
16 the Act shall give notice to the Board, as follows:

17

18 (1) On a form established by the Board, in writing, preferably by electronic means; or

19

20 (2) By electronic means to a master notice list designated by the Board, including the NASBA  
21 National Qualification Appraisal Service.

22

23 (b) Notice shall be due immediately, and shall be received by the Board within 28 days (4 weeks),  
24 upon the person's:

25

26 (1) Accepting an engagement or an assignment to render professional services in the CNMI;  
27 or

28

29 (2) Offering to render professional services through the person's, or the person's firm's, direct  
30 solicitation or marketing targeted to persons in the CNMI.

31

32 (c) Notice shall be renewed on the same cycle as the Board requires for license renewals.

33

34 (d) Notice shall be amended within 28 days (4 weeks) after the individual changes the principal place  
35 of business or within 28 days (4 weeks) after the license has been denied, revoked, or suspended  
36 in any jurisdiction.

37

38

39 § 1-10- 002302 **Non-reportable activities.**

40

41 A non-resident person shall not be deemed to have entered the CNMI for purposes of this Part or of the Act if the person's  
42 contact with the CNMI is limited to:

43

44 (a) *teaching a college or continuing professional education course;*

45

46 (b) *delivering a lecture;*

47

48 (c) *moderating a panel discussion; and/or*

49

50 (d) *rendering professional services to the individual's employer or to persons employed by the*  
51 *individual's employer, including affiliated, parent, or subsidiary entities, provided such services are*  
52 *not rendered for the employer's clients.*

53

54

1 § 1-10- 002303 **Minimum reportable information.**

2

3 A person notifying the Board pursuant to this Part shall present a current address, telephone, fax and email address for the  
4 public to contact the person regarding complaints, questions, service of legal papers, and regulatory compliance. An  
5 individual shall further present the principal state of licensure and license number.

6

7

8 

9 § 1-10- 002400 **PART 2400. Reserved.**

10

11 

12 § 1-10- 002500 **PART 2500. Reserved.**

13

14

15

16

17 0 BoA General Regs Final Nov 2007.wpd



Commonwealth of the Northern Mariana Islands  
Commonwealth Board of Nurse Examiners

Elaine Marie Camacho, Chair  
Commonwealth Board of Nurse Examiners, PO Box 501458  
Building No. 1336, Capitol Hill, Saipan MP 96950

tel 670.664.4810; fax:670.664.4813  
[cbone@pticom.com](mailto:cbone@pticom.com)

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION  
OF REGULATIONS OF  
the Commonwealth Board of Nurse Examiners**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS  
Volume 28, Number 05, pp 025686-706, of May 19, 2006

**Chapter 140-60 - Commonwealth Board of Nurse Examiners Rules and  
Regulations**

Please take notice that the Commonwealth Board of Nurse Examiners hereby adopts as permanent the referenced Proposed Regulations. I also certify by signature below that such adopted regulations are being adopted without modification or amendment, except for the following editorial changes:

1. First change: The "Currency of these rules or regulations", Part 100 § 001, should now read:

"These rules or regulations are current through the November, 2007, CNMI Register Volume 29 No. 11."

2. Second change: The "History", Part 100 § 002(c) has been amended to fill in correct date and page numbers, as follows:

(c) The history is: Nurse Practice Act of 2003 Act passed and signed by Governor Juan N. Babauta, March 31, 2005, effective 90 days later, on June 30, 2005. Proposed Rules or regulations adopted by resolution of the Board of Nurse Examiners on March 30, 2006. Proposed rules and regulations were published in the Commonwealth Register, Vol. 28, No.05 (5/19/06), p 025686. Final regulations were promulgated by publication in the Commonwealth Register Vol. 29, No. 11 (11/\_\_\_/2007).

Note: The numbering format does not precisely follow that of the Law Revision Commission for the NMIAC. Upon codification the regulations will be formatted roughly as follows: § 140-60-00101 through - § 140-60-00603(g).

I further request and direct that this Notice and the revised, final regulations be published in the Commonwealth Register.

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

The prior publication was as stated above. The Board adopted the regulations as final at its meeting of November 13, 2007.

Comments and agency concise statement. Pursuant to 1 CMC § 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. Note: There were no filed comments.

[the lower part of this page is intentionally left blank]

Attorney General approval. The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law). Due to the further, editorial changes, the Attorney General has approved this final version for promulgation. (Id.)

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 13th day of November, 2007, at Saipan, Commonwealth of the Northern Mariana Islands.

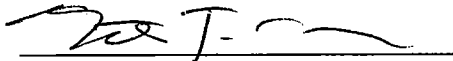
Certified and ordered by:

  
Elain Marie Camacho,  
Chair, Commonwealth Board of Nurse Examiners

Date Nov. 13, 2007

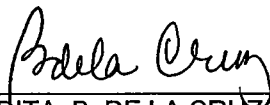
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 14<sup>th</sup> day of November, 2007.



MATTHEW T. GREGORY,  
Attorney General

Filed and  
Recorded by:

  
BERNADITA B. DE LA CRUZ  
Commonwealth Register

11-14-07

Date

Commonwealth of the Northern Mariana Islands  
Northern Mariana Islands Administrative Code  
Title 140 Department of Public Health

**Chapter 140-60 - Commonwealth Board of Nurse Examiners Rules and Regulations**

Chapter Authority: PL 14-62, as amended.

Regulation History: The Nurse Practice Act of 2003, PL 14-62, ("the Nurse Practice Act" or "the Act") was codified at 3 CMC §§ 2301 - 19. The Act, §§ 2306 (b) and (c) empower the Board to adopt rules for the administration and enforcement of the statute and to protect the public health, safety, and welfare.

[Comment on numbering outline format: The hierarchy /outline is as follows, from top to bottom: Title; Chapter; Part 001-900; Section 101-999; subsection (a); paragraph (1); subparagraph (i); sub-subparagraph (A). The numbering for the title and chapter shall follow the format of the Northern Mariana Islands Administrative Code ("NMIAC"). Citations are to PL 14-62, as amended.]

**Table of Contents**

Chapter 140-60 - Commonwealth Board of Nurse Examiners Rules and Regulations .....	<u>Page 1 of 11</u>
Part 001      General Provisions .....	<u>Page 2 of 11</u>
Section 001    Currency of these rules or regulations. ....	<u>Page 2 of 11</u>
Section 002    History. ....	<u>Page 2 of 11</u>
Section 003    Numbering of resolutions and other acts. ....	<u>Page 2 of 11</u>
Section 004    Office. ....	<u>Page 3 of 11</u>
Section 005    Organization and officers. ....	<u>Page 3 of 11</u>
Section 006    Appointments, vacancies and removal from office. ....	<u>Page 3 of 11</u>
Section 007    Oath. ....	<u>Page 3 of 11</u>
Section 008    Definitions .....	<u>Page 3 of 11</u>
Section 009    Additional definitions. ....	<u>Page 4 of 11</u>
Section 010    Record keeping. ....	<u>Page 4 of 11</u>
Section 011    Seal. ....	<u>Page 4 of 11</u>
Section 012    Committees. ....	<u>Page 4 of 11</u>
Section 013    Operations, staff and contractors. ....	<u>Page 5 of 11</u>
Section 014    Advisory Committees. ....	<u>Page 6 of 11</u>
Section 015    Conflict of Interest. ....	<u>Page 6 of 11</u>

Part 00100	Administration and Conduct of Meetings .....	<u>Page 6 of 11</u>
Section 001	Business meetings. ....	<u>Page 6 of 11</u>
Section 002	Executive session. ....	<u>Page 7 of 11</u>
Section 003	Notice. ....	<u>Page 7 of 11</u>
Section 004	Robert's Rules of Order. ....	<u>Page 7 of 11</u>
Section 005	Reserved .....	<u>Page 7 of 11</u>
Section 006	Reserved .....	<u>Page 7 of 11</u>
Section 007	Public Meetings .....	<u>Page 7 of 11</u>
Part 00600	Procedures for disciplinary actions, violations of law and other matters (per 3 CMC § 2314(d)) .....	<u>Page 9 of 11</u>
Section 001	Policy on Board procedures. ....	<u>Page 9 of 11</u>
Section 002	Practice and procedures. ....	<u>Page 9 of 11</u>
Section 003	Other practice and procedure. ....	<u>Page 11 of 11</u>

[Comment: The Table of Contents is not part of the rule or regulation, but is placed here for the convenience of the reader.]

**Part 001      General Provisions**

Section 001    Currency of these rules or regulations.

These rules or regulations are current through the November, 2007, CNMI Register Volume 29 No. 11.

Section 002    History.

- (a) History is not part of the operative language of the Rules or Regulations, and is included by the Board for the convenience of the reader.
- (b) The Board shall attempt to publish a brief history with each change to these rules or regulations, identifying date and Commonwealth Register citation for the change.
- (c) The history is: Nurse Practice Act of 2003 Act passed and signed by Governor Juan N. Babauta, March 31, 2005, effective 90 days later, on June 30, 2005. Proposed Rules or regulations adopted by resolution of the Board of Nurse Examiners on March 30, 2006. Proposed rules and regulations were published in the Commonwealth Register, Vol. 28, No.05 (5/19/06), p 025686. Final regulations were promulgated by publication in the Commonwealth Register Vol. 29, No. 11 (11/\_\_\_/2007).

Section 003    Numbering of resolutions and other acts.

- (a) Resolutions shall be signed by the Secretary, Chair or Acting Chair and numbered to indicate year, month and successive number of resolutions in the month, and shall indicate briefly their subject matter. For example: "Res. 2006-10-04 (Budget)".
- (b) Other actions of the Board shall be similarly identified. For example: "Personnel Policy Amendment 2006-03-01 (Travel)".

Section 004 Office.

The Board shall designate the location of its principal office, of any testing centers, and may establish branch offices in other locations.

Section 005 Organization and officers.

- (a) The officers shall be a Chair and a Vice-Chair/Secretary, pursuant to 3 CMC § 2306(d). Additional officers may be a Secretary, Treasurer, or Secretary-Treasurer.
- (b) The Chair and the Vice-Chair shall be elected at the January meeting of the Board, pursuant to 3 CMC § 2306(d). Other officers, if any, shall be elected at the same meeting.
- (c) All officers, as between themselves and the Board, shall have such authority, and perform such duties, as may be provided by or pursuant to resolution or order of the Board, or, in the absence thereof, as may be determined from these rules or regulations.
- (d) The officers shall assume the duties of their respective offices as soon as they have been elected.
- (e) The officers of the Board shall continue in office until their successors are elected and qualify.
- (f) The Chair shall preside at all meetings of the board, and in the event of his/her absence or inability to act, the Vice-Chair shall preside. Other duties of the officers shall be such as the Board may prescribe.

Section 006 Appointments, vacancies and removal from office.

- (a) Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in the same capacity as the person being replaced.
- (b) The Board shall remove from the Board any member who has become unqualified to serve.
- (c) The Board shall recommend to the Governor, after hearing, the removal of any member of the Board for neglect of duty or other just cause.

Section 007 Oath.

- (a) The Board shall adopt an oath of office.
- (b) Within 30 days after his/her appointment, each member of the Board shall take and subscribe to an oath of office administered by a suitable public official and shall file a signed copy of the same with the Board.
- (c) The Executive Director shall take and sign an oath of office, administered by the Chair of the Board or other suitable public official.

Section 008 Definitions

For the purposes of this Chapter, and the administration and/or interpretation of the Nurse Practice Act of 2003, the following terms shall be defined as set forth in Public Law 14-62, § 2304, as amended:



- (a) Advanced practice registered nurse, and nursing;
- (b) Board;
- (c) Certified nursing assistant;
- (d) Certified technician;
- (e) Continuing education;
- (f) Graduate nurse;
- (g) License;
- (h) Licensed practical/vocational nurse
- (i) Other board
- (j) Practice of nursing;
- (k) Prescriptive/dispensing authority;
- (l) Professional nurse;
- (m) Practice of nursing as a "registered nurse";

Section 009 Additional definitions.

For the purposes of this Chapter, and the administration and/or interpretation of the Nurse Practice Act, the following definitions shall apply:

- (a) "Nurse Practice Act. "Nurse Practice Act" as used in these rules or regulations means PL 14-62, as amended, and codified.
- (b) "Electronic means" includes telephone, video-conference, electronic-telecommunications-mediated written, aural and/or video means, including, but not limited to, mediated through the internet, and/or email.
- (c) "Firm" shall also mean a sole proprietorship, a corporation, a partnership, or a limited liability company.
- (d) "Include" or "including" shall be read as though followed by "but not limited to".
- (e) "Person" includes individual, partnership, firm, association, government entity, limited liability company, or corporation, unless otherwise provided by law.
- (f) "Virtual" or "Virtually" when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.
- (g) In construing these rules or regulations, the singular shall also mean the plural, the masculine the feminine, and conversely.

Section 010 Record keeping.

- (a) The Board shall keep records of all proceedings and actions by and before the Board and before its committees.
- (b) In any proceeding in court, civil or criminal, copies of those records certified as correct by the executive officer of the Board or the Secretary, and under seal of the Board, shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

Section 011 Seal.

The Board shall have a seal and shall provide for its use.

Section 012 Committees.

- (a) An Executive Committee, consisting of the Chair, Vice-Chair, and the Secretary and/or the Treasurer shall have the power to act on behalf of the Board between Board meetings as follows:
  - (1) In emergencies;
  - (2) Where Board action is required on a ministerial act and convenience requires that the action be taken; and
  - (3) Other actions where Board action is required but it is unreasonable to schedule and conduct a Board meeting;
  - (4) Provided that no such action shall violate the open meetings act, the Open Government Act of 1992, 1 CMC § 9901-18.
  - (5) Exception: The Executive Committee shall not have any power or authority as to the following:
    - (i) The adoption, amendment or repeal of these rules or regulations.
    - (ii) The amendment or repeal of any resolution or decision of the Board.
    - (iii) Vacating or discharging Board members.
  - (6) The Executive Committee shall meet from time to time, as the Chair requires.
  - (7) The meetings of the Executive Committee may be conducted virtually, and shall be noticed to the Board with instructions on how to attend a meeting, if virtual.
  - (8) Any Board member shall have the right to attend a meeting of the Executive Committee.
- (b) Standing Committees. The Board, or the Chair with the Board's subsequent approval, may determine and create such standing committees as it believes reasonable or necessary; and it shall determine the duties and responsibilities of each standing committee.
- (c) Special Committees. The Board or the Chair, respectively, may determine and create such special committees as they believe reasonable or necessary.

Section 013 Operations, staff and contractors.

- (a) The Board may enter into such contracts, leases, licenses, and other agreements as it may determine necessary for the conduct of its affairs.
- (b) The Board may employ such staff, agents and contractors, except as provided otherwise specifically by statute or in these rules or regulations, to assist in the performance of its duties, and pay salaries, costs and expenses.
- (c) The Board may appoint an executive officer as its chief operating officer.
  - (1) Such person may be an employee or a contractor.
  - (2) If such person is given the position of "Executive Director", that person shall meet the qualifications of the Nurse Practice Act, including those set out in § 2306(e)(12).
  - (3) Such person shall serve ex officio on all committees, without vote.
  - (4) Such person shall attend the meetings of the Board and may attend committee meetings, and shall make recommendations to the Board.
  - (5) Except as otherwise provided by law, the Board may furnish a bond for the executive

officer and other staff, the cost of which bond shall be paid from the Board's funds.

- (d) The Board may collect, receive and disburse funds as provided by law, and may delegate such functions to its executive officer.

Section 014 Advisory Committees.

The Board may, for the purpose of obtaining technical expertise and public input, appoint advisory committees of non-Board-members to provide advice and assistance related to the Board's functions. Such committees shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report findings and/or make recommendations from any investigation, deliberation or hearing.

Section 015 Conflict of Interest.

- (a) No member of the Board, or any business in which a Board member or her/his immediate family serves as staff, officer, owner or director, or by contract represents, shall transact any pecuniary business of any kind with the Board, unless the following preconditions are met:
  - (1) Notification to all Members in advance, in writing, or by oral notification to the Members in a meeting at which the notification is transcribed and placed in the minutes of the Board, of his/her potential business or personal interest in the transaction; and
  - (2) The Member abstains from Board vote regarding the transaction; and
  - (3) The vote of each Member is recorded.
- (b) Loans to Officers and Members Prohibited.
  - (1) No loans shall be made by the Board to its Members or to members of their immediate families.
  - (2) The Members who vote for, or assent to, the making of a loan to a Member, and any officer of officers participating in the making of such loan, shall be jointly and severally liable to the Board for the amount of such loan until the repayment thereof, and their action shall not be subject to indemnification.
  - (3) Exception: The following undertaken on behalf of, or for the benefit of, the Board shall not be a loan within the meaning of these rules or regulations:
    - (i) An advance to participate in a conference, meeting or other event.;
    - (ii) An advance for a filing with a government agency or membership organization; or
    - (iii) An advance made pursuant to an indemnification.

Part 00100 Administration and Conduct of Meetings

Section 001 Business meetings.

- (a) The Board shall conduct its affairs at its meetings.
- (b) All meetings of the board shall be open and public, as provided by law.
- (c) Quorum. The quorum for a meeting shall be four (4) members, as required by 3 CMC § 2306(d).

- (d) Notice to the members of regular meetings shall be given at least seven days in advance by the Chair or, upon the Board's designation, by the Chair, Acting Chair or executive officer.
- (e) Notice of meetings may be waived in writing either before or after the meeting by unanimous consent of all members.
- (f) The Board shall meet at the call of the Chair or the executive officer, but not less than twice each year.
- (g) Any two members of the Board may call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.

Section 002 Executive session.

- (a) The Board may hold executive sessions as provided by law.
- (b) Specifically, and without limitation, the Board may deliberate in executive session:
  - (1) on the decision to be reached upon the evidence introduced in a quasi-judicial proceeding;
  - (2) on personnel matters;
  - (3) on litigation or other legal matters;
  - (4) on matters put out for bid or quotation for which confidentiality is required;
  - (5) on matters related to individual tests; and
  - (6) to prepare, approve, grade, or administer examinations.

Section 003 Notice.

- (a) Notice to the Members shall be given in any way, including virtually, reasonably calculated to give actual notice. When other notice may not be given, notice shall be given by US Postal Service, first class mail, and shall be deemed given when mailed.
- (b) Notice to the public shall be given as provided by statute.

Section 004 Robert's Rules of Order.

Meetings of the Members shall be conducted according to Robert's Rules of Order, most recent revision, unless:

- (a) otherwise specified in these Rules or Regulations, or otherwise by law; or
- (b) the rules of order are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.

Section 005 Reserved

Section 006 Reserved

Section 007 Public Meetings

- (a) In general.
  - (1) The Board shall act at its meetings, or as otherwise provided in these Rules or Regulations.
  - (2) The Board shall make provision for the virtual attendance of Members, if a Member so

- requests.
- (3) Meetings shall be noticed as required by law.
  - (4) A copy of meeting materials distributed to the Members shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.
- (b) Time. The time for the regular meetings of the Board shall be set by the Board each year and published, except as otherwise permitted or provided by law.
  - (c) Location.
    - (1) Meetings shall be held at such place as the Chair may determine unless otherwise provided by the Board, and the location shall be properly noticed to the public.
    - (2) The Board may meet virtually, and any Member may attend a meeting virtually.
    - (3) When the Board meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any person attending shall have the same access to the meeting as each attending Member at the site. Typically this will include use of a speaker phone for a conference call meeting.
    - (4) Votes of Members may be received by electronic means and announced at a meeting.
  - (d) Regular Meetings.
    - (1) Regular meetings shall be held as determined by the Board's Rules or Regulations and as additionally determined by the Board.
    - (2) Pursuant to 3 CMC § 2306(d), the Board shall meet annually in January.
  - (e) Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Board.
  - (f) Executive Session. Ordinarily the Board's meetings shall be open to the public. The Board may meet privately, in Executive Session, for the following purposes:
    - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
    - (2) To discuss pending or potential litigation or investigations;
    - (3) To discuss aspects of the Board's business affairs that are confidential and/or proprietary by law;
    - (4) To address a matter that may give rise to a conflict of interest, or an appearance of a conflict, in the absence of the Member(s) related thereto; and
    - (5) To address other matters permitted by law.
  - (g) Virtual discussions.
    - (1) The Board may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given so that a person seeking to review the discussion as it happens shall have substantially the same access to the discussion as each participating Member.
    - (2) Typically such a discussion shall be by electronic bulletin board open to the view of the public.
    - (3) Such discussion shall be noticed according to these Rules or Regulations and shall comply with CNMI law regarding open meetings.
    - (4) The Board shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
  - (h) Accessibility. The Board shall comply with the accessibility requirements required by law and

may, upon a person's request accommodate other special needs relating to sight, sound, language or location.

(This part is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and PL 14-62 § 2306(c),(d), and (e)(10) (powers of the Board as to rules and maintaining records of proceedings.)

Part 00600 Procedures for disciplinary actions, violations of law and other matters (per 3 CMC § 2314(d))

Section 001 Policy on Board procedures. The following constitute the Board's statement of policy on its procedures:

- (a) The Board wishes to emphasize that the purpose of our procedures is fairness. That means if one party to a case wishes to tell us something on the law or the facts applicable to the case, ALL parties must be given a copy of the communication or participate in it, if the communication is to be in-person.
- (b) Settlements and informal resolutions are encouraged.
- (c) As to the law, the Board urges parties to provide us with well-supported, reasoned submissions. If a party believes that we should, or should not, do something, or decide something, we encourage providing us with clearly reasoned materials supported by the authority of statutory and regulatory language and case law.
- (d) As to facts, the Administrative Procedure Act generally requires us to decide our cases "on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative, and substantial evidence" (1 CMC sec. 9109(l)). We generally follow the CNMI Rules of Evidence, except when a proceeding is clearly not the formal type requiring reliance on court-type evidence. We also follow the dictates of the CNMI Administrative Procedure Act, 1 CMC sec. 9101 et seq., and commonly accepted authority on the "relaxed" nature of the application of rules of evidence in administrative proceedings.
- (e) In general, the Board intends to follow the ethics rules found in the Code of Judicial Conduct for the Commonwealth Judiciary to the extent they are relevant to the Board's proceedings. These are reported by the Law Revision Board at [www.cnmilaw.org](http://www.cnmilaw.org). The Board does not, and will not, engage in ex parte communications on issues which we must decide. These are typically issues of fact and of law.

Section 002 Practice and procedures.

- (a) NOTICE: A person charged with a violation of the Nurse Practice Act, or otherwise subject to discipline, shall be given written notice and an opportunity for a hearing. When the nature of the matter permits, a person shall be given an opportunity for an informal pre-hearing conference with the Board's staff.
- (b) GENERAL STATEMENT. If there is doubt as to a procedure or practice to follow, parties shall follow the CNMI Rules of Civil Procedure and the CNMI Rules of Practice for the courts, subject to the Board's or the hearing officer's relaxation of the more formal aspects of such rules.
- (c) REPRESENTATION OF A PARTY.
  - (1) A natural person may represent her/himself and must sign each and every submission to the Board as "true subject to the penalties of perjury".

- (2) Agencies, corporations and other non-natural-persons shall be represented by an attorney. The Board, or its hearing officer, on good cause shown, may relax the requirement an entity other than a natural person must be represented by an attorney.
  - (3) An attorney shall file an appearance and include her/his contact information, including email, and CNMI Bar number. Attorneys or the party that they represent must sign each of the submissions.
- (d) **DUE DATE.** The due date means 4:30 p.m. on the indicated date. The Board's offices close at 4:30 p.m. If a due date falls on an official CNMI holiday or on a weekend or other date when the Board's offices are closed all day long, the next CNMI government work day is the due date. Electronic filings are due by 11:59 p.m. of the due date.
  - (e) **ELECTRONIC FILINGS.** An electronic filing is a filing by email or fax. The Board encourages email filings. The Board will accept attached files in .doc, .wpd, .rtf, and related formats, and requests all persons so filing to maintain up-to-date versions of anti-virus software and appropriate protective patches to their software.
  - (f) **FILED.** Filed means both: (1) physically delivered to the Board's offices or mailed with postmark by the due date AND (2) with a copy provided electronically to the Board. The time the document is emailed or physically mailed, whichever is earlier, is the filing time. (This definition gives a party a time advantage for email filings.)
  - (g) **SERVED OR SERVICE.** Service of documents on parties to Board proceedings who are entitled to service, and/or others identified in an order or official service list, shall be accomplished in the same manner as the filing.
    - (1) Thus, if a document is only filed in hard copy, the filing party is required only to provide it in hard copy to others.
    - (2) If a document is filed electronically, the filing party must provide it concurrently to the other parties in the same electronic format, unless another party waives such service.
    - (3) Since all parties must still file a hard copy, a filing party must also mail or otherwise deliver a hard copy to other parties. But the Board intends that timely service may be accomplished upon the electronic filing.
  - (h) **MANNER OF SERVICE or MANNER SERVED** means at least one of the following measures to assure receipt:
    - (1) Hard copy: Mailed by first class mail, postage prepaid, United States Postal Service mail to the person's previously communicated address, or by USPS or commercial overnight mail.
    - (2) Fax: Faxed to the person's previously communicated fax number/address, with a report of the transaction produced by the sending fax machine.
    - (3) Emailing means sending from the writer's computer system to another computer(s) on the internet and is typically evidenced by an electronic time stamp. Emailing is accomplished to the receiving person's previously communicated email address, with an instruction to generate "return receipt" email, and, if a receipt is generated and received, saved by the sender.
  - (i) **CERTIFICATE OF SERVICE.** A person submitting or otherwise filing a document with the Board in a proceeding shall file a certificate of service attesting to the provision of a copy of the

document to each other party. The certificate of service shall state substantially as follows, filling in the appropriate blanks: "I [name and identification], provided a copy of the following document/s to the following people or parties by doing the following on the following date:

- (1) date:
- (2) document/s:
- (3) method of service:
- (4) addressee/s and/or number:
- (5) 'Signed under the penalties of perjury'."

Section 003 Other practice and procedure.

- (a) The specific statements and requirements of the Board's opinions and orders, rules, regulations and guidelines control over the following general statements.
- (b) In general, the Commonwealth Rules of Civil Procedure shall apply to the Board's proceedings. These are reported by the Law Revision Commission at [www.cnmilaw.org](http://www.cnmilaw.org).
- (c) In general, the Commonwealth Rules of Evidence shall apply to the Board's evidentiary proceedings, consistent with principles of administrative law for the "relaxed" receipt of reliable, probative and substantial evidence in order to make just determinations. These rules are reported by the Law Revision Commission at [www.cnmilaw.org](http://www.cnmilaw.org).
- (d) In general, counsel practicing before the Board should conduct themselves according to the Commonwealth Rules of Practice and the Commonwealth Disciplinary Rules and Procedure.






COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
**Medical Profession Licensing Board**

NOTICE AND CERTIFICATION OF ADOPTION  
OF AMENDMENTS TO THE  
MEDICAL PROFESSION LICENSING BOARD REGULATIONS

I, Norma S. Ada, Chairwoman of the Medical Profession Licensing Board certify that the amendments to the regulations regarding the fees charged for licensing and other services that was published in the Commonwealth Register, Volume 29 Number 09 at pages 26796 to 26804 on September 17, 2007 are a true, complete and correct copy of the Regulations previously adopted, after the expiration of the time for public comment, have been finally adopted without modification. 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 this 1<sup>st</sup> day of November, 2007.

  
\_\_\_\_\_  
Norma S. Ada, Chairwoman

Filed By:   
\_\_\_\_\_  
Bernadita B. De la Cruz  
Commonwealth Registrar

11-6-07  
Date

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

  
\_\_\_\_\_  
Mathew T. Gregory  
Attorney General

11/19/07  
Date

**PUBLIC NOTICE**

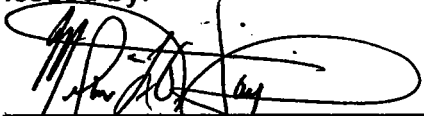
**NOTICE OF ADOPTION OF REGULATIONS FOR  
GARAPAN STREET MARKET**

The Department of Community & Cultural Affairs, hereby notifies the public that it proposes to adopt the following regulations pursuant to 1 CMC § 2354.

These regulations describe the purpose, goal and policies for the Garapan Street Market.

In accordance with 1 CMC § 9104(a), the public has the opportunity to comment on the proposed regulation. Copies of the proposed regulations are available at the Department of Community & Cultural Affairs Office, 1341 Ascension Ct, Capitol Hill, Saipan MP 96950. Written comments should be submitted to: DCCA, Caller Box 10007, Saipan MP 96950. Comments must be received by DCCA within thirty (30) days of the date this notice is published in the Commonwealth Register.

Issued by:

  
\_\_\_\_\_  
Daisy Villagomez-Bier  
Secretary Dept. of Community & Cultural Affairs

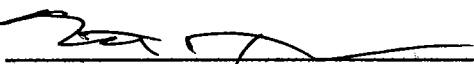
Date 11/16/2007

Received by:

  
\_\_\_\_\_  
Special Assistant for the Governor


Date 11/16/07

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

  
\_\_\_\_\_  
Attorney General

Date 11/19/07

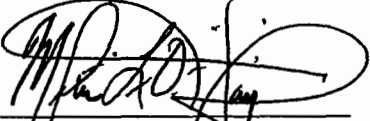
Filed by:

  
\_\_\_\_\_  
Bernadita B. Deal Cruz

Date 11-16-07

## Notisian Ppubliku

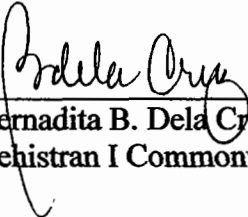
Tinige' opinion siha pot I sigente na propositu regulasion siha u mana fan hãlom gi Ofisinan I Dipãttamenton I Asunton Komunidãt yan Kuttura, Caller Box 10007, Saipan MP 96950.

Ninahalom as:   
Daisy Villagomez-Bier  
Sekretãria, DCCA

11/16/2007  
Fecha

Maresibe' as:   
Esther S. Fleming  
Espesiãt Na Ayudãnte Para I Atministrasion

11-16-07  
Fecha

Pinelo' yan  
Marikot as:   
Bernadita B. Dela Cruz  
Rehistran I Commonwealth

11-16-07  
Fecha

### Setifikasion Ginen I Ofisinan I Abugãdu Henerãt

Sigun I kodigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Ppubliku 10-50, I propositun I regulasion siha ni man che'che'ton esta man maribisa yan aprueba kumo echo yan ligãt ginen I Ofisinan I Abugãdu Henerãt.

  
Abugãdu Henerãt

# REGULASION YAN AREKLAMENTO SIHA PARA I METKÃO I GARAPAN STREET MARKET

## ATTIKULU I:

### Propositu, Diniseha yan Estruktura:

- 1.1 I propositun I Metkão I Garapan Street Market giya Saipan para u atbansa I sinenten komunidat pot minagof yan interes para I uriyan Saipan. Spesifikatmente I aktibidat siha para u:
  - a) Na guaha maolek na espehos para I Distriton Garapan;
  - b) Na guaha lugat dinanña para I residente yan turista siha para u magosa I abundansia na guinaha, talento yan produkton I taotao-ta (local ) siha;
  - c) Na guaha dinanña aktibidat komunidat ni para u susteni yan praktika yan u mafatta (exhibition) I sustansian kultura yan tradision siha.
  - d) Masusteni I espehos I espisiat na distritu gi komunidat; yan
  - e) a asiste entero I komunidat.
- 1.2 Intension I Metkão I Garapan Street Market para u na guaha siha aktibidat anai siña u atbansa entieru I uriyan I familia siha. I Metkão a aliligao aktibidat siha anai, solamente osino man grugrupo, parehu man hoben yan man amko, pot para u maprobeniyi I kometsiante siha katkuet manera para I lugat I metkão. **Todu I aktibidat siha debi di u fan konsiste yan este siha na diniseha.**
- 1.3 Ma'otganisa I Metkão I Garapan Street Market ni I Ofisinan I Dipattamenton I Asuntun Komunidat yan Kultura ya masupotta ni I koporasion I man sigente siha na otganisasion yan ahensia siha: Bureau of Environmental Health and Sanitation, papa I Dipattamenton I Hinemlo' Publiku, Dipattamenton I Sinafu Publiku Dibision I Pulisia yan Guafi, Dipattamenton I Sitbisiun Publiku, Marianas Visitors Authority (MVA), Dipattamenton I Tano' Publiku, Coporate Sponsors, Man Amigun I Metkão, yan man Baluntataro siha.
- 1.4 Todu I aktibidat siha papa I supottasion I Kabiseyon I Metkão I Garapan Street Market yan I konsutasion I Sekretarian I DCCA ni man ma'entrega ni aturidat para u marebisa I aplikasion planun I aktibidat yan inatbansa, yan I enfuetsamente nui areklaemento yan regulasion siha. I areklamento yan regulasion siha siña man marebisa gi I diskripsion I Kabiseyon I Metkão I Garapan Street Market yan I konsutasion yan kininfotmen I Sekretarian I Dipattamenton I Asuntun Komunidat yan Kultura (DCCA).

## **Attikulu II**

### **Oran I Operasion I Metkáo**

- 2.1 I Silebrasion I Metkáo I Garapan Street Market siempre Agostu 2007 esta Agostu 29, 2008.  
**(Siempre táya metkáo I Garapan Street Market gi Noche Buena (Christmas Eve) yan Año Nuebu (New Years Eve yangggen poddong gi puengen Huebis)**
- 2.2 I oran operasion I metkáo I Garapan Street Market I sigente oran alas singko gi pupuenge esta alas nuebu gi pupuenge (5:00pm-9:00pm)
- 2.3 Mahuchon siempre I chalan gi eksakto oran alas dosse gi talo'áne (12:00pm).
- 2.4 I man patisipapáo siña matutuhon prumipára siha maseha háfa na ora kumo esta mahuchom I chalan.
- 2.5 I booth infotmasion I Metkáo siempre mababa gi oran kinse minutus pasáo alas kuáttro gi talo'áne (4:15pm) pot para u ma'asiste I patisipánte siha ya siempre mahuchom gi oran alas nuebe gi pupuenge (9:00pm)
- 2.6 Todu I kareta siha debi di hiyong I barricade na lugát gi oran kuarentai-singko minutus pasáo alas kuáttro gi talo'áne(4:45pm).

## KONTRÁTA

I Aplikánte/Man bebende konfotme yan a protehi I Metkáo I Garapan Street Market/Dipáttamenton I Asunton Komunidát yan Kuttura (DCCA) I ofisiát yan empleáo siha kontra todú I keha pot minalingo siha parehu ha entero osino pátte ginen I deskuidon I aplikánte, petsonan ahensia siha pat empleáo niha yan lokkue yanggen ginen I linache pátte ginen I DCCA Garapan Street Market pat I man kamagas yan empleáo siha. I aplikánte ha taitai todú I guaha na regulasion yan areklamento siha pot I kinalamten yan manehánten I Metkáo I Garapan Street Market ya I aplikánte konfotme nu I regulasion gi sanhalom.

I Man Bebendi gi Garapan Street Market:

\_\_\_\_\_   
 Imprinta yan Fitma

\_\_\_\_\_   
 Fecha

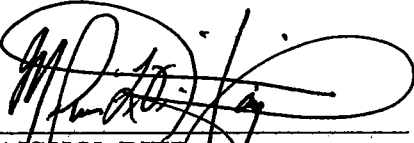
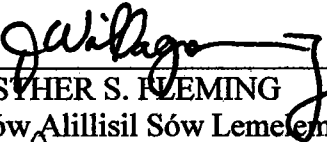
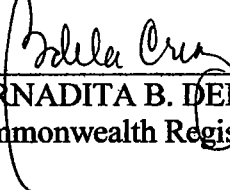
Garapan Street Market/DCCA:

\_\_\_\_\_   
 Imprinta yan Fitma

\_\_\_\_\_   
 Fecha

## Arongol Toulap

Reel mángemángimi me máfiyámi reel tingórol pomwol allégh kkaal, ów akkafang ngáli Bwulasiyool DCCA reel Caller Box ye 10007, Seipél MP 96950.

Isáliyallong:		<u>11/18/07</u>
	DAISY V. BIER	Rál
	Samwoolul Bwulasiyool DCCA	
Mwir sángi:		<u>11-16-07</u>
	ESTHER S. FLEMING	Rál
	Sów Alillisil Sów Lemelem	
Aisis sángi:		<u>11-16-07</u>
	BERNADITA B. DELA CRUZ	Rál
	Commonwealth Register	

### Alúghúlúgh mereel Bwulasiyool Sów Bwungul Allégh Lapalap

Sángi allégh ye 1 CMC, Talil 2153, iye aa ssiwel ngáli Allégh ye 10-50, pomwol allégh kkaal aa filló me alúghúlúghúló sángi Bwulsaiyool Sów Bwungul Allégh Lapalap

  
Sów Bwungul Allégh Lapalap

Garapan Street Market  
Allégh me Ammwel  
Talil Eew (1)

Bwungul, Goals me Structure:

- 1.1 Bwungul Garapan Street Market mellól Arabwal reel mewóól Seipél igha ebwe amwóllaló mwaayúl máfiyeer llól sóbweey reel meseighil weleoról faleey. E ipighil ayoora bwelle ebwe:
  - (a) Yoor kkepas fischil apilómw ye Arabwal;
  - (b) Ayoora leliyel jaar schu schóóy faleey me schóóy tooto (tourists) bwe rebwe meseigh ágheli toulapal ngúlúwal ghuleyeer me jaar angaang;
  - (c) Ayoora schulapal urul sóóbw llól ammwelil me aisisil igha ebwe bwáári ngúlwal kkool ighila me mwey we.
  - (d) Lugheey iit fischil sóbweey; me
  - (e) Schiyeli lapalapal sóóbw, me faleey
- 1.2 Garapan Street Market e tipeli ebwe ayoora toulapal uur kka ebwe fisch ngáliir schulapal lefileer schó (famillia). Leliyel akkame yeel akkááw tappal uur ye e fil ngáliir alongeer olighát me tufey me alongal tappal akkamééló mellól bwuleyúl akkamé. Alongal nge ebwe fil fengál me aghiyeghil me ngáre tingor kkaal.
- 1.3 E bwunguló Garapan Street Market faal lemelemil Bwulasiyool Ammwelil Soobew me kko, Mwiisch me jaar aschischilong bwulasiyo kkaal; Bureau of Environmental, Health and Sanitation faal Bwulasiyo kka Public Health, Public Safety, Fire me Police Public Works, Marianas Visitors Authority (MVA) Public Land, Corporate Sponsors, Friends of the Market me Volunteers.
- 1.4 Alongal mwóghutughut nge faal bwángil Assamwoolul Garapan Street Market sáangi alúghúlúgh mereel Samwoolul Bwulasiyool Ammwelil Soobw me kko (DCCA)

Talil Ruwoow (II)

Ótol Mwóghutul Leliyel Akkame

- 2.1 Ótol leliyel akkaméló ye Garapan Street Market nge llól Ógosto 2007 mwet ngali Ogosto 29, 2008. (Ebwe til Leliyel Akkame yeel llól fááfil X-Mas me Ragh ffe ngare e ppung Weipis).
- 2.2 Ótol igha ebwe ghal suusu nge 5:00, lefááf mwet ngali 9:30 leebwong.
- 2.3 Rebwe pileey aal llól ótol 12:00, lealawas.
- 2.4 Schóóy akkaméló aa mmwel rebwe ammwala leliyeer, ngare schagh raa pileiló bwuley.



2.5 Booth ye leliyel Ammataf ebwe suusu ótol alas 4:15 lefááf, igha rebwe alillis nge aa titiló otol 9:00 leebwong.

2.6 Alongal ghareeta / tombiil, nge ebwe lo lughul bwuley ye re pileey llól ótol 4:45 lefááf.

### Appúlúghúlúgh

Schóóy Tingór/kkameló re bwunguw bwe rebwe tepengi, essóbw yoor aweires me ammwel ngali Garapan Street Market/Bwulasiyool Ammawelil Sóóbw me Kko (DCCA), assamwool me schóóy angaang sangi me kkof sefang llól alongal schinngów, ffeyir me ngare malingu kka e toowow bwelle fériyeer layer aramas, agent me ngare iir schóól tingor (applicant) me applicant e bwunguw bwe ngare mwo weires me filiwos kkaal e toowow mereer allimeisa mereel DCCA, Garapan Street Market Assamwool me schóóy angaang. Applicant aa areghi alongal alléghúl, mwóghutugutul me lemelemil Garapan Street Market; me alongal Regulatory Agencies me masamasal allegh me ammwel nge schóóy tingor e bwunguw aweewe kka llól.

Garapan Street Market Vendor: \_\_\_\_\_ Rál \_\_\_\_\_  
Print me Sign

Assamwoolul GSM/DCCA: \_\_\_\_\_ Rál \_\_\_\_\_  
Print me Sign

# GARAPAN STREET MARKET RULES & REGULATIONS

## **Article I:**

### **Purpose, Goals and Structure:**

1.1 The purpose of the Garapan Street Market in Garapan Special District on Saipan is to promote a feeling of community pride and enthusiasm for Saipan and its surrounding environment. Specifically, the event is designed to:

- a) create a positive image for Garapan Special District;
- b) provide a gathering place for residents and tourists of all ages to enjoy the bounty of local talents, produce's, and products;
- c) provide a forum for community activities;
- d) maintain the downtown identity important to a community's self-image; and
- e) enhance the community as a whole

1.2 It is the goal of the Garapan Street Market to stage an event with activities that promote a wholesome, family atmosphere. The Market seeks activities which, individually or in combination with other activities, appeal to both young and old, and provide a consumer mix that reaches all aspects of the marketplace. **All activities must be consistent with these goals.**

1.3 The Garapan Street Market is organized by the Department of Community and Cultural Affairs (DCCA) and supported through cooperation with the following organizations and agencies: Bureau of Environmental Health and Sanitation under the Department of Public Health, Department of Public Safety Fire and Police Division, Department of Public Works, Marianas Visitors Authority (MVA), Corporate Sponsors, Friends of the Market, and Volunteers.

1.4 All activities are under the auspices of the Garapan Street Market Chairperson and in consultation with the Secretary of DCCA in whom are given the authority to review applications, plans events and promotions, and enforces all rules and regulations. The rules and regulations may be revised at the discretion of the Garapan Street Market Chairperson in consultation with the head of the department and or the concurrence of the Secretary for the Dept. of Community & Cultural Affairs (DCCA).

## **Article II:**

### **HOURS OF MARKET OPERATION:**

2.1 The Garapan Street Market Season will be *August 2007 through August 29, 2008.* *(There will be NO Market on Christmas Eve and New Year's Eve should it falls on Thursday.)*

2.2 The Garapan Street Market hours of operation are *5:00 p.m. to 9:30 p.m.*

2.3 The street will be barricaded at approximately *12:00 p.m.*

2.4 Participants may begin set-up at any time after their segment of the street is fully closed to traffic.

2.5 The Market Information Booth will be open at *4:15 p.m.* to assist participants and will close at *9:00 p.m.*

2.6 **ALL VEHICLES MUST BE OUT OF THE BARRICADED MARKET AREA BY 4:45 P.M.**

*Proposed Rules and Regulation*

*Garapan Street Market (GSM)*

*11/16/2007 3:03:47 PM*

*Drafted by: Melvin LO Faisao*

*Concurred by: Daisy C. Villagomez Bier, Secretary, DCCA*

2.7 All participants shall have their set-up complete at 5:00 p.m. A walk-through inspection will take place each Thursday at approximately *4:55 p.m. To 5:15 p.m.*

2.8 Vehicles may re-enter the street to take down booths and activities **NO EARLIER THAN 9:00 p.m.**

2.9 All booths and equipment must be out of the street by *10:15 p.m.*, so the police can open the street for traffic.

2.10 **THERE ARE NO REFUNDS FOR RAINED OUT MARKETS AND OR OFFICIAL CEASE OF OPERATION DUE TO EMERGENCY CALAMITIES AS PROVIDED BY CNMI EMERGENCY MANAGEMENT OFFICE.**

### **Article III:**

#### **General Policies and Operating Procedures for All Participants:**

3.1 ALL PARTICIPANTS MUST COMPLY WITH ALL OF THE POLICIES, RULES, REGULATIONS AND OPERATING PROCEDURES OF THE GARAPAN STREET MARKET. NON-COMPLIANCE INCLUDING OFFENSIVE CONDUCT, BREACH OF THESE RULES, REGULATIONS AND POLICIES, REFUSAL TO COOPERATE WITH GARAPAN STREET MARKET PERSONNEL (INCLUDING VOLUNTEERS) MAY RESULT IN IMMEDIATE SANCTIONS, INCLUDING REVOCATION OF THE PERMIT, REMOVAL FROM THE MARKET WITH FEES NOT REFUNDED, AND POSSIBLE PERMANENT EXCLUSION FROM FUTURE PARTICIPATION IN THE GARAPAN STREET MARKET'S FUNCTIONS OR OPERATIONS.

3.2 All booths and activities will be open and operating during all the hours the Market is open to the public, unless a written request is submitted in advance to Garapan Street Market management and approved.

3.3 All sales, activities & entertainment will commence at opening time & will cease at closing time. Participants who open early or who do not close on time may not be permitted to open the following week, & their fees will not be refunded. Arrangements for disposal of all leftover food should be made prior to closing time.

3.4 All selling activities, entertainment and informational activities must take place entirely within the assigned space and outside of the required fire lane area. It is the responsibility of participating organizations to keep their staff and volunteers entirely within the space assigned.

3.5 It is the responsibility of all participants to notify the Garapan Street Market Chairman, Coordinator or DCCA of any changes in leadership within the organization or seek prior approval for changes in proposed activities, items for sale, menus or prices.

3.6 Participants in Garapan Street Market shall be appropriately dressed (e.g. shirts and shoes), and conduct themselves with proper decorum. With the exception to entertainers attires.

3.7 No person shall deface or otherwise abuse public or private property, and shall not use any public or private facilities or structure for electricity, water, or otherwise without the prior consent of the Garapan Street Market/DCCA, Department of Public Land, or owner of the facility or structure.

3.8 All participants shall set up their area in a safe manner. All electrical cords on the ground will be taped securely and completely covered. All barbecue units will be barricaded from the public. Structures, signs and equipment will be secured against wind.

3.9 All participants shall keep their area clean during the Market and leave the space surrounding their area clean after the Market.

3.10 Participants shall reimburse the Garapan Street Market or DCCA for any costs incurred relating directly to their activity.

3.11 No person participating in the Garapan Street Market shall state, imply or otherwise suggest that the Garapan Street Market, its officer or employees, or its sponsors endorse or support the views of his or her organization.

3.12 Alcoholic beverages may not be sold, consumed, or advertised at the Garapan Street Market.

3.13 **Merchant's show windows may not be obscured at any time by boards, banners, or other large displays.**

3.14 The Dept. of Community and Cultural Affairs (DCCA) and the Garapan Street Market Committee are not responsible for theft or damages to property belonging to persons participating in the Garapan Street Market. The Garapan Street Market assumes no responsibility for items left unattended before, during, or at the conclusion of Market activities.

3.15 The Garapan Street Market and or DCCA reserves the right to revoke the permit and/or order the removal of all equipment and material belonging to a participant from the Market boundaries for any reason deemed necessary to better meet the goals and purposes of the Garapan Street Market or for public health, safety and welfare, and fees shall not be refunded.

#### **Article IV: Participation and Application:**

**Participation is limited to:**

4.1 Established food service businesses that wish to sell barbecued, pre-prepared or pre-packaged foods for consumption at the Market.

4.2 Artists and Craftspeople who wish to sell their own locally **handmade** Arts and/or Crafts, without any exception to imported handicrafts and other materials.

4.3 Community Service Agencies who wish to tell their story, showcase and or exhibit to Market attendees.

4.4 Certified growers who wish to sell their agricultural produce.

4.5 Entertainers whose talents are deemed by the selection committee to be attractive to families, youngsters and/or senior citizens.

4.6 Processed Food Vendors, who wholly produce, manufacture & package products for sale that aren't ready-to-eat.

4.7 Corporate Sponsors who contract directly with the Garapan Street Market.

**The Selection Process:**

4.8 All participants must apply in writing to the Garapan Street Market (GSM) on a Market Application.

4.9 Application for participation in any Market activity is an offer to contract with the Garapan Street Market subject to the provisions stated on the Application Form and the Market Rules

and Regulations. Acceptance by the Garapan Street Market of an application constitutes acceptance of that offer to contract.

4.10 Applications are reviewed to determine space availability and the extent to which they meet Market objectives and selection priorities.

4.11 Approved applicants are offered an invitation to participate.

4.12 Approved applicants must provide to the Market the following (no less than one (1) month before initial participation):

- a. Necessary fees (non-refundable) as applicable (see application and fee section)
- b. Copies of necessary licenses and permits from regulatory agencies
- c. Insurance Certificate, if required (see application)
- d. All other documentation required on each specific application (see application for details)

4.13 When all documents and fees are received, Market management/ assigns space.

4.14 Selection to participate is for one Market Season only, or for period applied for, whichever is less.

4.15 Failure to be recommended by the selection committee (even after recommendation in previous years) is not necessarily a reflection on any group's past performance or current potential. Space requirements, need for change, mix of activities/products at the Market, operational needs, and scheduling are factors evaluated by the Selection Committee that do not reflect on any individual's or group's abilities but which must be considered when inviting participants.

**Event Operational Policies:**

4.16 Participation privileges may NOT be assigned, transferred, or sold.

4.17 **Once space is allocated, participation is required or future application may be denied, and no prepaid fees will be refunded.**

4.18 Participants will be assigned space locations at the discretion of the Garapan Street Market Chairman/Coordinator or conformity to Garapan Street Market/DCCA approved site designation.

4.19 The number of spaces to be allotted to each type of vendor or other participants will be determined by the Garapan Street Market Chairman/Coordinator.

4.20 Participants shall limit sales and activities to items specified on the application, unless prior consent of the Market is obtained.

4.21 Under the street closure or other relevant permits issued by the CNMI Government, the Garapan Street Market/DCCA has full discretion concerning the use of the area designated for the Garapan Street Market.

4.22 The person in charge of any activity must be in possession of a valid Market permit at all times during set-up, operation and dismantling. The permit is to be clearly displayed during operation. Additionally, if the activity involves food sales, the participants must also have all relevant documents or permits demonstrating compliance with all applicable governmental regulations, statutes and mandates.

4.23 It is the responsibility of approved applicants to have their Market permit. Permits not received in the mail may be picked up at the Market Information Booth after 4:15 p.m., but before 4:45 p.m., on Thursday.

4.24 The Garapan Street Market permit may be revoked for any one of the following reasons (which are not all-inclusive):

- a. Non-compliance with these or any other provisions of the Garapan Street Market Rules and Regulations;
- b. Or any applicable governmental regulations, statues and ordinances, including DPS Fire Department, and Department of Health Rules and Regulations, CNMI Public Law 12-48 and CNMI Public Law 11-40 [3 CMC § 2711-2781, Article 2 (Regulation of food)]. Fees will not be refunded;
- c. Violations to CNMI Public Law 9-22 and or requirements of CNMI Public Law 11-73;
- d. Non-payment of prescribed fees within the designated time period; and
- e. **Poor attendance.** (Vendors who are assigned space and do not attend are subject to Loss of participation privileges for the Market Season, and fees shall not be refunded.)

## **Article V:**

### **Regulatory Agencies and Market Participants:**

*(Department of Public Health Bureau of environmental, health and sanitation division, Department of Public Safety fire division and police division, Marianas Visitors Authority, Department of Commerce division of Alcoholic, Beverage & Tobacco Control, Department of Public Works, and DCCA)*

5.1 Where applicable, regulations of the Department of Public Health, Department of Public Safety, Department of Public Land, Department of Public Works, Department of Commerce-Alcoholic Beverage and Tobacco Control Act must be adhered to by all Garapan Street Market Participants or vendors.

5.2 It is the responsibility of the Participant to obtain all permits and licenses applicable to participation at the Garapan Street Market, including, but not limited to, Department of Finance Business License, and any necessary permits required for food preparation issued by the Department of Public Health.

5.3 Fees for all necessary permits and licenses are the responsibility of the Participant.

5.4 The laws regarding sales tax are complex. It is the responsibility of the Participants/vendors, not Garapan Street Market/DCCA, to determine their tax status with regard to local, state and federal statutes and regulations, in particular state sales tax on all items, foods, and drinks sold at the Market.

5.5 The laws regarding food sales are complex. It is the responsibility of the Participants/vendors, not the Garapan Street Market/DCCA, to determine the Health and Safety Code Requirements and ordinances applicable to any food preparation, presentation and sales.

5.6 The laws regarding certified produce sales are complex. It is the responsibility of the Participants, not the Garapan Street Market/DCCA, to determine the Division of Agriculture under Department of Lands and Natural Resources on Requirements and certification applicable to any produce preparation, presentation and sales.

5.7 Violation of any existing statutes or regulations from Department of Public Health, Department of Lands and Natural Resources, Department of Public Safety, Department of Public Works, Department of Public Land, and Department of Commerce on Alcoholic Beverage and Tobacco Control regulations is grounds for immediate booth closure.

**NOTE: NO ALCOHOLIC BEVERAGE SALES ARE PERMITTED WITHIN THE DEPARTMENT OF PUBLIC LAND (DPL) APPROVED BOUNDARIES OF AND FOR THE GARAPAN STREET MARKET.**

## **Article VI:**

Garapan Street Market Proposed Rules & Regulation

5

11/16/2007 3:03:47 PM

Prepared by: Melvin LO Faisao, Deputy Secretary-DCCA/Chairman GSM

Reviewed by: Daisy C. Villagomez Bier, Secretary, DCCA

## Equipment and Services

**6.1 THE GARAPAN STREET MARKET/DCCA IS UNDER NO OBLIGATION TO PROVIDE MORE THAN (2) 110 VOLTS ELECTRICAL POWER OUTLETS AND LIGHT SOCKET. FURTHERMORE, THE GARAPAN STREET MARKET/DCCA IS ALSO UNDER NO OBLIGATION TO PROVIDE WATER, TABLES OR ANY EQUIPMENT TO PARTICIPANTS. PARTICIPANTS MUST PROVIDE OR ARRANGE FOR SERVICES AND EQUIPMENT THEMSELVES, AND NO FEES WILL BE REFUNDED FOR PARTICIPANT'S FAILURE TO MAKE SUCH ARRANGEMENTS.**

**6.2 THE GARAPAN STREET MARKET/DCCA MAY PROVIDE IN SERVICE TRAINING TO THE PARTICIPANTS/VENDORS ON THE GARAPAN STREET MARKET RULES AND REGULATION AND MAY ACT AS LIAISON ON BEHALF OF THE PARTICIPANTS/VENDORS IN AVAILING INFORMATION(S) FROM OTHER AFFECTED GOVERNMENT AGENCIES RELATING TO SAFETY AND HEALTH ISSUES AND OR TRAININGS WHICH WILL BE AT THE EXPENSE OF THE GARAPAN STREET MARKET PARTICIPANTS/VENDORS ON ANY ASSOCIATED FEES RENDERED FROM OTHER CNMI GOVERNMENT AGENCIES.**

### **Article VII: Fees for the Garapan Street Market Season**

**7.1 Participation in the Garapan Street Market is a privilege for all. There are substantial costs in operating the weekly events. Vendor fees are set to cover the costs of operating the Market. Fees are not refundable, except as provided herein. Partial spaces or double spaces may be available at varying fees. Please inquire with the Garapan Street Market office under the auspices of Department of Community and Cultural Affairs (DCCA) at 1341 Ascension Court, Capitol Hill or via official correspondence attention to:**

Chairman of GSM Office of the Secretary DCCA  
Caller Box 1007 Saipan MP 96950

**7.2 Food Sales: \$45.00 per night per space along the street. Food vendor fees are due prior to the vendors opening at the Market.**

**7.3 Arts & Crafts Sales: Arts and Crafts vendor's fees are due and payable in accordance with the payment in the amount of \$20.00. All spaces are approximately 10'x 10' along the street.**

**7.4 Non-Profit/Community Service Agencies: \$10.00 per Thursday Night per space along the street (approximately 8' x 8' or as determined by the Garapan Street Market Chairman or Coordinator). Community Service Agencies pay on a weekly basis with fees to be paid no less than three weeks prior to initial participation at the Market.**

**7.5 Farm Market: \$40.00 per Thursday night per 10-foot unit of space on the street. Fees must be paid one week in advance of the Market.**

**7.6 Processed Food Vendors: \$45.00 per week for one space. Fees must be paid one week in advance of the Market.**

**7.7 All Garapan Street Market participants/vendors agrees to submit to DCCA on the following(s):**

**7.10 Gross Sales generated on every Thursday night on every following Mondays (failure to comply with this provision will result in enforcement of Article VII, Section 7.8)**

**Garapan Street Market Proposed Rules & Regulation**

**6**

**11/16/2007 3:03:47 PM**

**Prepared by: Melvin LO Faisao, Deputy Secretary-DCCA/Chairman GSM**

**Reviewed by: Daisy C. Villagomez Bier, Secretary, DCCA**

7.10 And any official request from Garapan Street Market/DCCA shall be adhered or complied to, by the Garapan Street Market participants/vendors in 5 working days or enforcement of Article VII, Section 7.8 may apply.

7.8 **Warning, Fine and/or Expulsion Policy:** A warning letter will be issued for the first violation of the Garapan Street Market's Rules and Regulations; the second violation will result in a fine equal to one week's fee; the third violation will result in a two week suspension from the Market with no refund; and the fourth violation will result in suspension from the entire Garapan Street Market Season.

7.9 **LIABILITY INSURANCE:** Vendors should be aware that the Garapan Street Market's liability insurance does NOT cover sellers. You are encouraged to obtain your own liability insurance. (It is **recommended, but not required**, that all applicants provide a certificate of insurance insuring them as follows: \$1,000,000 Product & Comprehensive General Liability Insurance naming the Garapan Street Market/DCCA as additionally insured.)

7.10 **Agreement:** All Applicants and/or Vendors shall sign the following agreement.

**AGREEMENT**

Applicant/Vendor agrees to defend, hold harmless, and indemnify the Garapan Street Market/Department of Community and Cultural Affairs (DCCA), its officers and employees, from and against any and all claims for damages and any or all loss, provided such claim, liability or loss arises in whole or in part by any act or omission of applicant or that of any employee or agent of applicant, and so applicant agrees, irrespective of whether such claim, damages or loss also arose from or were caused by a negligent omission on the part of the Department of Community and Cultural Affairs, the Garapan Street Market, or any of its officers or employees. Applicant has read the foregoing Garapan Street Market's Rules and Regulations regarding the Purpose, Goals and Structure; General Policies and Operating Procedures for All Participants; Participation & Application; Hours of Market Operation; Regulatory Agencies; Equipment and Services; Fees for the Garapan Street Market Season, and the Section herein regarding applicant's specific area of participation and applicant agrees to conform to the regulations contained therein.

Garapan Street Market Vendor: \_\_\_\_\_ Date: \_\_\_\_\_

(Print and Signed)

Garapan Street Market/DCCA Officer: \_\_\_\_\_ Date: \_\_\_\_\_

(Print and Signed)





# Office of the Mayor

MUNICIPALITY OF TINIAN AND AGUIGUAN  
Post Office Box 59  
SAN JOSE VILLAGE, TINIAN, MP 96952

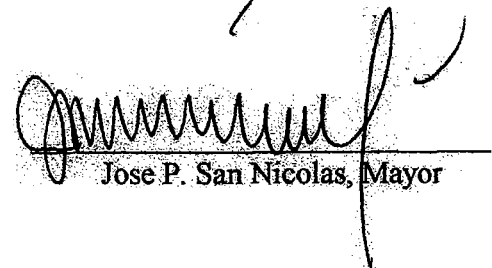
Phone: (670) 433-1800  
(670) 433-1802  
Fax: (670) 433-1819

Jose P. San Nicolas  
Mayor

## NOTICE AND CERTIFICATION OF ADOPTION OF THE PROPOSED REGULATIONS TO THE MUNICIPAL PARK RANGER ACT TINIAN LOCAL LAW 15-08

I, Jose p. San Nicolas, Mayor of the Municipality of Tinian and Aguiguan, which is promulgating the proposed regulations to the Municipal Park Rangers Act of 2007, aka Tinian Local Law 15-08, as published in the Commonwealth Register, Volume 29, Number 10, October 17, 2007 pages 27132-28154, by signature below hereby certify that, as published, such proposed regulations to The Municipal park Ranger Act of 2007 are a true, complete, and correct copy of the regulations, which, after the expiration of the appropriate time for public comment, with no comments having been received, have been adopted without any changes. I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 14<sup>th</sup> day of November, 2007 at Tinian, Commonwealth of the Northern Mariana Islands.



Jose P. San Nicolas, Mayor

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



BERNADITA B. DELA CRUZ  
Commonwealth Registrar

11-19-07  
DATE:

