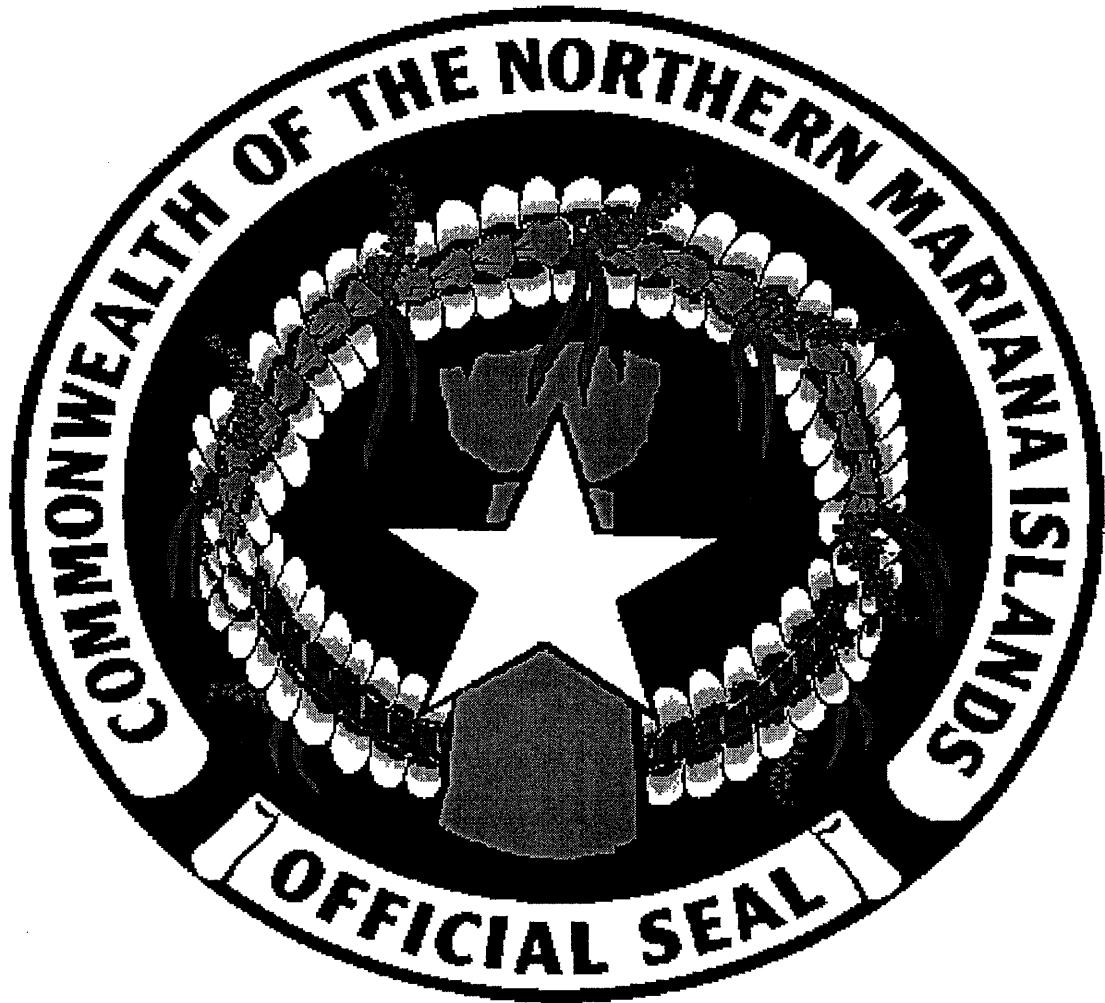


**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



\*\*\*\*\*

**COMMONWEALTH REGISTER**

**VOLUME 31  
NUMBER 5**

**MAY 20, 2009**

\*\*\*\*\*

# COMMONWEALTH REGISTER

VOLUME 31  
NUMBER 5

MAY 20, 2009

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**EXECUTIVE ORDER**

**Number:** 2009-04  
**Subject:** Declaration of a State of Disaster Emergency:  
Commonwealth Utilities Corporation's Imminent Generation  
And Other Failure and the Need to Provide Immediate  
Reliable Power During Repairs  
**Authority:** Commonwealth Constitution Article III, §10 and 3 CMC § 5121  
Of the Commonwealth Disaster Relief Act of 1979  
**Office of the Governor**..... **029593**



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

### EXTENSION OF EMERGENCY Volcanic of 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

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, and in accordance with the Emergency Management Office, Commonwealth of the Northern Mariana Islands and US Geological Survey, do hereby extend a state of disaster emergency in the Commonwealth with the respect of 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prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been revoked or further extended for a like term, and giving reasons for extending the emergency.

Dated this 30<sup>th</sup> of April 2009.

  
**BENIGNO R. FITIAL**  
Governor

cc: Lt. Governor (Fax: 664-2311)  
Senate President (Fax: 664-8803)  
House Speaker (Fax: 664-8900)  
Mayor of the Northern Islands (Fax: 664-2710)  
Executive Assistant for Carolinian Affairs (Fax: 235-5088)  
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 Assistant for Programs and Legislative Review (Fax: 664-2313)  
Press Secretary (Fax: 664-2290)  
United States Coast Guard (236-2968)

Commonwealth of the Northern Mariana Islands  
Department of Public Works

Diego Song Song , Secretary  
Division of Building Safety, PO Box 510008 CK  
2nd Fl. Joeten Comm. Bldg, Middle Road, Gualo Rai, Saipan MP 96950

tel: 670. 234.2726; fax: 670.235.2732  
martinsablan2006@yahoo.com

**PUBLIC NOTICE OF EMERGENCY REGULATIONS  
WHICH ARE AMENDMENTS TO THE REGULATIONS OF  
THE DEPARTMENT OF PUBLIC WORKS  
BUILDING SAFETY DIVISION**

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth of the Northern Mariana Islands, Department of Public Works, Division of Building Safety, the Building Safety Official, finds that:

(1) the attached regulations regarding the administration and substance of the Building Safety Code of the CNMI, shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); and

(2) the same regulations shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to a Notice of Proposed Regulations, and the Administrative Procedures Act, 1 CMC § 9104(a).

**AUTHORITY:** The Building Safety Official is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities. 1 CMC § 2404 (Sec'y issues regulations); 2 CMC § 7153 (Bldg Safety Official issues regulations to enforce the building safety code).

The Administrative Procedures Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section. . . .

1 CMC § 9104(b), (c).

**THE TERMS AND SUBSTANCE:** These regulations provide for the adoption of the

International Building Code and its energy code provisions, the Tropical Energy Code and its energy code provisions, update the schedule of fees, update seismic and typhoon standards, clarify permit, certificate and enforcement provisions, and correct typographical errors.

**THE SUBJECTS AND ISSUES INVOLVED:** These regulations:

1. Qualify the CNMI for \$18.6 million in federal energy-related economic stimulus grants, under the federal American Recovery and Renewal Act of 2009 (ARRA), by taking steps to enhance energy efficiency and the wise use of energy consonant with the ARRA, and, in particular, by making certain regulatory changes before the end of April, 2009;
2. Publish the CNMI's goals, purposes and intentions in order to assist in qualifying for the stimulus funds;
3. Implement the International Building Code's ("IBC"):
  - a. residential building energy code; and
  - b. commercial building energy code;
4. Implement the Tropical Energy Code;
5. Through the IBC bring the CNMI building codes up to date and further empower the Building Safety Official to update as the construction industry and its professions update;
6. Recognize and adopt the proper seismic and typhoon safety standards and codes;
7. Provide for electronic filings, hearings and meetings which are open to the public;
8. Clarify the terms for permits and certificates;
9. Clarify that violations are counted for each day of the offense,
10. Update and change fees;
11. Define terms;
12. Clarify through an appendix that guidance comes from the IBC; and
13. Correct typographical errors in the existing regulations.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Building Safety Official has followed the procedures of 1 CMC § 9104(b) to adopt these regulations on an emergency basis for 120 days.

REASONS FOR EMERGENCY ADOPTION: The Building Safety Official finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. Eligibility for over \$18.6 million of federal stimulus grants rests on the CNMI adopting new residential and commercial energy codes, stating certain goals, and, through, action, committing to them.
2. The CNMI requires immediate implementation of measures that will reduce future consumption of increasingly higher priced and potentially unavailable oil, turning to other measures, including energy efficiency, to help us meet our energy needs.
3. The old, present regulations, if applied in the immediate future, would impede the CNMI's qualification for the federal grants, impede the realization of needed energy efficiency measures, increase the vulnerability of CNMI structures, and people, to earthquake and typhoon wind damage. Further, changing the old regulations by following the "standard" form of publishing a notice of proposed rules and regulations would delay the date of revising the regulations. This delay would enable, not avoid, these harms.
4. The earthquake and typhoon requirements must be updated to presently understood safety levels.
5. Adopting such related measures as definitions, clarifications and fees implements the new regulations.

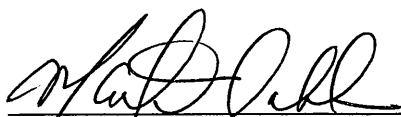
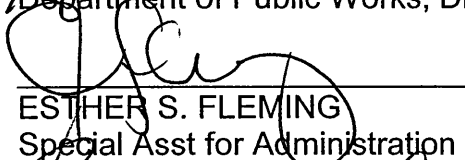
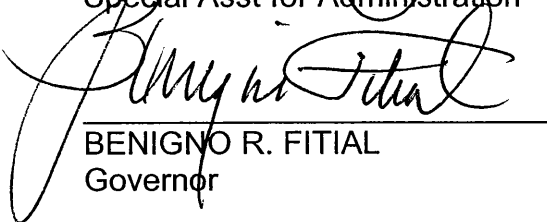

DIRECTIONS FOR FILING AND PUBLICATION: These emergency regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (see 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

The Building Safety Official shall take appropriate measures to make these regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

IMMEDIATE EFFECT: These emergency regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) This is because the Building Safety Official has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

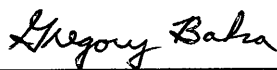
TO PROVIDE COMMENTS: No comments are required for these emergency regulations. However, the related Notice of Proposed Regulations will specify comment procedures. Please see the notice regarding these emergency regulations being presented as proposed regulations, in the May, 2009, Commonwealth Register.

These emergency regulations were approved by the Building Safety Official on April 29, 2009.

Submitted by:	 MARTIN SABLAN Building Safety Official Department of Public Works, Division of Building Safety	<u>4/29/09</u> Date
Received by	 ESTHER S. FLEMING Special Asst for Administration	<u>4/29/09</u> Date
Concurred by:	 BENIGNO R. FITIAL Governor	<u>4/29/09</u> Date
Filed and Recorded by:	 ESTHER M. SAN NICHOLAS Commonwealth Register	<u>04-29-09</u> Date

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

Dated the 29 day of April, 2009.

  
GREGORY BAKA,  
Acting Attorney General

0 NOPR Emergency Regs Building Codes 2009.wpd



1 CHAPTER 155-10 BUILDING SAFETY DIVISION  
2 SUBCHAPTER 155-10.1 BUILDING SAFETY CODE RULES AND REGULATIONS  
3

4 Subchapter Authority: 1 CMC § 2404; 2 CMC § 7153.  
5

6 Subchapter History: Amdts Proposed 15 Com. Reg. 10556 (Apr. 15, 1993); Adopted 12 Com. Reg. 7508  
7 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
8

9 A notice of adoption for the April 1993 proposed amendments was never published.  
10

11 Commission Comment: PL 1-8, tit. 1, ch. 15, codified as amended at 1 CMC §§ 2401-2405, creates the  
12 Department of Public Works (DPW) within the Commonwealth government. See 1 CMC § 2401. 1 CMC §  
13 2404 directs the Department to adopt rules and regulations regarding those matters over which it has  
14 jurisdiction.  
15

16 Title 2, division 7, chapter 1 of the Commonwealth Code sets forth the building safety code for the  
17 Commonwealth. See 2 CMC §§ 7101-7181. 2 CMC § 7121 creates a Building Safety Division within the  
18 Department of Public Works, headed by the building safety official. The building safety official is charged  
19 with enforcing the provisions of the building safety code. 2 CMC § 7122. 2 CMC § 7153 directs the  
20 building safety official to issue building safety regulations.  
21

22 On June 3, 1986, DPW proposed "Regulations Governing the Use of Public Sewers." See 8 Com. Reg.  
23 4400 (June 3, 1986). A notice of adoption was never published.  
24

25 On October 22, 1986, DPW promulgated, pursuant to 9 CMC § 5201, emergency "Regulations Governing  
26 Traffic Signs, Signals, Markings and Speed Restrictions." See 8 Com. Reg. 4724 (Nov. 17, 1986)  
27 (effective 120 days from Oct. 22, 1986). A notice of permanent adoption was never published.  
28

29 Emergency regulations amending this subchapter issued on April 29, 2009. 31 Com. Reg. xxx  
30 (Emergency Regs of April 29, 2009); Adopted 31 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com.  
31 Reg. Xxx (Apr. xxx, 2009). [LRC, or the agency, will fill in the "xxx" citations throughout promulgation.]  
32



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35

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56



Part 001 -General Provisions

§ 155-10.1-001 Authority

The regulations in this subchapter are promulgated pursuant to the authority of the Building Safety Code, Public Law 6-45 (~~"Safety Code"~~), as amended.

Modified, 1 CMC § 3806(d), (f). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990). Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).

§ 155-10.1-005 Existing Structures

The following specified provisions shall apply to existing buildings and structures:

(a) It shall be unlawful to make any change in the use or occupancy of any structure or building without the approval of the building safety official and his certification that such new use of the structure or building is permitted under the Safety Code and the regulations in this subchapter and that such change does not result in a greater hazard to public safety or welfare. Such change in use must also comply with the requirements of the zoning code, Public Law 5-32. (b) If a building is increased in floor space or number of stories, the entire building or structure shall be made to conform to the requirements of the Safety Code and the regulations in this subchapter.

(c) Where alterations or repairs are made within any period of twelve months which affects or includes in excess of fifty percent of the existing floor space area, the entire structure or building shall be made to comply with the provisions of the Safety Code and the regulations in this subchapter applicable to new buildings and structures. Exception: if the new construction is separated from the existing by fire walls of 2 houses or greater than existing construction does not have to comply. (d) Ordinary repairs to buildings or structures, of which repairs do not, within the twelve months period, exceed twenty-five percent of the existing floor space area of the building or structure, may be made without application or notice to the building safety official; provided, that the term ordinary repairs shall not include the removal or cutting of any structural member or support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the existing requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or other work affecting public health, safety or welfare.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

§ 155-10.1-010 Compliance Required

No building or structure shall be constructed, extended, repaired or altered in violation of the provisions of the Safety Code and the regulations in this subchapter, except for ordinary repairs as defined in § 155-10.1-005(d); and except further, that the raising or lowering or moving of a building or structure as a unit necessitated by a change in grade or the widening of a street shall be permitted; provided, that the building or structure is not otherwise altered or its use or occupancy changed.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

1 § 155-10.1-015 Administration and Enforcement

2  
3 The administration and enforcement of the provisions of the Safety Code and the regulations in this  
4 subchapter shall be the responsibility and duty of the building safety official.

5  
6 Modified, 1 CMC § 3806(d), (f).

7  
8 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).



11  
12 § 155-10.1-020 Cooperation from Public Agencies and Application to Public Buildings

13  
14 Officials of other departments, agencies or branches of government in the Commonwealth of the Northern  
15 Marianas exercising any degree of control over construction, use or occupancy of buildings or structures,  
16 appurtenances connected or attached thereto or equivalent thereof, under other applicable laws of the  
17 Northern Mariana Islands shall cooperate and assist in the enforcement of the provisions of the Safety  
18 Code and the regulations in this subchapter. Any employee of such department or agency empowered to  
19 review the design or make inspections of such structures shall promptly report to the head of his  
20 department or agency any violations of the provisions of the Safety Code and these regulations. Such  
21 department or agency head shall promptly communicate the violation to the building safety official.  
22 Furthermore, it is the expressed intent of these regulations that the design and construction,  
23 alteration, modification, occupancy and use of all public buildings shall be in full compliance with the  
24 requirements of the Safety Code.

25  
26 Modified, 1 CMC § 3806(d), (f).

27  
28 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

29  
30 § 155-10.1-025 Purpose; Rules and Regulations

31  
32 (a) The provisions of the regulations in this subchapter are designed to set forth the standards for  
33 protection of the public health, safety and welfare. The expressed approval of certain materials, methods,  
34 devices or equipment which will satisfy these same standards.

35  
36 (b) In furtherance of the intent of subsection (a) of this section, the building safety official may formulate  
37 and promulgate and may amend or repeal regulations supplementary to and not inconsistent with the  
38 provisions of this and other applicable federal and Commonwealth laws. Said regulations shall have the  
39 force and effect of law and shall be concerned with the uses of alternate materials, methods, devices,  
40 equipment and test which are deemed acceptable for meeting the standards established by or pursuant  
41 to the law; and with such other matters as the building safety official, from time to time may deem  
42 necessary in order to effectuate the expressed purposes of this law. It is the intent of this section that the  
43 standards of the governmental agencies and recognized national technical organizations listed in  
44 appendix A of this subchapter shall serve as a guide in prescribing regulations promulgated pursuant to  
45 this law.

46  
47 Modified, 1 CMC § 3806(d), (f), (g).

48  
49 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

50  
51 Commission Comment: In subsection (a), the Commission changed "standard" to "standards" to correct a  
52 manifest error.



1 § 155-10.1-027 Purpose; Energy and energy conservation  
2

3 The people of the Commonwealth deserve high quality energy services which are clean, efficient and  
4 promote economic development within the Commonwealth.  
5

- 6 (a) Economic stimulus funds, under the federal American Recovery and Renewal Act of 2009  
7 (ARRA), are available to the CNMI if the Commonwealth takes steps to enhance energy efficiency  
8 and the wise use of energy consonant with the ARRA. The statements of goals, purposes and  
9 intentions in this section are intended to assist in qualifying for the stimulus funds.  
10
- 11 (b) The Department's goals for the Commonwealth include:  
12  
13 (1) Increase energy efficiency to reduce energy costs and consumption for consumers,  
14 businesses and government;  
15  
16 (2) Reduce reliance on imported energy;  
17  
18 (3) Improve the reliability of electricity and fuel supply and the delivery of energy services; and  
19  
20 (4) Reduce the impacts of energy production and use on the environment.  
21
- 22 (c) The Department's goals for the Commonwealth are consistent with the ARRA's, in that we  
23 propose to:  
24  
25 (1) preserve and create jobs and promote economic recovery;  
26 (2) assist those most impacted by our difficult economic times;  
27 (3) promote investments needed to increase economic efficiency; and  
28 (4) promote investment in environmental protection and other infrastructure that will provide  
29 long-term economic benefits.  
30
- 31 (d) The Governor has certified in writing the CNMI's compliance with § 410 of the ARRA.  
32
- 33 (e) As the ARRA states, at a minimum the Commonwealth should plan for and maximize efforts  
34 toward achieving the specific goal of reducing per capita energy use from the CNMI's 1990 per  
35 capita energy use, by 2012.  
36
- 37 (f) As the ARRA states, the Department agrees that the Commonwealth Public Utilities Commission  
38 ("CPUC") should seek to implement, in appropriate proceedings for CUC and/or its successors, a  
39 general policy that ensures that utility financial incentives are aligned with:  
40  
41 (1) helping the customers use energy more efficiently;  
42 (2) providing timely cost recovery  
43 (3) providing a timely earnings opportunity associated with cost-effect, measurable and  
44 verifiable efficiency savings in a way that sustains or enhances utility customers'  
45 incentives to use energy more efficiently.  
46
- 47 (g) As the ARRA states, the Executive, through the Department of Public Works, should implement  
48 the following:  
49  
50 (1) a residential building energy code/s that meets or exceeds the most recent international  
51 energy conservation code, or achieves equivalent or greater energy savings;  
52  
53 (2) a commercial building energy code/s throughout the CNMI that meets or exceeds the  
54 ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy

1 savings;

2  
3 (3) a plan to achieve 90% compliance with the above energy codes within eight years,  
4 including active training and enforcement programs and annual measurement of the rate  
5 of compliance.  
6

7 (h) As the ARRA states, the Executive should, to the maximum extent practicable, prioritize ARRA-  
8 based federal grants toward funding energy efficiency and renewable energy programs, including,  
9 but not limited to:

10  
11 (1) expansion of existing energy efficiency programs, approved by the Department of Public  
12 Works or the CPUC, including energy efficiency retrofits of buildings and facilities funded  
13 by the CNMI or through rates under CPUC oversight;  
14


15 (2) expansion of existing programs, approved by Department of Public Works or the CPUC,  
16 to support renewable energy projects and deployment activities, including but not limited  
17 to programs operated by entities which have the authority and capability to manage and  
18 distribute grants, loans, performance incentives and other forms of financial assistance;  
19 and  
20

21 (3) cooperation and joint activities with States and Territories to advance more efficient and  
22 effective use of ARRA funding to support such priorities.  
23

24 (i) The Commonwealth should also be using the most up to date building codes. The present  
25 statutes adopt much older codes. But the old codes have been updated to the level of the  
26 International Building Code ("IBC") of 2009. The IBC's triennial updating process calls upon the  
27 expertise and real-world experience of thousands of building professionals, including building  
28 code officials. The Department wishes to bring our building codes up to date, empower the  
29 Building Safety Official to update as the construction industry and its professions update,  
30 recognize the proper seismic and typhoon safety standards and codes, and empower DPW to  
31 adopt the Tropical Energy Code drafted especially for the CNMI, Guam, Hawai'i, Puerto Rico and  
32 The Virgin Islands.  
33

34 (j) The Department also wishes to make clear that DPW has full capability to administer the stimulus  
35 funding as well as the functions given it over the years, including develop and implement any  
36 required plans to achieve 90% of the ARRA-driven energy goals within eight years..  
37

38 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
39 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
40

41   
42 § 155-10.1-030 Discretion to Adapt to Circumstances  
43

44 The Building Safety Review Board on recommendation of the building safety official, may vary or modify  
45 the application of any provision of the Safety Code or the regulations in this subchapter consonant with  
46 their spirit and intent, upon application of the owner or his representative, in any of the following  
47 conditions:  
48

49 (a) When the proposed variation or modification will not affect the public health, safety or welfare,  
50 designed to be achieved, provided or protected by the provisions of the Safety Code or the regulations in  
51 this subchapter.  
52

53 Modified, 1 CMC § 3806(d), (f).  
54

1 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

2  
3 § 155-10.1-035 New or Alternate Materials

4  
5 (a) Any new or alternate materials, methods, devices or equipment which are not covered by the Safety  
6 Code and the regulations in this subchapter may be used by their proponent only when the proposed use  
7 has been expressly authorized in writing by the building safety official.

8  
9 (b) The proponent shall file, in addition to his application for a building permit, a request for authorization to  
10 use the proposed new or alternate material, method, device or equipment, accompanied by proof in  
11 support of his claim regarding the consistency of the proposed use with the standards established by the  
12 Safety Code and the regulations in this subchapter. Such proof shall consist of a complete report from an  
13 approved materials testing laboratory listed in the appendix B to this subchapter on the performance  
14 characteristics of the subject matter to meet the proposed use as set forth in the application for a building  
15 permit.

16  
17 (c) The building safety official, within a reasonable time after submission but not to exceed ninety days, of  
18 the request for authorization of the proposed use, shall approve or disapprove such use. Said approval or  
19 disapproval shall be in writing, and shall set forth the basis of said building safety official decision. Any  
20 approval shall require the applicant to utilize such material, method, device or equipment in strict  
21 conformity with the terms of the approval.

22  
23 Modified, 1 CMC § 3806(d), (e), (f).

24  
25 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

26  
27 § 155-10.1-040 Prohibition

28  
29 It shall be unlawful to construct, enlarge, alter, remove or demolish, or change the occupancy of a  
30 building, public or private, from one use group to another, without first filing an application with the  
31 building safety official in writing and obtaining the required permit therefore, except that ordinary repairs  
32 as defined in § 155-10.1-005(d) which do not involve any violation of the Safety Code and the regulations  
33 in this subchapter shall be exempt from this provision.

34  
35 Modified, 1 CMC § 3806(d), (f).

36  
37 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

38  
39  Part 100 -Building Permit Application and Review Process

40  
41  
42 § 155-10.1-101 Application for Permit

43  
44 An application for a permit shall be submitted in such form as the building safety official may prescribe and  
45 shall be accompanied by the required fee as prescribed in the regulations in this subchapter.

46  
47 Modified, 1 CMC § 3806(d), (f). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com.  
48 Reg. 7321 (Sept. 15, 1990).

49  
50 § 155-10.1-105 Application Procedure

51  
52 An application for a permit shall be made by the owner or lessee of the property, or agent of either, or by a  
53 CNMI licensed engineer or architect employed in connection with the proposed work. If the application is  
54 made by a person other than the legal owner it shall be accompanied by a duly verified affidavit of the

1 owner that the applicant is authorized to make such application. The full names and addresses of the  
2 owner, lessee, applicant and, where the owner or lessee is a corporation, the responsible officers names  
3 shall be stated on the application.  
4

5 Modified, 1 CMC § 3806(f).  
6

7 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
8

9 § 155-10.1-110 Contents  
10

11 An application shall contain a general description of the proposed work, identify its location, the use and  
12 occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the  
13 building, and such additional information as may be required by the building safety official.  
14

15 Modified, 1 CMC § 3806(f).  
16

17 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
18

19 § 155-10.1-115 Information Required  
20

21 An application for a permit shall be accompanied by not less than two copies of the specifications and of  
22 the drawings drawn to scale, with sufficient clarity and dimensions, to show the nature and character of  
23 the work to be performed. When quality of materials is essential for compliance with the Building Safety  
24 Code, specific information shall be given to establish such quality; and in no case shall the Building Safety  
25 Code be cited or the term "legal specifications" or its equivalent be used as a substitute for specific  
26 information. The building safety official may waive the requirement for filing drawings if the work involved  
27 is of a minor nature. The building safety official may prescribe a uniform format and size for drawings and  
28 specifications required with an application for permit.  
29

30 ~~So in original:~~  
31

32 Modified, 1 CMC § 3806(f).  
33

34 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
35 Amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31 Com. Reg. Xxx (May  
36 Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
37



39 § 155-10.1-120 Site Plan  
40

41 There shall be filed a site plan showing the scale, size and location of all the new construction and all  
42 existing structures on the site, distance from lot lines and the established street grades; and it shall be  
43 drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall  
44 show all construction to be demolished and the location and size of all existing buildings and  
45 constructions that are to remain on the site or plot. The building safety official may waive the  
46 requirements of this section when the work involved is of a minor nature.  
47

48 Modified, 1 CMC § 3806(f).  
49

50 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
51  
52

53 § 155-10.1-125 Additional Details  
54

1 The building safety official shall require that adequate details of structural, mechanical and electrical work  
2 including computations, stress diagrams and other essential technical data to be filed. All engineering  
3 drawings and computations shall bear the signature of a CNMI licensed professional engineer or architect  
4 who shall be responsible for the work.

5  
6 Modified, 1 CMC § 3806(f).

7  
8 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

9  
10 § 155-10.1-130 Examination and Review

11  
12 The building safety official shall promptly examine or cause to be examined, each application for a building  
13 permit and all drawings, specifications, information and materials filed in conjunction therewith, in order to  
14 ascertain whether the proposed work is in compliance with the requirements of the provisions of the  
15 Safety Code and the regulations in this subchapter. Whenever the actual physical conditions of the  
16 proposed work, or the site thereof, are not apparent from the application for a building permit and the  
17 materials filed in conjunction therewith, the building safety official may require the submission of  
18 additional information or may examine or cause to be examined the site of the proposed work in order to  
19 determine such conditions.

20  
21 Modified, 1 CMC § 3806(f).

22  
23 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

24  
25 § 155-10.1-135 Action on Applications

26  
27 (a) The building safety official shall act upon each application for a building permit without unreasonable or  
28 unnecessary delay. On finding conformity with all the requirements of the regulations in this subchapter,  
29 the Safety Code, and other applicable laws, the building safety official shall, upon receipt of the required  
30 fee, issue the permit to the applicant. (b) If an application for a permit or the drawings and specifications  
31 submitted therewith describe proposed work are not in conformity with all the requirements of law, or do  
32 not contain sufficient information to enable the building safety official to reach a decision, he shall not  
33 issue such a permit, but shall return the drawings and specifications to the applicant, together with a  
34 written statement setting forth his or her refusal to issue such permit, and reason therefore. The building  
35 safety official, upon request of the applicant, shall make such refusal, containing the reasons therefore, in  
36 writing.

37  
38 Modified, 1 CMC § 3806(d), (f).

39  
40 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).



43  
44 § 155-10.1-140 Endorsement

45  
46 The building safety official, upon the issuance of a permit, shall endorse in writing or stamp on both sets of  
47 drawings and specifications "APPROVED FOR PERMIT # \_\_\_\_\_," and affix his or her signature to  
48 such endorsement.

49  
50 Modified, 1 CMC § 3806(f).

51  
52 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

53  
54 § 155-10.1-145 Approved Drawings; Revisions Prohibited



1 Approved drawings and specifications shall not be revised, modified or altered in any manner affected by  
2 the provisions of the Safety Code or the regulations in this subchapter without the expressed written  
3 authorization from the building safety official, and all such work shall be done in accordance with  
4 approved drawings and specifications.  
5

6 Modified, 1 CMC § 3806(d), (f).  
7

8 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
9

10 § 155-10.1-150 Disposition  
11

12 The building safety official shall retain at least one set of approved and endorsed drawings and  
13 specifications with their attached data and return one endorsed set to the applicant. The applicant's set  
14 shall be kept at the work site, at all times, during which the authorized work is in progress, and shall be  
15 open for inspection at all reasonable times to the building safety official or his authorized representative.  
16

17 Modified, 1 CMC § 3806(f).  
18

19 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
20

21 § 155-10.1-155 Permit  
22

23 (a) The issuance of a building permit or approval of drawings and specifications shall not be construed to  
24 be a permit for, or approval of any violation of the provisions of the Safety Code, the regulations in this  
25 subchapter, or other applicable law, except in the case of an approved modification pursuant to Safety  
26 Code § 7114 [2 CMC § 7114]. Any permit presuming to cancel such provisions or condone such  
27 violations shall be invalid and void in its entirety.  
28

29 (b) The issuance of a building permit after approval of drawings, specifications and attached data  
30 submitted therewith, shall not prevent the building safety official from thereafter requiring corrections of  
31 any errors in said drawings in writing, specifications and data, nor from prohibiting building construction to  
32 be carried on thereunder until such correction(s) is/are made.  
33

34 (c) Any building permit shall lapse and become invalid, if the work authorized by it is not commenced  
35 within six months after its issuance; or if the work is suspended or abandoned for a period of six months  
36 at any time after the work has been commenced. For cause, the building safety official may allow an  
37 extension up to a maximum of six months each. All such extensions shall be in writing and noted on the  
38 building permit and in the building permit records at the building safety official office.  
39

40 Modified, 1 CMC § 3806(d), (e), (f).  
41

42 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
43

44 § 155-10.1-160 Special Permits  
45

46 The building safety official may, at his discretion after the receipt of an application for a building permit and  
47 pending issuance of such permit, issue a special permit for the foundations or other substructures,  
48 without assurance that a building permit for the super structure will be granted. However, the special  
49 permit shall be issued only after the site plan foundation plans including calculation has been reviewed  
50 and approved. Such activity as the applicant may undertake under said special permit must be in full  
51 compliance with the provisions of the Safety Code, the regulations in this subchapter, and any other  
52 applicable laws.  
53

54 Modified, 1 CMC § 3806(d), (f).

1 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).



4  
5 § 155-10.1-170 Electronic filings and meetings.

6  
7 (1) Any filing, application, presentation of plans or specifications, or other submission made pursuant to  
8 these Regulations shall be in writing as defined in these Regulations for this Chapter. A person submitting  
9 electronically in a software format other than Microsoft Word, Excel, or Adobe Acrobat shall first obtain the  
10 approval of the Building Safety Official or his designee. For instance, architectural plans generated in  
11 AutoCad or SoftCad are not readable on the Department's computers unless a reader program is included  
12 with the submission. Preferred media for submission would be CD/DVD or flash drive for files over 3 MB.  
13 Email attachment is acceptable for files of 3 MB or less.

14  
15 (2) Any hearing, conference or other meeting, can, with the agreement of the Building Safety Official or his  
16 designee, be conducted virtually, as defined in these Regulations for this Chapter, provided that a person  
17 entitled to attend is able to have the same access to the meeting as each participant at the noticed site.  
18 Typically this will mean that a speaker phone is, or computer speakers are, placed in the advertised venue  
19 and the person attending can hear each person speaking. If video conferencing is used the person shall  
20 be permitted to see the screen.

21  
22 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
23 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).

24  
25  
26 **Part 200 -Inspection, Fees and Compliance**



29 § 155-10.1-201 Inspection

30  
31 (a) All construction or work in progress for which a permit is required shall be subject to inspection from  
32 time to time by the building safety official, or his designated representative(s). Certain types of  
33 constructions may require continuous or special inspections as determined by the building safety official.  
34 Any person or persons interfering with the building safety official or his authorized representative in the  
35 performance of such duties shall be liable to the penalties hereinafter provided.

36  
37 (b) Work requiring a building permit shall not begin until the permit holder or his agent shall have posted  
38 an inspection checklist or other notice ~~card~~, in a conspicuous place on the premises and in such a position  
39 as to allow the building safety official or his authorized representative to make entries thereon regarding  
40 inspection of the work. The checklist or other notice ~~card~~ which shall be furnished by the building safety  
41 official shall be maintained in such position by the permit holder until the work has been completed and a  
42 certificate of occupancy issued. The checklist or other notice ~~card~~ shall maintain a record of every  
43 inspection including the time, date and all violations of the provisions of the Building Safety Code, the  
44 regulations in this subchapter, or of other applicable laws, rules and regulations.

45  
46 (c) Re-inspections.

47  
48 (1) A reinspection fee may be assessed for each inspection or reinspection when such work or portion of  
49 work for which an inspection is called is not complete or when corrections called for by the building safety  
50 official or his designated representative(s) are not made or are inadequately made.

51  
52 (2) This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for  
53 failure to comply with the requirements of this code, but as a means of discouraging the practice of calling  
54 for inspections before the job is ready for such inspection or reinspection.

1 (3) Reinspection fees may be assessed when the permit checklist or other notice card is not properly  
2 posted on the work site, the approved drawings are not readily available to the inspector, access is not  
3 provided on the date inspection is requested, or construction deviates from drawings and/or specifications  
4 approved by the building safety official.  
5

6 (4) To obtain a reinspection the applicant shall file an application therefore in writing upon a form furnished  
7 for that purpose, by the building safety official and shall pay a reinspection fee if so accessed in  
8 accordance with this subsection.  
9

10 (5) When reinspection fees are assessed, no reinspection of the work shall be performed until the  
11 required fees have been paid in full.  
12

13 Modified, 1 CMC § 3806(d), (f).  
14

15 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
16 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
17 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
18

19 Commission Comment: The original paragraphs of subsection (c) were not designated. The Commission  
20 designated subsections (c)(1) through (c)(5).  
21

#### 22 § 155-10.1-205 Tests as Proof of Compliance 23 24

25 (a) Whenever there is insufficient evidence that any material or any construction does not conform to the  
26 requirements of the Safety Code or the regulations in this subchapter, or in order to substantiate claims for  
27 the use of alternate materials or methods of construction, the building safety official may require tests, as  
28 proof of compliance, to be made at the expense of the owner or his agent by an approved agency or  
29 testing laboratory.  
30

31 (b) Tests shall be in accordance with generally recognized standard test procedures for the proposed use.  
32 In the absence of such standard test procedures, the building safety official shall specify the test  
33 procedure.  
34

35 (c) The building safety official may require tests to be repeated, if at any time he has reason to believe  
36 that an approved or material or method no longer conforms to the requirements upon which the approval  
37 was based.  
38

39 Modified, 1 CMC § 3806(d), (f). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com.  
40 Reg. 7321 (Sept. 15, 1990).  
41



#### 42 § 155-10.1-210 Prefabricated Buildings 43 44

45 Where the unit or component parts of a prefabricated building are not readily accessible to inspection, the  
46 building safety official may accept a certification from an approved testing agency that the building is  
47 identical with a specimen previously tested and approved by the agency.  
48

49 Modified, 1 CMC § 3806(f).  
50

51 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
52  
53

#### 54 § 155-10.1-215 Stoppage of Work for Non-Compliance

1 (a) Upon notice from the building safety official that work on any building or structure is being executed  
2 contrary to the provisions of the Safety Code, the regulations in this subchapter, or other applicable laws,  
3 or in an unsafe and dangerous manner, the building safety official shall issue a stopwork order and such  
4 work shall be immediately stopped.

5  
6 (b) The stop work order shall be in writing and shall be given to the owner of the property involved, or to  
7 the owner's agent, or to the person in charge of the work; and shall state the conditions under which work  
8 may be resumed.

9  
10 (c) The building safety official may require that work be stopped on oral notice, pending issuance of a  
11 written order, in such instances where he deems immediate action is necessary for protection of public  
12 health, safety or welfare.

13  
14 Modified, 1 CMC § 3806(d), (f), (g).

15  
16 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

17  
18 Commission Comment: In subsection (b), the Commission changed the final semi-colon to a period to  
19 ensure consistent punctuation.


20  
21  
22 § 155-10.1-220 Revocation Permit

23  
24 The building safety official shall revoke a permit or approval issued under the provisions of this law;

25  
26 (a) In case of any false statement or misrepresentation as to a material fact in any application or drawings  
27 or specification in which the permit conditions are such that a permit should not have been issued.

28  
29 (b) In any case where a building permit owner refuses to comply with a stop order issued under the  
30 provisions of § 155-10.1-215 herein above.

31  
32 Modified, 1 CMC § 3806(d), (f). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com.  
33 Reg. 7321 (Sept. 15, 1990). Commission Comment: The cross-reference in subsection (b) erroneously  
34 cited § 7026, codified in this section. The Commission changed the reference so that it cites § 7025,  
35 codified at § 155-10.1-215.

36  
37  § 155-10.1-225 Fees

38  
39  
40 (a) Before a building permit is issued a permit fee, therefore, shall be paid to the building safety official in  
41 accordance with the following schedule based upon valuation of the proposed work:

42  
43 **Building Permit Fees**

Construction Costs	Fees
\$1.00 to \$500.00	<del>\$10.00</del> \$15.00
\$501.00 to \$2,000.00	<del>\$10.00</del> \$15.00 for the first \$500 plus \$2.00 for each additional \$100.00 or fraction thereof, to and including \$2,000.00.
\$2,001.00 to \$25,000.00	<del>\$40.00</del> \$45.00 for the first \$2,000.00 plus <del>\$8.00</del> \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00.

1	\$25,001- <del>00</del> to \$50,000- <del>00</del>	<del>\$224.00</del> \$252.00 for the first \$25,000.00 plus <del>\$6.00</del> \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00.
2		
3		
4	\$50,001- <del>00</del> to \$100,000- <del>00</del>	<del>\$374.00</del> \$427.00 for the first <del>\$100,000.00</del> \$50,000.00 plus <del>\$4.00</del> \$5.00 for each additional \$1,000.00 or fraction thereof, to and including <del>\$500,000.00</del> \$100,000.00.
5		
6		
7		
8	\$100,001- <del>00</del> to \$500,000- <del>00</del>	<del>\$479.50</del> \$677.00 for the first <del>\$100,001.00</del> \$100,000.00 plus <del>\$3.50</del> \$5.00 for each additional \$1,000.00 or fraction thereof, to and including <del>\$100,001.00</del> \$500,000.00.
9		
10		
11		
12	\$500,001- <del>00</del> to \$1,000,000- <del>00</del>	<del>\$2,174.00</del> \$2,677.00 for the first \$500,000.00 and \$3.00 for each additional \$1,000.00 or fraction thereof, and including \$1,000,000.00.
13		
14		
15	\$1,000,001- <del>00</del> and up	<del>\$2,655.00</del> \$4,177.00 for the first <del>\$1,000,001.00</del> \$1,000,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof, <del>to and including</del> <del>\$1,000,001.00</del> .
16		
17		
18		
19		

**Plan Review Fees**

Residential Plan Review

Single Family Plan Review

\$1.00 - \$1,999	\$-0- See paragraph (c), just below.
\$2,000 - \$50,000	1/2 bldg permit fee. See paragraph (c), just below.
\$50,001 & up	3/4 bldg permit fee. See paragraph (c), just below.

Multiple Resid. Plan Review

\$1.00 - \$999	\$-0- See paragraph (c), just below.
\$1,000 and up	3/4 bldg permit fee. See paragraph (c), just below.

Commercial Plan Review

\$1.00 - \$999	\$-0- See paragraph (c), just below.
\$1,000 and up	3/4 bldg permit fee. See paragraph (c), just below.

**Other fees**

Demolition & Removal Fees

Residential	\$ 75.00
Commercial	\$150.00

Grading Fees

Plan Review	\$-0-
Permit	\$-0-
Sign Permit Fee	\$100.00

1	Other Inspection/Reinspection Fee	\$-0-
2	Certificate of Occupancy	\$-0-
3	Penalty/Violation of Building Code	\$-0-
4	Placard	\$-0-

7 Fees for documents and related services

9	Photocopies:	less than 20 copies – no charge;
10		21 or more copies - \$0.50 per page
11	Photocopies, certified:	\$1.50 per page
12	Electronic files on CD:	\$10.00 for each CD
13	Electronic files on DVD:	\$20.00 for each DVD

15 Copies of meeting/hearing recording on cassette tape: \$15.00 per tape  
 16 If complying with a request for information takes longer than one hour, labor shall be charged at the rate of  
 17 \$20.00 per hour.



22 (b) Where work, for which a permit is required by the Safety Code and the regulations in this subchapter,  
 23 is started or proceeded with prior to obtaining said permit, the fees as set forth above shall be doubled, but  
 24 the payment of such double fee shall not relieve any persons from fully complying with the requirements of  
 25 the Safety Code and these regulations in the execution of the work nor from the assessment of any other  
 26 penalties prescribed herein.

28 (c) Before drawings and specifications are accepted for reviewing, a plan-review fee, in addition to the  
 29 building permit fee, shall be paid to the building safety official. For a building or structure not classified as  
 30 a single-family dwelling unit and whose construction costs is ~~one thousand dollars~~ \$1,000 or more, the  
 31 plan-review fee shall be three-fourths (3/4) of the building permit fee. For a single-family dwelling units  
 32 whose valuation is over ~~two thousand dollars~~ \$2,000 and less than ~~fifty thousand dollars~~ \$50,000, the  
 33 plan-review fee shall be one half (1/2) the building permit fee. For a single-family dwelling units whose  
 34 valuation is \$50,000.00 and over, the plan-review fee shall be three-fourths (3/4) the building permit fee.

36 Modified, 1 CMC § 3806(d), (e), (f).

38 History: Amdts Proposed 15 Com. Reg. 10556 (Apr. 15, 1993); Adopted 12 Com. Reg. 7508 (Dec. 15,  
 39 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990). History: Adopted or amended 2009: 31 Com.  
 40 Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31 Com. Reg. Xxx (May Xxx, 2009); Proposed 31  
 41 Com. Reg. Xxx (Apr. xxx, 2009).

43 Commission Comment: The April 1993 amendments proposed to add a new fee schedule entitled  
 44 "Special Fees for Other Permits." A notice of adoption for the April 1993 proposed amendments has not  
 45 been published and, therefore, the Commission has not incorporated the proposed changes.

47 § 155-10.1-230 Cessation in Construction

49 Whenever a cessation in construction of an approved building or structure exists of more than twelve  
 50 months, the building safety official, by written order served upon the permit holder, may require the holder  
 51 of the permit to maintain the premises in such condition of reasonable health and safety as may be  
 52 determined by the building safety official as appropriate.

54 Modified, 1 CMC § 3806(e), (f).

1 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).



4  
5 Part 300 -Certificates of Occupancy

6  
7 § 155-10.1-301 Certificate of Occupancy

8  
9 No building or structure hereafter erected shall be occupied or used, in whole or in part, until a certificate  
10 of occupancy has been issued by the building safety official and posted on the premises certifying that  
11 such building conforms to the provisions of the Safety Code and the regulations in this subchapter. The  
12 ~~permit~~ certificate of occupancy shall remain posted indefinitely in a conspicuous place. A certificate of  
13 occupancy for a business shall be issued with a term of one year only; the business must renew the  
14 certificate each year.

15  
16 Modified, 1 CMC § 3806(d), (f).

17  
18 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

19 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
20 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).

21  
22 § 155-10.1-305 Alterations

23  
24 No building or structure hereafter enlarged or extended, or so altered, wholly or in part, so as to change its  
25 classification or occupancy shall be occupied or used, in whole or in part, until a certificate of occupancy  
26 has been issued by the building safety official certifying that the work for which the permit was issued has  
27 been completed in accordance with the provisions of the Safety Code and the regulations in this  
28 subchapter; provided, that if the occupancy or use of such building was not discontinued during the work  
29 of alteration, the occupancy or use of said building or structure shall not continue for more than thirty days  
30 after completion of the alteration unless such certificate shall have been issued.

31  
32 Modified, 1 CMC § 3806(d), (e), (f).

33  
34 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

35  
36 § 155-10.1-310 Content

37  
38 In addition to the certification as to compliance with the provisions of the Safety Code and the regulations  
39 in this subchapter, the certificate of occupancy shall state the purposes for which the building may be  
40 used in its several parts, the maximum permissible live loads on floors, the number of individual persons  
41 that may be accommodated in any space, in case such number is limited by a provision of law or by the  
42 permit.

43  
44 Modified, 1 CMC § 3806(d), (f).

45  
46 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).



49 § 155-10.1-315 Changes

50  
51 (a) No change of occupancy shall be made in a building or structure hereafter erected or altered  
52 inconsistent with the last issued certificate of occupancy, unless a new certificate of occupancy is issued.  
53 No change of occupancy of a building or structure, shall be made, unless the building safety official finds,  
54 upon inspection, that such building or structure conforms substantially to the provisions of Safety Code

1 with respect to the proposed new occupancy, and issues a certificate of occupancy thereof.  
2

3 (b) The occupancy of a building shall not be deemed to have been changed because of a temporary  
4 vacancy or change of ownership or tenancy. The re-establishment in a building, after a change of  
5 occupancy has been made, of a prior use that would not have been permitted in a new building of the  
6 same type of construction is prohibited. The change from a specifically prohibited use to another  
7 specifically prohibited use shall not be made.  
8

9 Modified, 1 CMC § 3806(f).  
10

11 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
12

13 § 155-10.1-320 Application  
14

15 Any person desiring a certificate of occupancy as hereinabove required shall after completion of the work  
16 for which a building permit was issued, file with the building safety official a signed application therefore  
17 on a form furnished by the building safety official stating, in writing, that the work has been completed in  
18 compliance with the terms of the building permit and the requirements of the Safety Code and the  
19 regulations in this subchapter.  
20

21 Modified, 1 CMC § 3806(d), (f). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com.  
22 Reg. 7321 (Sept. 15, 1990).  
23

24 § 155-10.1-325 Final Inspection  
25

26 The building safety official, upon receipt of an application for a certificate of occupancy, shall promptly  
27 inspect or cause to be inspected the construction, enlargement, alteration, repair, conversion, movement  
28 or improvement of the building, structure or appurtenances, or the installation of equipment for which a  
29 building permit was issued, in order to ascertain whether the proposed work has been completed in  
30 accordance with the requirements of the building permit and the provisions of the [Safety] Code and of  
31 the regulations in this subchapter.  
32

33 Modified, 1 CMC § 3806(d), (f).  
34

35 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
36

37 § 155-10.1-330 Issuance or Denial  
38

39 (a) If after inspection as provided in § 155-10.1-325, it is found that the proposed work has been  
40 completed in accordance with the requirements of the building permit, and the provisions of the Safety  
41 Code and the regulations in this subchapter, the building safety official shall issue a certificate of  
42 occupancy. The building safety official shall keep a permanent record of all certificates of occupancy  
43 issued.  
44

45 (b) If after inspection, as provided in § 155-10.1-325, it is found that the proposed work has not been  
46 completed in accordance with the building permit and the terms of the Safety Code and these regulations,  
47 the building safety official shall not issue an occupancy permit and shall order the work completed in  
48 compliance with the building permit, the Safety Code, and these regulations.  
49

50 (c) The building safety official may issue a temporary use permit for any portion(s) of the premises which  
51 may be safely occupied prior to the issuance of a certificate of occupancy.  
52

53 Modified, 1 CMC § 3806(c), (d), (f), (g). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed  
54 12 Com. Reg. 7321 (Sept. 15, 1990). Commission Comment: The cross-references in subsections (a) and



1 (b) erroneously cited § 7035, codified in this section. The Commission changed the references so that  
2 they cite § 7034, codified at § 155-10.1-325.  
3



4 Part 400 -Unsafe or Damaged Buildings and Structures  
5

6 § 155-10.1-401 Unsafe Structures  
7

8  
9 (a) All unsafe buildings and structures are hereby declared to be illegal, and shall be repaired, vacated or  
10 demolished, in accordance with the procedure established by the regulations in this subchapter. (b) For  
11 the purpose of this law, unsafe buildings are all buildings and structures and/or equipment thereof which  
12 are structurally unsafe, or which are unsanitary, or which are unfit for human habitation, or are not  
13 provided with adequate means of egress, or which constitute a fire hazard, and electrically unsafe, or are  
14 otherwise dangerous to public health, safety or welfare, which in relation to existing uses constitute a  
15 hazard to the safety of the public or occupants by reason of inadequate maintenance, dilapidation,  
16 obsolescence or abandonment.  
17

18 Modified, 1 CMC § 3806(d).  
19

20 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
21

22 § 155-10.1-405 Examination  
23

24 The building safety official shall examine or cause to be examined every unsafe or damaged building or  
25 structure. He shall make or cause to be made, a written record of such examination, which shall set forth  
26 a factual description of the premises and specifically enumerate the particular conditions which are  
27 alleged to be violations of the provisions of the Safety Code or the regulations in this subchapter or  
28 otherwise render such buildings unsafe.  
29

30 Modified, 1 CMC § 3806(d), (f).  
31

32 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
33



34 § 155-10.1-410 Report  
35

36  
37 (a) The building safety official, whenever he shall make a finding, as a result of the examination required in  
38 § 155-10.1-405 shall:  
39

40 (1)(i) Notify in writing, by personal service or certified mail, return receipt requested, the owner,  
41 occupant, lessee, mortgagee, agent and other persons having an interest in said building as  
42 shown by official land records that the building or structure is unsafe, and that: (A) The owner  
43 must vacate, or repair, or demolish said buildings or structure in accordance with the terms of the  
44 notice and of the regulations in this subchapter. (B) The occupant or lessee must vacate said  
45 building, or may have it repaired in accordance with the terms of the notice and of these  
46 regulations. (C) Said mortgagee, agent, or other persons having an interest in said building, may  
47 at his own risk, repair, vacate or demolish said building or have such work or act done.  
48

49 (ii) Any person notified under this subsection to repair, vacate or demolish any building shall be  
50 given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done,  
51 the work or act required by the notice as herein provided.  
52

53 (iii) Such notice shall describe the building deemed unsafe, shall include a statement of the  
54 particulars which make it unsafe, and shall contain an order requiring the building to be put in

1 such condition as to comply with the terms of these regulations within a stated time, not exceeding  
2 thirty days.

3  
4 (2) Post, or cause to be posted in a conspicuous place at the principal point of entry to the building  
5 deemed unsafe, a notice reading as follows: "This building has been found to be a dangerous building by  
6 the building safety official, government of the Northern Mariana Islands. This notice is to remain on the  
7 building until it is repaired, vacated, or demolished in accordance with the notice which has been given to  
8 all parties having an interest in this building. It is unlawful to remove this notice until such notice is  
9 complied with."

10  
11 (b) The building safety official, or his designee, in the event of non-compliance with the notice and order  
12 hereinabove provided for in this section shall:

13  
14 (1) Notify in writing by personal service or certified mail, return receipt requested, the same parties  
15 as notified under subsection (a) of this section to appear before him on a specified date to show  
16 cause why the building deemed unsafe would not be repaired, vacated or demolished in  
17 accordance with the statement of particulars set forth in the prior notice. The notice shall be given  
18 at least five business days before hearing.

19  
20 (2) Hold a hearing and hear such testimony as building safety official employees, owner,  
21 occupant, lessee, mortgagee, or other interested parties shall offer relative to the unsafe building.  
22 Interested parties shall be given a full and fair opportunity, in person or through counsel, to  
23 present any facts relative to the proposed action. The testimony taken shall be under oath and  
24 taken stenographically or by machine, but the parties shall not be bound by strict rules of  
25 evidence.

26  
27 (3) Make written findings of fact from the testimony offered at said hearing, and on the basis of  
28 such findings render a written decision as to whether the building is safe, or unsafe within the  
29 meaning of the Safety Code and the regulations in this subchapter. The original copy of such  
30 findings and decisions shall be kept in the Department of Public Works. Other copies of the  
31 findings and decisions shall be sent to all parties served with notice of the hearing. Copies of the  
32 transcript made at the hearing shall be given to interested parties upon request and at their  
33 expense.

34  
35 (4) On finding that the building is unsafe, issue an order based on such findings of fact,  
36 commanding all parties served with notice of the hearing to repair, vacate or demolish such  
37 unsafe building; provided, that any person so notified, except the owner, shall have the privilege  
38 of vacating or repairing, and; provided further, that no person other than the owner shall be  
39 ordered to demolish said building.

40  
41 (c) In the case of non-compliance with the above order, and if judicial review of the order is not sought  
42 within thirty days pursuant to the Administrative Procedure Act [1 CMC §§ 9101, et seq.], the building  
43 safety official shall cause such building to be repaired, vacated or demolished as the facts may warrant, in  
44 accordance with the standards for repair, vacating or demolition set forth in subsection (d) of this section.  
45 The cost of such repair, vacating or demolition shall be a lien against the land on which the building exists  
46 or existed, as the case may be, until recovered by the Commonwealth of the Northern Marianas.

47  
48 (d) The building safety official in ordering repair, vacating or demolition of a building found unsafe, shall be  
49 governed by the following standards:

50  
51 (1) If an unsafe building can reasonable be repaired so that it will no longer exist in violation of the  
52 terms of the regulations in this subchapter, it shall be ordered to be repaired.

53  
54 (2) If an unsafe building is in such condition as to make it dangerous to the health, safety or

1 general welfare of its occupants, it shall be ordered to be vacated.

2  
3 (3) If an unsafe building is damaged or decayed, or deteriorated to the extent of fifty percent of its  
4 original value or structure, it shall be demolished. In all cases where a building cannot be repaired  
5 so that it will no longer exist in violation of the terms of these regulations, it shall be demolished.  
6 In all cases where the unsafe building is fire hazard existing or erected in violation of the Safety  
7 Code or these regulations or unsafe within the meaning of the Safety Code and regulations, it  
8 shall be demolished.  
9

10 Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

11 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).

12 Commission Comment: The original paragraphs of subsection (a)(1) were not designated. The  
13 Commission designated subsections (a)(1)(i) through (iii).

14 In subsection (b)(4), the Commission changed "order" to "ordered" to correct a manifest error. In  
15 subsection (c), the Commission changed "Procedures" to "Procedure" to correct a manifest error.  
16



18 § 155-10.1-415 Emergency Order to Vacate  
19

20 The building safety official, whenever he determines that an unsafe building, structure, or portion thereof,  
21 constitutes an immediate danger to the occupants, shall order the buildings, structure, or portion thereof,  
22 to be vacated at once and not re-occupied until issuance of a new certificate of occupancy by the building  
23 safety official.  
24

25 Modified, 1 CMC § 3806(f).  
26

27 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
28

29 § 155-10.1-420 Sign  
30

31 (a) The building safety official, on the vacating of any building in accordance with the provisions of §§  
32 155-10.1-410 and 155-10.1-415 of this subchapter, shall post or cause to be posted at each entrance to  
33 the building, a sign stating: "This building is unsafe and its use or occupancy is prohibited by the building  
34 safety official. Any person entering this building without permission of the building safety official shall be  
35 subject to fine."  
36

37 (b) Such sign shall remain posted until the required repairs are made or demolition is completed.  
38

39 (c) Any person entering the building, except for the purpose of making the required repairs of effecting  
40 demolition, or any person removing any sign posted by the building safety official shall be liable for the  
41 penalties provided for in the regulations in this subchapter.  
42

43 Modified, 1 CMC § 3806(c), (d), (f), (g).  
44

45 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
46

47 Commission Comment: In subsection (a), the Commission inserted the final period. In subsection (c), the  
48 Commission changed "liable to the penalties" to "liable for the penalties" to correct a manifest error.  
49



51 § 155-10.1-425 Actual and Immediate Danger  
52  
53  
54

1 (a) In case there shall be, in the opinion of the building safety official immediate danger of failure or  
2 collapse of a building or structure, or any part thereof so as to endanger life or property, he shall promptly  
3 cause such building or structure to be declared temporarily safe, or if necessary, to be demolished. In  
4 such cases the decision of the building safety official shall be final and conclusive.  
5

6 (b) The building safety official, in exercising his powers and duties under this section, may at once enter  
7 any unsafe building, or the land on which it stands, or abutting land or structure, with such assistance and  
8 at such cost as he deems necessary. He may vacate adjacent structures and protect the public by an  
9 appropriate fence or such other means as may be necessary, and for this purpose he may close a public  
10 or private way.  
11

12 (c) Costs incurred under this section shall be paid by the government of the Northern Mariana Islands on a  
13 certified voucher of the building safety official. Such costs shall be a lien on the land on which the building  
14 exists or existed, as the case may be, until recovered by the government of the Northern Mariana Islands.  
15

16 Modified, 1 CMC § 3806(f).  
17

18 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
19



21  
22 Part 500 -Miscellaneous Provisions  
23

24 § 155-10.1-501 Prohibition and Penalty  
25

26 (a) It shall be unlawful for any person to construct, alter, repair, remove, demolish, equip, use, occupy or  
27 maintain any building or structure or portion thereof in the Northern Mariana Islands contrary to any  
28 provision of the Safety Code or the regulations in this subchapter.  
29

30 (b) Any person violating the provisions of the Safety Code or these regulations shall be liable for a civil fine  
31 of not less than ten dollars and not more than five hundred dollars, per day provided that the fine shall not  
32 exceed ten thousand dollars or one percent of the total value of the project, whichever is greater. Such  
33 penalties may be imposed by the building safety official in addition to any criminal penalties established by  
34 the Safety Code.  
35

36 (c) ~~Such person shall be deemed guilty of~~ Each day of a violation shall constitute a separate offense for  
37 ~~each day during which violation of the provisions of the Safety Code or these regulations continues.~~  
38

39 (d) Other departments and agencies of the Commonwealth of the Northern Mariana Islands shall  
40 cooperate and assist in the enforcement of the Safety Code and these regulations. Any employees of  
41 such department or agency empowered to review the design or make inspections of such structures shall  
42 promptly report to the head of his department or agency any suspected violations of the provisions of the  
43 Safety Code or these regulations. Such department or agency head shall promptly communicate the  
44 suspected violation to the Director of Public Works. Furthermore, it is the expressed intent of the Safety  
45 Code and these regulations that the design and construction, alteration, modification, occupancy and use  
46 of all public buildings shall be in full compliance with the requirements of the Safety Code and regulations.  
47

48 Modified, 1 CMC § 3806(d), (e), (f).  
49

50 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
51



53 Part 600 - Building and Energy Codes  
54

1 § 155-10.1-601 International Building Code of 2009 Adopted.

2  
3 The International Building Code ("IBC") of 2009, including its energy codes, as adopted by the  
4 International Code Council is hereby adopted as the Commonwealth Building Safety Code. All statutory  
5 and regulatory references shall be superceded by the IBC of 2009, as amended. Due to the length of the  
6 IBC, it is incorporated by reference herein, and a person wishing a copy shall be directed to the publisher,  
7 of the ICC.  
8

9 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
10 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
11

12  
13 § 155-10.1-605 Tropical Energy Code Adopted  
14

15 (a) The Model Tropical Energy Code "(TEC)", dated January 7, 2009, as prepared for the CNMI, Guam,  
16 Hawai'i, Puerto Rico and the Virgin Islands, is hereby adopted as an amendment to, and a portion of, the  
17 IBC of 2009, as though written into the IBC.  
18

19 (b) Due to the length of the TEC, it is incorporated by reference herein, and a copy of the TEC shall be  
20 made available for the cost of reproduction and distribution by the Department, either electronically or in  
21 hard copy form. Apparent conflicts between provisions of the IBC and the TEC shall be resolved in writing  
22 upon request to the Building Safety Official.  
23

24 (c) The Building Safety Official's future amendments to the Building Safety Code may include subsequent  
25 versions of the International Building Code and/or the Tropical Energy Code, or portions thereof.  
26

27 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
28 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
29

30  
31 § 155-10.1-610 Precedence of Commonwealth Building Safety Code.  
32

33 Where conflicts or contradictions exist between provisions of the Building Safety Code and the regulations  
34 issued thereunder and a model code, then the Building Safety Code shall apply.  
35 (See 2 CMC sec. 7145)  
36

37 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
38 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
39

40  
41 § 155-10.1-615 Earthquake and Typhoon Standards  
42

43 (a) Compliance with technically proper earthquake and typhoon standards is a matter of life and death for  
44 the residents of and visitors to the CNMI. The application of the proper earthquake reference standard is  
45 a technical matter which cannot be ignored. The determination of the maximum sustained winds in  
46 recent typhoons and super-typhoons is also a technical matter which cannot be ignored. There are,  
47 therefore, sound technical reasons to construe ambiguous statutory language from 1990 to provide for  
48 the minimum protective standards rather than ceilings.  
49

50 (b) Notwithstanding a contrary reading of the language of 2 CMC § 7146 (Earthquake Design  
51 Requirements), for purposes of earthquake design requirements, the Northern Mariana Islands have been  
52 declared by the United States Geological Survey to be in Seismic Zone 4. Such a decision by the USGS  
53 shall be deemed conclusive. All structures which are required to meet earthquake construction  
54 requirements shall be designed and constructed to Seismic Zone 4 standards.

1 (c) Notwithstanding a contrary reading of the language of 2 CMC § 7147 (Typhoons), the minimum design  
2 strength of every building and structure and every portion thereof to which the Building Safety Code  
3 applies shall be designed and constructed to withstand the minimum horizontal and uplift pressure of wind  
4 velocity of at least 175 miles per hour.  
5

6 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
7 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
8



10  
11 Part 700 - Definitions

12  
13 § 155-10.1-701 Statutory definitions



14  
15 The definitions of 2 CMC § 7112 (Definitions) are adopted for this chapter without further detail, unless  
16 stated in the following subsections.  
17

18 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
19 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
20

21  
22 § 155-10.1-705 Additional definitions

23  
24 The following definitions shall apply to this chapter.  
25

- 26 (a) "Building safety code," "safety code," and "code" mean the International Building Code of 2009,  
27 including its energy codes, as adopted by the International Code Council, and as amended  
28 thereafter by regulations of the Building Safety Official.  
29
- 30 (b) "Building safety code review board" or "Board" shall mean either of the following upon the  
31 Executive Order of the Governor:  
32
- 33 (1) The Building Safety Code Review Board described in this Chapter 1, including 2 CMC  
34 sec. 7114 and 7125;  
35
- 36 (2) Such other regulatory board designated by the Governor to fulfill the statutory  
37 responsibilities of the Building Safety Code Review Board; or  
38
- 39 (3) A successor agency, or other instrumentality of the CNMI, that is authorized by the  
40 Board, or otherwise by law, in writing to undertake specific notice, complaint, decision,  
41 enforcement and/or other regulatory action of the matters addressed in this Chapter.  
42
- 43 (c) "Building Official" means the Building Safety Official.  
44
- 45 (d) "CABO code" or "Cabo code" means the IBC.  
46
- 47 (e) "Code" means the Building Safety Code.  
48
- 49 (f) "CPUC" means the Commonwealth Public Utilities Commission.  
50
- 51 (g) "CUC" means the Commonwealth Utilities Corporations.  
52
- 53 (h) "Delivered" or "Presented". The term means:  
54

- 1 (1) delivered in person;  
 2 (2) deposited in the mail, with postage paid;  
 3 (3) faxed, and a memo generated automatically by the sending fax machine or fax modem  
 4 that the fax was received; or  
 5 (4) emailed with an acknowledgment by the recipient that the email had been received.  
 6  
 7 (i) "Electronic communication" means communication mediated by the following electronic means:  
 8 fax, email, internet posting that allows the reader to access the information and download a copy  
 9 of it, CD-ROM, DVD, diskette, thumb drive or other portable memory device.  
 10  
 11 (j) "Electronic Means" includes telephone, video-conference, electronic-communications-mediated  
 12 written, aural and/or video means, including mediated through the internet, and/or email.  
 13  
 14 (k) "Decision" includes the adoption of a plan, regulation, rule, resolution, opinion, order or directive.  
 15 Typically a decision is reduced to writing and includes a description or discussion of the reasons  
 16 for it.  
 17   
 18  
 19 (l) "IBC" means the International Building Code.  
 20  
 21 (m) "ICC" means the International Code Council.  
 22  
 23 (n) "International Building Code" means the code developed and published by the ICC, or its  
 24 successor organizations.  
 25  
 26 (o) "International Conference of Building Officials" shall mean International Code Council or its  
 27 successor organizations.  
 28   
 29 (p) "Mail" means one of the following mail services: U. S. Postal Service (USPS) first class mail, or  
 30 priority mail, or Express Mail; overnight mail by one of the following private carriers, if they serve  
 31 the CNMI: Airborne Express; DHL; FedEx; UPS; or the national postal services of the following  
 32 countries, using service equivalent to or better than USPS airmail: Australia; China; Japan; Korea;  
 33 Republic of the Philippines; any FAS state.  
 34  
 35 (q) "Person" includes, but is not limited to a natural person, non-governmental organization, firm,  
 36 association, partnership, limited liability company, corporation, and/or a government agency or  
 37 other government corporation, political subdivision or instrumentality of the CNMI or the United  
 38 States.  
 39  
 40 (r) "Real time" or "real-time" means immediately before, during and/or after, as in "as it happens".  
 41  
 42 (s) "Registered" means, when applied to a design or construction professional, or to a builder or  
 43 tradesman, "licensed".  
 44  
 45 (t) "Safety Code" means the Building Safety Code.  
 46  
 47 (u) "Signature" or "Signed" means as follows: The term includes a hard copy or an electronic  
 48 communication that bears the hallmark of legitimacy, including original hard copy, xerox of an  
 49 original, fax copy, electronic signature through use of a digital code, and an electronic copy of a  
 50 hard copy signature if separately confirmed as true and correct.  
 51  
 52 (v) "Uniform Building Code" shall be read to mean the IBC.  
 53

- 1 (w) "Virtual" or "Virtually", when used with respect to a meeting, means by electronic means that  
 2 provide for real-time communication to and from the participants in such a manner that each  
 3 participant can hear and/or read the comments of each other participant.  
 4  
 5 (x) "Writing" includes hard copy, and electronic communications including such electronic formats as  
 6 fax, email, pdf format and word processing formats which are generally commercially available.  
 7  
 8 (y) Rules of Construction: The following rules of construction shall be applied to the Regulations of  
 9 this Chapter:  
 10  
 11 (1) "Include", "includes" or "including" shall be read as though followed by "but not limited to"  
 12 or "but is not limited to".  
 13  
 14 (2) The male, female and neuter/neutral shall each be read to mean the other, unless the  
 15 context expressly excludes such interpretation.  
 16  
 17 (3) The singular shall be read to mean the plural, and vice versa, except where the context  
 18 specifically indicates otherwise.  
 19

20 History: Adopted or amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31  
 21 Com. Reg. Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
 22  
 23

24 **Appendix A Guidance Standards through Building Safety Code**

25  
 26 ~~(a) Uniform Building Code (1988) (b) Uniform Plumbing Code (1988) (c) Uniform Mechanical Code~~  
 27 ~~(1988) (d) Uniform Fire Code (1988) (e) National Electrical Code (1987) (f) CABO One and Two-Family~~  
 28 ~~Dwelling Code (1986 Edition) (g) NFPA 101 "Life Safety Code" (1988) (h) ANSI 117.1 (1986)~~  
 29 ~~(Handicapped Accessibility Standards) (i) ASME/ANSI A17.1 (1987) (Safety Code for Elevators and~~  
 30 ~~Escalators) (j) NFPA 13 (1989) (Installation of Fire Sprinkler Systems) (k) NFPA 72A (1987) (Local Fire~~  
 31 ~~Alarm Systems)~~  
 32

33 Guidance shall be found in the International Building Code ("IBC") of 2009, including its energy codes, as  
 34 adopted by the International Code Council, and as amended thereafter by regulations of the Building  
 35 Safety Official of the Department of Public Works.  
 36

37 Modified, 1 CMC § 3806(f).

38 History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com. Reg. 7321 (Sept. 15, 1990).  
 39 Amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31 Com. Reg. Xxx (May  
 40 Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
 41



43  
 44 **Appendix B Testing Laboratories and Other Entities**

45  
 46 **Approved Materials Testing Laboratories (a) Underwriter Laboratory (b) Factory Mutual (c) California**  
 47 **State Fire Marshal**  
 48

49 Modified, 1 CMC § 3806(f). History: Adopted 12 Com. Reg. 7508 (Dec. 15, 1990); Proposed 12 Com.  
 50 Reg. 7321 (Sept. 15, 1990).  
 51

52 History: Amended 2009: 31 Com. Reg. xxx (Emergency Regs of April 29, 2009); Adopted 31 Com. Reg.  
 53 Xxx (May Xxx, 2009); Proposed 31 Com. Reg. Xxx (Apr. xxx, 2009).  
 54





# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

## COMMONWEALTH PORTS AUTHORITY

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### **PUBLIC NOTICE OF EMERGENCY REGULATIONS AMENDING THE RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY RE:**

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth Ports Authority ("CPA"), by and through its Executive Director finds as follows:

1. The attached rules and regulations regarding the Terminal Tariff shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC §9104(b), (c); 1 CMC § 9105(b)(2); and
2. CPA intends that same Rules and Regulations shall be adopted as permanent regulations and is separately publishing notice thereof.

**AUTHORITY:** Pursuant to 2 CMC 2122 (g) CPA has the statutory authority to determine the charges or rentals for the use of any property under its management and control, and the terms and conditions under which the property may be used.

Charges shall be reasonable and uniform for the same class of service, and established with due regard to the value of the property and improvements used and the expense of the operation of the authority. The Authority shall have and may enforce liens to enforce the payment of any such charges through appropriate judicial proceedings. The right to levy charges or rentals for the use of the property under its management shall be exclusively that of the Authority and all such charges and rentals as well as other revenues of the authority shall be and remain revenues of the Authority to be applied as herein set forth.

Pursuant to 2 CMC § 2141 the Authority may promulgate, adopt and enforce appropriate regulations based upon the Authority's own safety requirements to prevent hazards and obstructions which may interfere with the mooring, loading or unloading by any seacraft from any seaport owned or operated by the authority within the Commonwealth. To such end, all appropriate boards, commissions, the Governor, and

other agencies of the government shall cooperate with the Authority in coordinating their actions, plans and programs, and in enforcing such appropriate regulations. Source: PL 2-48, § 24; 2 CMC § 2141.

Pursuant to 2 CMC § 2142 rules and regulations shall be in full force and effect 30 days after the publication of the notice hereby required, and ignorance thereof is not a defense to a prosecution for the enforcement of a penalty. After required publication, the rules and regulations shall be judicially recognized by the courts as valid civil ordinances of the Commonwealth. Source: PL 2-48, § 17; 2 CMC § 2142.

Pursuant to 2 CMC § 2143 any person substantially interested or affected in his or her rights as to person or property by a rule or regulation adopted by the authority may petition the authority for a reconsideration of the rule or regulation, or for an amendment, modification, or waiver thereof. The petition shall set forth a clear statement of the facts and grounds upon which reconsideration, amendment, modification, or waiver is sought. The authority shall grant the petitioner a public hearing within 30 days after filing the petition and the authority's decision upon the petition shall be publicly released not more than 20 days after the final public hearing held upon the petition. Source: PL 2-48, § 18; 2 CMC § 2143.

Pursuant to 2 CMC § 2144 in addition to the notice of adoption of rules or regulations relative to civil penalties, a substantive statement shall be published, in condensed form, along with the notice. One notice may embrace any number of rules and regulations. The notice must advise that breach of the particular rules or regulations will subject the violator to a civil penalty as set by the board in the adoption of the rules and regulations. The notice must also state that the full text of the rules and regulations are on file at the principal office of the authority, where the same may be read by any interested person during reasonable business hours. 2 CMC § 2144.

Pursuant to 2 CMC § 2146 the CPA Executive Director shall enforce rules and regulations of the authority governing the assessment of civil penalties.

- (a) The rules and regulations shall provide for a reasonable time, not less than 10 days, for due notice to the person assessed of the nature of the violation committed, and during which the person assessed may answer the assessment by denying liability, by offering a compromise to the executive director, or by paying the assessment.
  
- (b) The rules and regulations shall also provide notice that failure to pay the final civil penalty assessed by the time set in the rules and regulations may result in collection of the penalty through the Commonwealth Trial Court or the U.S. District Court.

2 CMC § 2146.

In addition to CPA's statutory authority through its enabling act, 2 CMC §§ 2101 *et seq.*, and the Administrative Procedure Act provide that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section. A judicial proceeding for a declaratory judgment to contest any regulation on the ground of noncompliance with the procedural requirements of this section must be commenced within one year from the effective date of the regulation.

1 CMC § 9104(b), (c).

**TERMS AND SUBSTANCE OF THE TERMINAL TARIFF:** These Rules and Regulations provide for the immediate increase of fees that will allow CPA to generate sufficient revenues to maintain the 125% revenue-to-bond-payment-ratio at all times for the duration of the bond.

CPA is compelled by its Bond Indenture Agreement with the Bank of Guam for the Seaport Revenue Bonds to pledge its revenue from its operations toward debt service.

**SUBJECTS AND ISSUES INVOLVED:** Seaport Terminal Tariff: Analysis of the most recent seaport financial condition compels a 90% increase in the terminal tariff to meet the requirements of the bond indenture.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The CPA Board has approved the terminal tariff increase on January 14, 2009.

**COMPELLING REASONS FOR EMERGENCY ADOPTION:** The CPA Board and Management finds that the public interest compels the adoption of these regulations on an emergency basis for the following reasons:

1. CPA is directed by statute to determine the charges or rentals for the use of any property under its management and control, and the terms and conditions under which the property may be used.
2. CPA is authorized to pledge its assets and revenues toward revenue bonds for the

construction, renovation and development of its facilities.

3. In 1998 and 2005, CPA and the Bank of Guam, as the Bond Trustee, signed the Seaport Revenue Bonds committing CPA's revenue to service the principal and interest in return for financing for the seaport construction and renovation.
4. The Bond Indenture Agreement requires CPA to have sufficient revenue to service the debt. Section 6.11 of the Bond Indenture Agreement requires CPA to have a debt service ratio of net revenues of 1.25 at all times. Whenever that ratio falls below the established rate, CPA is compelled to hire a Bond Consultant to undertake a rate study and whose recommendations shall be implemented by CPA.
5. In July 2008 CPA commissioned BST Associates, Inc., to undertake a rate study of the terminal tariff based on historical data. And in December 2008 CPA commissioned a financial consultant to review and analyze the most recent data and recommend the terminal tariff increase that would enable the Authority to comply with the bond requirements.
6. Following the standard procedure of publishing notice and comment would further delay the implementation of the terminal tariff. The Bond Trustee has impressed upon CPA's Board the urgent need to implement all cost recovery in the form of rate increases and charges. These new rates are therefore necessary immediately.
7. Any further delay in cost recovery for any rates or fees would threaten the public welfare with the specter of a default and acceleration of the balance of approximately \$35 million due and/or a takeover in management of the Saipan Seaport resulting in even more increased fees, more detrimental to the public.
8. CPA's present fees are insufficient for cost recovery. These new fees were approved by the CPA Board on January 14, 2009. As of the release of the FY 2007 Audit, August 5, 2008, CPA's debt service ratio is .843 and so CPA must immediately implement cost recovery measures.

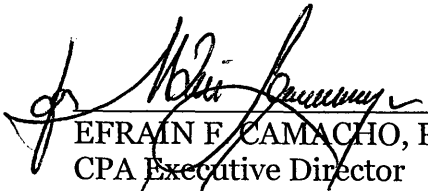
**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section on emergency and proposed regulations, 1 CMC § 9102(a)(1), and posted at each CPA office, including the Airport Administration Office and Port of Saipan Office, in convenient places in the Courthouse, in local government offices, and in each senatorial district.

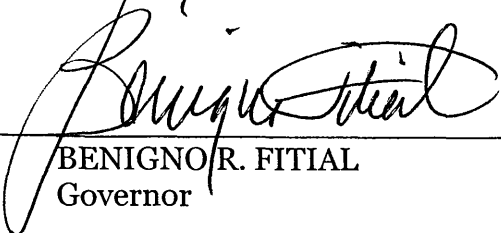
CPA shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them, including: all vessel agents; Port of Saipan vessels; tenants at the Port of Saipan; all Foreign Vessel operators; and all law enforcement agencies, including the Drug Enforcement Administration; CNMI


Department of Public Safety; and CNMI Division of Customs.

IMMEDIATE EFFECT: These emergency rules and regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. 1 CMC § 9105(b)(2).

PUBLIC COMMENTS: No comments are required for these emergency rules and regulations. However, the Notice of Proposed Rules and Regulations and CPA's statutory requirements set forth above specify comment procedures for the proposed regulations. Please see the notice regarding these emergency regulations being presented as proposed regulations.

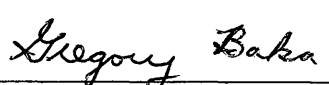
SUBMITTED BY:  04 MAY 2009  
EFRAIN F. CAMACHO, P.E. Date  
CPA Executive Director

CONCURRED BY:  5/5/09  
BENIGNO R. FITIAL Date  
Governor

FILED AND RECORDED BY:  05.19.09  
ESTHER M. SAN NICOLAS Date  
Commonwealth Register

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) (approval by Attorney General required) 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.

Date: 19 May, 2009

  
GREGORY BAKA  
Acting Attorney General

Pursuant to the Commonwealth Ports Authority Act, 2 CMC § 2101 *et. seq.*; the Commonwealth Ports Authority through its Executive Director hereby gives notice of the following:

NMIAC, Title 40, Parts 200 through 600 are repealed and reenacted in its entirety to read as follows:

**“PART 200- WHARFAGE**

**§ 40-20.2-201 Wharfage Rates**

(a)(1) Wharfage Rates. Wharfage rates shall be charged on the basis of a revenue ton. Wharfage for all cargo other than liquid petroleum products off-loaded or on-loaded by pipeline shall be:

Per Revenue Ton . . . . . \$11.40

Wharfage for liquid petroleum products which includes, gasoline, diesel, bunkers and other liquid petroleum products off-loaded or on-loaded by pipeline shall be:

Per Revenue Ton . . . . . \$8.55

**§ 40-20.2-205 Limitations.**

Provided the ocean bill-of-lading reads transshipment, and the cargo does not leave the control of the inward or outward carriers at the port while awaiting transshipment, and the second carrier’s bill-of-lading provided by the agent involved indicates the first carrier vessel’s name, voyage number, and other pertinent information, and

(a) If the final destination of the cargo is a port outside the Commonwealth, the wharfage rates specified in § 40-20.2-201 shall not apply. Instead, the wharfage rates for such cargo shall be \$2.38 per revenue ton. The minimum charge per bill-of-lading shall be \$2.38; or

(b) If the final destination of the cargo is a port within the Commonwealth, the wharfage rates specified in Paragraph A of this Part III shall apply provided that cargo upon which wharfage charges have been paid at the port of transshipment shall not be subject to a wharfage charge at the port of final destination. Alternatively, the Executive Director may provide for the collection of wharfage charges at the port of final destination.

**§ 40-20.2-210 Containerized Tuna**

All wharfage charges applicable to outbound containerized tuna cargo are for the account of the cargo, to be collected by the outbound carrier or the cargo owner’s agent.

**§ 40-20.2-215            Items Excluded**

Wharfage will not be charged on:

- (a) Authorized carrier or consignees' equipment taken on a wharf to move merchandise (but not for shipment).
- (b) Baggage when accompanying travelers, not including automobiles.
- (c) Cargo which a vessel discharges and reloads prior to departure, in order to load or discharge other cargo (overstowed cargo).
- (d) Empty vans.
- (e) Empty containers.
- (f) Ship's stores, and/or repair materials and supplies, or dunnage lumber for use in ordinary stowage of freight, when all are intended for vessel's use, consumption or repairs.
- (g) Fish transferred from the catch vessel to a mother ship.

**Part 300-            Port Entry Fee**

**§ 40-20.2-301            Port Entry Fee**

All vessels (except military and government-owned vessels) shall pay a Port Entry Fee as indicated in the schedule below when entering a CNMI port, or refueling within the territorial waters of the Commonwealth of the Northern Mariana Islands.

Port Entry Fees

- |   |          |
|---|----------|
| (a) For vessels of 1,000 registered gross tons and under      | \$220.40 |
| (b) For vessels between 1,001 and 2,000 registered gross tons | \$438.90 |
| (c) For vessels over 2,000 registered gross tons              | \$438.90 |

(plus an additional charge of \$220.40 for each 2,000 registered gross tons or fraction thereof in excess of 2,000 registered gross tons)

**PART 400-            Dockage**

**§ 40-20.2-401            Basis for Establishing the Vessel's Length**

Dockage charges shall be based upon the vessel's length overall as published in "American Bureau of Shipping" or "Lloyd's Register of Ships" or any other recognized classification society. Length overall shall mean the linear distance, expressed in feet, from the most forward point of the stem of the vessel, measured parallel to the base line of the vessel. If the length overall of the vessel does not appear in "American Bureau of Shipping," "Lloyd's Register of Ships," or any other recognized society, the port may obtain the length overall from the vessel's register, or may measure the vessel. The following will govern the disposition of fractions: five inches or less disregard, over five inches, increase to the next whole figure.

**§ 40-20.2-405            Dockage Period; How Calculated**

The period of time upon which dockage will be assessed shall commence when vessel is made fast to a wharf or dock; or when a vessel is made fast to a vessel so berthed; or when a vessel comes within, or moors within a slip; and shall continue until such vessel is completely free from and has vacated such berth or slip. No deduction will be allowed for Saturdays, Sundays, holidays or because of weather or other conditions.

**§ 40-20.2-410            Charges for Vessel Shifting**

When a vessel is shifted directly from one wharf or anchorage (berth) to another wharf or anchorage (berth) operated or utilized by the port, the total time at such berths will be considered together in computing the dockage charge.

**§ 40-20.2-415            Dockage Rates**

Overall Length of Vessel in Feet		Charge per 24-Hours or Fraction Thereof
Over	But Not Over	
0	100	\$199.50
100	150	\$252.70
150	200	\$307.80
200	300	\$528.20
300	350	\$798.00
350	400	\$967.10
400	450	\$1,130.50
450	500	\$1,297.70
500	550	\$1,463.00
550 and Over	----	\$2,065.30

**§ 40-20.2-420            Abuse of Docking Privileges; Fishing Vessels**

The Commonwealth Ports Authority declares that the commercial docks and wharves of the Commonwealth are intended for active loading and unloading of vessels. It is therefore the



policy of the Authority to discourage inefficient use of the limited space at the commercial docks and wharves of the Commonwealth, by providing surcharge for vessels moored or docked there at which are not actively engaged in loading or unloading. The Authority further finds that the principal source of abuse of dock privileges are fishing vessels.

(a) Catch vessels, including but not limited to purse seiners, pole and line vessels, and small fish carriers, may remain in port while waiting to unload their cargo, while actively unloading their cargo, and for a period of three days thereafter for the purpose of re-provisioning, without the payment of a surcharge. Any catch vessel which remains at a commercial dock or wharf of the Commonwealth for a period of time in excess of that permitted by this subsection, without an exemption of surcharges by the Port Superintendent, shall pay a surcharge of \$300 per 24-hour day or fraction thereof for each excess day that it remains in port, in addition to the dockage charges provided hereinabove. If such a vessel remains in port for longer than three continuous days, it shall provide reasons satisfactory to the Port Superintendent as to why a surcharge should not be levied under this subsection. In the event that the Port Superintendent does not accept such reasons and does not exempt the vessel from payment of the surcharge, the vessel and its owner shall be liable for the surcharge, and shall promptly pay the same.

(b) Motherships, including but not limited to refrigerated cargo vessels carrying or intending to carry fish, shall, promptly upon their arrival in port, advise the Port Superintendent of their proposed plan for loading and transshipment of cargo. The Port Superintendent may reject a plan if he determines that it is not reasonable. The Port Superintendent shall approve the plan if he determines that the plan is calculated to accomplish the business of the vessel within a reasonable time. A mother ship may not remain at a commercial dock or wharf of the Commonwealth for a period of time in excess of ten days unless such a plan has been approved by the Port Superintendent. If the Port Superintendent determines that the vessel is not endeavoring in good faith to comply with such plan, the Port Superintendent may in his discretion either

- (1) Require the vessel to leave port, or
- (2) Require the vessel to pay a surcharge of \$300.00 per day for each day that the vessel remains in port without an approved plan.

(c) For the purpose of this section, a dockage period shall not be construed as ending unless and until a vessel shall have vacated its berth or slip for a period of not less than 24 consecutive hours.

(d) Any person aggrieved by a decision or order of the Port Superintendent made pursuant to this section may appeal such decision or order to the Board of Directors, within ten days thereof. The Board shall promptly afford such person notice of and the opportunity to be heard at a hearing within 30 days after filing the appeal and the Board of Directors decision shall be released not more than twenty days after the final hearing.

## **PART 500- MISCELLANEOUS CHARGES**

### **§ 40-20.2-501 Fresh Water**

(a) Fresh water, if available, will be furnished to vessels at a rate of thirty cents per metered ton or fraction of a ton.

(b) In addition a charge of \$35 will be levied to connect and disconnect hoses and couplings except on Saturdays, Sundays and holidays. On Saturdays, Sundays and holidays, a charge of \$80 will be levied for this service.

**§ 40-20.2-505 Electric Service Charges**

At the request of a carrier, or its agent, electric power shall be supplied to vessels at the same rates that the government of the Northern Mariana Islands would charge for the service if supplied directly, plus the following service charges:

(a) For connecting light or power circuits to vessel when shore cables, plugs or motor connections are supplied by the vessel, the service charge shall be \$8. If the vessel temporarily leaves the terminal and returns during the same voyage, an additional charge will be made for again connecting the light or power circuits as herein provided.

(b) For connecting light or power circuits to vessel when shore cables, plugs or motor connections are supplied by the port, or for the extension of light or power circuits, the service charge shall be \$11 plus time at the established man-hour rates.

**§ 40-20.2-510 Bunker Fee**

A charge of \$0.86 per barrel for residual oil and \$1.43 per barrel for diesel fuel, will be assessed all suppliers of oil for bunkering at the port.

**§ 40-20.2-515 Home Port Fee; Saipan and Tinian**

Rates and fees for vessels operating in the territorial waters of the Commonwealth on a continuing and long-term basis may be established by agreement, exclusive of this Terminal Tariff, pursuant to the powers conferred upon CPA by law. In the absence of such an agreement, all of the rates and fees set forth in this Terminal Tariff and elsewhere in the Harbor Regulations [NMIAC, title 40, subchapter 20.1] shall apply, except that the rates shall be as follows:

At the Commercial Ports of Saipan and Tinian

Overall length of vessel in feet:

Charge per month  
or fraction thereof:

Over

But not over

0	25	\$93.10
25	75	\$155.80
75	100	\$475.00
100	150	\$636.50
150	----	\$750.00

**§ 40-20.2-520 Home Port Fee; Rota**

Rates and fees for vessels operating in the territorial waters of the Commonwealth on a continuing and long-term basis may be established by agreement, exclusive of this Terminal Tariff, pursuant to the powers conferred upon CPA by law. In the absence of such an agreement, all of the rates and fees set forth in this Terminal Tariff and elsewhere in the Harbor Regulations [NMIAC, title 40, subchapter 20.1] shall apply, except that the rates shall be as follows:

At the commercial port of Rota

Overall length of vessel in feet:

Over	But Not Over	Charge per month or fraction thereof
0	10	\$22.80
10	12	\$30.40
12	14	\$38.00
14	16	\$45.60
16	18	\$62.70
18	20	\$76.00
20	22	\$83.60
22	24	\$91.20
24	26	\$100.70
26	75	\$210.90
75	100	\$319.20
100	150	\$425.60
150	---	\$525.00

**§ 40-20.2-525 Port Service/Vessel Traffic Control Fee**

Vessels shall pay a special service fee of \$40.00 for services rendered after normal working hours during the week, weekends, and holidays.

**§ 40-20.2-530 Passenger Fee**

Unless otherwise agreed to by the Authority, there shall be a charge of \$16.76 for every person that boards a vessel through any port or harbor in the Commonwealth which CPA exercises the

various powers conferred upon it by law. Crew members of U.S. military vessels as well as crew members of vessels under contract by the U.S. military are exempt from paying the passenger fee.

**§ 40-20.2-535 Future Rate Increase**

Nothing in the Terminal Tariff in this subchapter shall restrict or limit CPA's authority to increase its fees, rates, and charges beyond that imposed by this tariff, or to implement new fees and charges as necessary to maintain and operate the port and to pay CPA's expenses, including any debt obligation that CPA has with respect to the ports under its jurisdiction.

**§ 40-20.2-540 Public Parking Fees**

A Public Parking Fee Schedule is hereby instituted at the Port of Saipan in order to generate additional revenue to assist the Commonwealth Ports Authority meet its seaport operating expenses and revenue bond obligations that were issued in order to redevelop and make major improvements to the Port of Saipan. The following public parking fees and provisions are adopted:

(a) All vehicles owned by members of the general public shall park in designated-parking areas only and shall pay a public parking fee per vehicle as follows:

- |   |         |
|---|---------|
| (1) Minimum fee (one hour or less)                                  | \$1.00  |
| (2) Hourly rate   | \$1.00  |
| (3) Each additional hour (or fraction thereof)                      | \$1.00  |
| (4) Maximum daily rate (more than 10 hours for each 24-hour period) | \$10.00 |
| (5) Fee for lost parking ticket per day                             | \$10.00 |

(b) Buses (i.e. vehicles with a passenger capacity of more than 15 passengers) that drop-off and pick-up tourists and other passengers at the Port of Saipan shall pay a monthly fee of \$125.00 per vehicle. Any vehicle with a seating capacity of 15 or less shall pay a monthly fee of \$100.00. Because of the limited parking space at the Port of Saipan for buses, such vehicles may only drop off and pick up passengers. If any bus decides to park at the limited bus-parking stalls, however, it shall pay an additional fee of \$10.00 per hour.

(c) Each taxicab shall pay a fee of \$15.00 per month beginning the effective date of the Terminal Tariff, as amended, and shall end on January 30, 2010. After January 30, 2010, each taxicab shall pay a fee of \$25.00. The taxicabs shall park at the taxicab-designated parking stalls.

(d) Seaport tenants who park at the Port of Saipan public parking stalls shall pay an annual fee of \$35.00 per vehicle.

(e) Exemptions. The following vehicles are exempted from paying the parking fees: CPA-owned vehicles and vehicles owned by CPA officials and employees; CNMI Government

vehicles; and U.S. government vehicles (including U.S. military).

(f) Vehicles parked in violation of the parking regulations will be towed away from the port premises, at the owner's expense.

(g) Color-coded decals may be issued to identify the various categories of vehicles covered by this section.

(h) Frequent Commuter Parking Permit Fee.

(1) Travelers who commute to and from Saipan on a frequent basis may obtain a frequent commuter parking permit from the Commonwealth Ports Authority upon paying in advance the prescribed fee. Such permit shall be prominently displayed inside the vehicle on the dashboard while parked and shall be presented to the parking attendant when exiting. Such permit shall allow for unlimited parking during the specified period.

(2) Frequent Commuter Parking Permit Fee:

(i) Annual \$400.00

(ii) Semi-annual \$250.00

**Part 600- Space Rentals and Leases**

**§ 40-20.2-601 Space Rentals and Leases**

Rates for lease or rental of any port facility or portion thereof shall be as established by the Executive Director.”

Commonwealth of the Northern Mariana Islands  
Department of Public Health  
Joseph Kevin P. Villagomez, Secretary  
Lower Navy Hill  
Saipan, MP 96950

Tel 670-234-8950; Fax 670-234-8930  
[jkvsaipan@aol.com](mailto:jkvsaipan@aol.com)

**PUBLIC NOTICE OF EMERGENCY REGULATIONS  
WHICH ARE AMENDMENTS TO THE COMMONWEALTH HEALTH CENTER'S  
SCHEDULE OF FEES**

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth of the Northern Mariana Islands Department of Public Health Secretary ("Secretary") finds that:

- (1) The attached amendment to the Commonwealth Health Center's Schedule of Fees shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); and
- (2) The same regulations shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to the attached Notice of Proposed Rules and Regulations and the Administrative Procedure Act, 1 CMC § 9104(a).

**AUTHORITY:** The Secretary is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities.

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, an states in writing its reasons for that finding, it may, with the concurrence of Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt and emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section...

1 CMC § 9104 (b), (c).

**THE TERMS AND SUBSTANCE:** These Rules and Regulations provide for the adoption of new and amended rates for the services and procedures provided at the

Commonwealth Health Center. Specifically, they provide that services and procedures are priced for billing purpose.

**THE SUBJECTS AND ISSUES INVOLVED:** These Rules and Regulations :

1. Amend and add the attached rates in the Commonwealth Health Center's Schedule of Fees.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Secretary has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

**REASON FOR EMERGENCY ADOPTION:** The Secretary finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. The Current Procedural Terminology (CPT) Codes determine the structure of the fees at the Commonwealth Health Center. CPT changes make it necessary for CHC to make amendments to their Schedule of Fees, as described by the CPT structure.
2. CHC physicians do not necessarily perform services listed in the CPT Manual. Therefore, when physicians find services and procedures are necessary for the medical care of the patient, CHC must price them and include them in the Schedule of Fees.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (see 1 CMC § 9102(a)(1) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104 (a) (1))

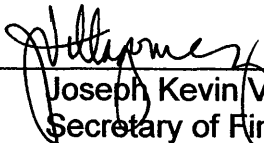
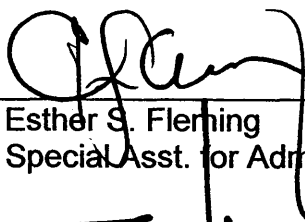


The Secretary shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

**IMMEDIATE EFFECT:** These emergency rules and regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105 (b) (2)) This is because the Secretary has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health.

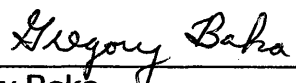
**TO PROVIDE COMMENTS:** No comments are required for these emergency rules and regulations. However, the related Notice of Proposed Rules and Regulations will specify comment procedures. Please see the notice regarding these emergency

regulations being presented as proposed regulations, in the February 2009 Commonwealth Register.

These emergency regulations were approved by the Secretary on May 20, 2009.

Submitted by:	 _____ Joseph Kevin Villagomez Secretary of Finance	<u>5-20-09</u> Date
Received by:	 _____ Esther S. Flerhing Special Asst. for Administration	<u>5/20/09</u> Date
Concurred by:	 _____ Benigno R. Fitial Governor	<u>5/20/09</u> Date
Filed and Recorded by:	 _____ Esther M. San Nicolas Commonwealth Register	<u>05.21.09</u> Date

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

  
\_\_\_\_\_  
Gregory Baka  
Acting Attorney General

21 May 09  
Date



**Amendments to CHC Fee Schedule**

May-09

Page 1 of 5

CPT/HCPCS	Description	Physician/Professional Fee/Component	Technical/Facility Fee/Component
27269	Optx thigh fx	1442.89	5.00
32020	Insertion of chest tube	178.29	5.00
32421	Thoracentesis for aspiration	194.00	n/a
32551	Insertion of chest tube	410.00	5.00
32602	Thoracoscopy, diagnostic	333.65	5.00
32650	Thoracoscopy, surgical	685.72	5.00
35207	Repair Blood Vessel Lesion Direct; Hand, Finger	1427.07	5.00
37607	Ligation of a-v fistula	540.24	5.00
44126	Enterectomy w/o taper, cong	2172.24	5.00
45378	Diagnostic Colonoscopy	465.00	n/a
49421	Insert Abdominal Drain, Permanent	427.03	5.00
49904	Omental flap, extra-abdom	1450.79	5.00
49905	Omental flap, intra-abdom	425.38	5.00
58300	Insertion of IUD	95.00	n/a
59020	Fetal contract stress test	39.24	114.81
59025	Fetal non-stress test	32.13	107.70
59030	Fetal scalp blood sample	118.19	213.32
59400	Obstetrical care	1803.03	2563.00
59409	Obstetrical care	803.00	1169.00
59410	Obstetrical care	924.07	1325.00
59412	Antepartum manipulation	108.21	161.00
59614	Vbac care after delivery	1211.17	1475.00
59899	Manual Replacement of Inverted Uterus	233.30	n/a
61312	Open skull for drainage	2361.55	5.00
62141	Repair of skull defect	1328.63	5.00

**Amendments to CHC Fee Schedule**

May-09

Page 2 of 5

CPT/HCPCS	Description	Fee/Component	Fee/Component
62270	lumbar puncture	240.00	100.00
64721	Carpal Tunnel Surgery	467.10	5.00
65420	Removal of eye lesion	975.00	5.00
65426	Removal of eye lesion	1049.00	5.00
69000	Drainage external ear, simple	140.00	5.00
69005	Drainage external ear, complex	190.00	5.00
69020	Drainage, ext. auditory canal	175.00	5.00
69220	Debridement, mast, simple	78.00	5.00
69222	Debridement, mast, complex	168.00	5.00
69320	Reconstruction,external aud	1346.00	5.00
69420	Myringotomy w/o anesthesia	139.00	5.00
69421	Myringotomy w/ anesthesia	179.00	5.00
69424	Ventilating tube removal	81.00	5.00
69433	Tympanostomy, local anesth	148.00	5.00
69436	Tympanostomy, general anes	201.00	5.00
69440	Middle ear exploration	655.00	5.00
69501	Transmastoid antrotomy	749.00	5.00
69502	Mastoidectomy, complete	996.00	5.00
69505	Mastoidectomy, mod.radical	1050.00	5.00
69511	Mastoidectomy, radical	1101.00	5.00
69540	Excision aural polyp	147.00	5.00
69604	Mastoid surgery revision	1280.18	5.00
69610	Tympanic memb repair	359.00	5.00
69620	Myringoplasty	478.00	5.00
69631	Tympanoplasty w/out ossicular	815.00	5.00

**Amendments to CHC Fee Schedule**

May-09

Page 3 of 5

CPT/HCPCS	Description	Physician/Professional Fee/Component	Technical/Facility Fee/Component
69632	Tympanoplasty, ossicular	1029.00	5.00

69641	Tympanoplasty, middle ear		5.00
		945.00	
69660	Stapedectomy		5.00
		1155.00	
69720	Decompression facial nerve		5.00
		2060.00	
69960	Decompression, internal canal		5.00
		58.84	
72285	X-ray c/t spine disk		738.00
		n/a	
90945	Dialysis procedure, with single MD eval		174.15
		n/a	
90947	Dialysis procedure, with repeated MD eval		280.64
		22.07	
92552	Pure tone audiometry, air		135.00
		48.75	
92557	Comprehensive Hearing Test		108.00
		24.47	
92567	Tympanometry		48.00
		81.45	
92586	Auditor evoke potent, limit		83.55
		7.77	
92587	Evoked auditory test		116.16
		177.36	
92950	Cardiopulmonary Resuscitation		49.15
		393.19	
92975	Coronary Thrombolysis, intracoronary		156.81
		286.20	
92977	Coronary Thrombolysis, intravenous		298.80
		n/a	
93005	Electrocardiogram, tracing		60.00
		251.44	
93012	Transmission of ecg		n/a
		6.96	
93041	Rhythm ECG, tracing		19.00
		55.65	
93225	ECG monitor/record, 24 hrs		110.00
		64.12	
93231	Ecg monitor/record, 24 hrs		135.16
		n/a	
93236	ECG monitor/report, 24 hrs		230.60
		338.47	
93268	ECG record/review		n/a
		46.80	
93270	ECG recording		223.00
		263.40	
93271	Ecg/monitoring and analysis		n/a

### Amendments to CHC Fee Schedule

May-09

Page 4 of 5

CPT/HCPCS	Description	Physician/Professional Fee/Component	Technical/Facility Fee/Component
		n/a	
94002	Continuous Inhaler, 1st hour		90.00
		n/a	
94003	Continuous Inhaler, Add'l Hour		70.00
		8.53	
94010	Breathing capacity test		115.00

94060	Wheezing evaluation/Breathing Capacity Test		160.00
		n/a	
94150	Vital capacity test		80.75
		15.50	
94375	Respiratory flow volume loop		78.65
		14.79	
94640	Airway inhalation treatment		28.50
		n/a	
94642	Airway inhalation, pentamidine		60.00
		41.37	
94644	Airway inhalation treatment		40.00
		15.69	
94645	Airway inhalation treatment		40.00
		38.19	
94660	Pos airway pressure, CPAP		55.28
		15.87	
94664	Evaluate pt use of inhaler		30.25
		25.04	
94667	Chest wall manipulation		51.39
		21.00	
94668	Chest wall manipulation		85.50
		11.81	
94750	Pulmonary compliance study		862.77
		27.93	
94762	Measure blood oxygen level		1430.71
		7.29	
94770	Exhaled carbon dioxide test		42.32
		n/a	
96422	Chemo ia infusion up to 1 hr		551.00
		n/a	
96423	Chemo ia infuse each addl hr		220.50
		156.77	
96521	Refill/maint, portable pump		n/a
		139.40	
96522	Refill/maint pump/resvr syst		n/a
		n/a	
96523	Refill/main pump		33.65
		n/a	
97001	Physical Therapy, Evaluation		95.00
		n/a	
97002	Physical Therapy, Re-Evaluation		50.00
		n/a	
97802	Medical nutrition, indiv, in		82.50

### Amendments to CHC Fee Schedule

May-09

Page 5 of 5

CPT/HCPCS	Description	Physician/Professional Fee/Component	Technical/Facility Fee/Component
		n/a	
97803	Med nutrition, indiv, subseq		82.50
		n/a	
97804	Medical nutrition, group		32.00
		69.42	
99143	Mod cs by same phys, < 5 yrs		n/a
		103.51	
99144	Mod cs by same phys, 5 yrs +		n/a
		25.76	
99145	Mod cs by same phys add-on		n/a

99195	Phlebotomy		78.60
		120.00	
99341	Home Visit, Straightforward, NEW		n/a
		155.00	
99342	Home Visit, Low complexity, NEW		n/a
		225.00	
99343	Home Visit, Moderate, NEW		n/a
		260.00	
99344	Home Visit, comprehensive, NEW		n/a
		325.00	
99345	Home Visit, comp. High complexity, NEW		n/a
		95.00	
99347	Home Visit, EST, problem focused		n/a
		135.00	
99348	Home Visit, EST, expanded		n/a
		205.00	
99349	Home Visit, EST, detailed		n/a
		298.00	
99350	Home Visit, EST, comprehensive		n/a
		39.21	
G0101	CA Screen; pelvic/breast exam		38.55

Notes:

1. Physician/Professional Fee - is a fee for the services of a medical professional
2. Facility Fee - fees for the services of the hospital/outpatient facility
3. Both Professional and Facility fees are charged when the medical professional is an *employee* of CHC.  
or if the medical professional is contracted to provide services for CHC
4. If the medical professional is working for a private clinic, the patient will receive a bill from CHC for the facility fee only and will receive a separate bill from the private clinic for the professional component.
5. Some procedures may only have either the professional component or the facility component and therefore, will only have one of the components with a fee.



Commonwealth of the Northern Mariana Islands  
Office of the Governor  
Department of Lands and Natural Resources  
Caller Box 10007  
Saipan, Northern Mariana Islands 96950

Cable Address:  
Gov. NMJ Saipan  
Telephone: 322-9830/ 9834  
Fax: 322-2633

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF  
REGULATIONS OF THE DEPARTMENT OF LANDS AND  
NATURAL RESOURCES DIVISION OF FISH AND WILDLIFE

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS  
PROPOSED RULES AND REGULATIONS  
Volume 31, Number 3, pp 029358-369, of March 26, 2009

Non-Commercial Fish and Wildlife Regulations of the Department of Lands and Natural Resources Division of Fish and Wildlife: NMIAC § 85-30.1-101, Part 100 (Locally Designated Threatened and Endangered Species) (2004 ed.)

ADOPTION OF PROPOSED AMENDMENT TO THE NON-COMMERCIAL FISH AND WILDLIFE REGULATIONS: The Department of Lands and Natural Resources Division of Fish and Wildlife hereby adopt the above-referenced regulations as permanent regulations, which were published in the Commonwealth Register at pages 029358-396 in Volume 31, Number 3, on March 26, 2009, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Department of Lands and Natural Resources Division of Fish and Wildlife announced that it intended to adopt them as permanent, and now does so. *Id.* The Department of Lands and Natural Resources Division of Fish and Wildlife certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above.

The Department of Lands and Natural Resources requests and directs that this Notice be published in the Commonwealth Register.

AUTHORITY: The Secretary of the Department of Lands and Natural Resources is empowered with the authority to promulgate, adopt and amend regulations regarding matters entrusted to the Secretary. Fish, Game and Endangered Species Act ("FGES Act"). 2 CMC § 5108.

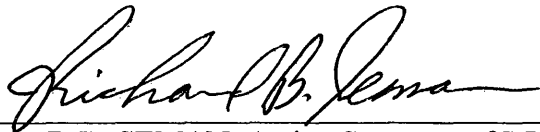
EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted amendment to the Non-Commercial Fish and Wildlife Regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 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 reason for overruling the consideration urged against its adoption. Please see the following pages for this agency's concise statement, if any, in response to any filed comments, which requested a response.

ATTORNEY GENERAL APPROVAL for modified regulations: The adopted regulations were approved for promulgation by the CNMI Attorney General (Acting) 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.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 4~~th~~ day of May 2009, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



RICHARD B. SEMAN, Acting Secretary of DLNR

05/04/09

Date

Filed and recorded by:



ESTHER SAN NICOLAS, Commonwealth Register

05.13.09

Date



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



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

Lucia L. Blanco-Maratita  
Chairperson

Herman T. Guerrero  
Vice-Chairperson

Marylou S. Ada  
Secretary/Treasurer

**Members**  
Galvin S. Deleon Guerrero  
D. Tanya King

Scott Norman  
Non Public School Rep.

Francine R. Babauta  
Student Representative

Teacher Representative

Commissioner of Education  
Rita A. Sablan, Ed.D.  
coe.ras@pss.cnmi.mp

## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE COMMONWEALTH BOARD OF EDUCATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED  
RULES AND REGULATIONS

Volume 31, Number 2, pp 029207-214, of February 25, 2009

### Regulations of the Commonwealth Board of Education: § 60.30.2-215

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands State Board of Education (“Board”) HEREBY ADOPTS AS PERMANENT REGULATIONS the Proposed Regulations which were published in the Commonwealth Register at pages 029207 to 029214 in Volume 31, Number 2 on February 25, 2009 pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above. The Board adopted the regulations as final at its meeting of April 23, 2009.

**AUTHORITY:** The Board is required by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction, including its regulation of the teaching profession, pursuant to Article XV of the CNMI Constitution and to 1 CMC § 2261.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after publication in the Commonwealth Register.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC § 9104 (a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon the 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

Board of Education  
Telephone : (670) 237-3010  
Fax : (670) 664-3711

Commissioner of Education  
Telephone : (670) 237-3001  
Fax : (670) 664-3798




concise statement of the principal reasons for and against 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 any filed comments, which requested a response.

**ATTORNEY GENERAL APPROVAL FOR MODIFIED REGULATIONS:** 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).

I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 29 day of April, 2009, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
Lucia L. Blanco-Maratita, Chairperson  
Board of Education

4/29/09  
\_\_\_\_\_  
Date

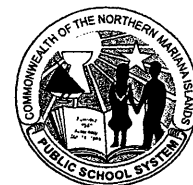
Filed and  
Recorded by:

  
\_\_\_\_\_  
Esther M. San Nicolas  
Commonwealth Register

5.4.09  
\_\_\_\_\_  
Date



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



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

Lucia L. Blanco-Maratita  
Chairperson

Herman T. Guerrero  
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Galvin S. Deleon Guerrero  
D. Tanya King

Scott Norman  
Non Public School Rep.

Francine R. Babauta  
Student Representative

Teacher Representative

Commissioner of Education  
Rita A. Sablan, Ed.D.  
coe.ras@pss.cnmi.mp

## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE COMMONWEALTH BOARD OF EDUCATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED  
RULES AND REGULATIONS  
Volume 31, Number 2, pp 029215-223, of February 25, 2009

### Regulations of the Commonwealth Board of Education: § 60.30.2-791

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands State Board of Education (“Board”) HEREBY ADOPTS AS PERMANENT REGULATIONS the Proposed Regulations which were published in the Commonwealth Register at pages 029215 to 029223 in Volume 31, Number 2 on February 25, 2009 pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above. The Board adopted the regulations as final at its meeting of April 23, 2009.

**AUTHORITY:** The Board is required by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction, including its regulation of the teaching profession, pursuant to Article XV of the CNMI Constitution and to 1 CMC § 2261.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after publication in the Commonwealth Register.


**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC § 9104 (a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon the 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 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 any filed comments, which requested a response.

**ATTORNEY GENERAL APPROVAL FOR MODIFIED REGULATIONS:** 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).

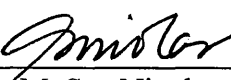
I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 29 day of April, 2009, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
Lucia L. Blanco-Maratita, Chairperson  
Board of Education

4/29/09  
\_\_\_\_\_  
Date

Filed and  
Recorded by:

  
\_\_\_\_\_  
Esther M. San Nicolas  
Commonwealth Register

05.4.09  
\_\_\_\_\_  
Date

**Commonwealth of the Northern Mariana Islands**  
**Department of Public Works**  
Diego Songsong, Secretary  
Division of Building Safety, P.O. Box 510008 CK  
2<sup>nd</sup> Floor, Joeten Comm. Bldg., Middle Road, Gualo Rai, Saipan, MP 96950

Tel: (670) 234-2726; Fax: (670) 235-2732  
[Martinsablan2006@yahoo.com](mailto:Martinsablan2006@yahoo.com)

**PUBLIC NOTICE OF PROPOSED REGULATIONS**  
**WHICH ARE AMENDMENTS TO THE REGULATIONS OF THE**  
**DEPARTMENT OF PUBLIC WORKS, BUILDING SAFETY DIVISION**

**INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Department of Public Works, Division of Building Safety, intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

**AUTHORITY:** The Secretary is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities. 1 CMC §§ 2404 (Secretary issues regulations); 2 CMC §7153 (Building Safety Official issues regulations to enforce the building safety code). See *also* Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch).

**THE TERMS AND SUBSTANCE:** The Regulations provide for the adoption of the International Building Code and its energy code provisions, the Tropical Energy Code and its energy code provisions, update the schedule of fees, update seismic and typhoon standards, clarify permit, certification and enforcement provisions, and correct typographical errors.

**THE SUBJECTS AND ISSUES INVOLVED:** These regulations:

1. Qualify the CNMI for \$18.6 million in federal energy-related economic stimulus grants, under the federal American Recovery and Renewal Act of 2009 (ARRA), by taking steps to enhance energy efficiency and the wise use of energy consonant with the ARRA, and, in particular, by making certain regulatory changes (which went into effect by emergency regulations before the end of April 2009).
2. Publish the CNMI's goals, purposes and intentions in order to assist in qualifying for the stimulus funds;

3. Implement the International Building Code's ("IBC"):
  - a. residential building energy code; and
  - b. commercial building energy code;
4. Implement the Tropical Energy Code;
5. Through the IBC bring the CNMI building codes up to date and further empower the Building Safety Official to update as the construction industry and its professions update;
6. Recognize and adopt the proper seismic and typhoon safety standards and codes;
7. Provide for electronic filings, hearings and meetings which are open to the public;
8. Clarify the terms for permits and certificates;
9. Clarify that violations are counted for each day of the offense;
10. Update and change fees;
11. Define terms;
12. Clarify through an appendix that guidance comes from the IBC; and
13. Correct typographical errors in the existing regulations.

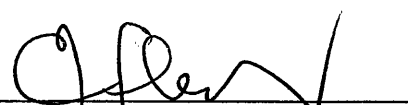
**CONCURRENT ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Building Safety Official has followed the procedures of 1 CMC § 9104(b) and (c) to adopt these Proposed Regulations on an emergency basis for 120 days. The Governor signed the emergency regulations on April 29, 2009. The emergency regulations are now in effect.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

**TO PROVIDE COMMENTS:** Send or deliver your comments to Martin Sablan, *Attn: Building Safety Division Regulations*, at the above address, fax or email address, with the subject line "Building Safety Division Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

These proposed regulations were approved by the Building Safety Official on April 29, 2009.

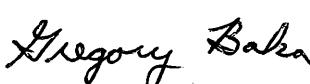
Submitted by:  5/15/09  
MARTIN SABLAN  
Building Safety Official  
Department of Public Works  
Date

Received by:  5/19/09  
ESTHER S. FLEMING  
Governor's Special Assistant for  
Administration  
Date

Filed and  
Recorded by:  05.19.09  
ESTHER M. SAN NICOLAS  
Commonwealth Register  
Date *sm*

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 proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 19 day of May, 2009.

  
GREGORY BAKA,  
Acting Attorney General

Commonwealth Gi Sangkattan Na Islan Marianas Siha  
Dipattamenton Public Works  
Diego Songsong, Sekretário  
Dibision Building Safety, P.O.Box 510008 CK  
2<sup>nd</sup> Bibienda, Joeten Comm. Bldg., Middle Road, Guålo' Rai, Saipan, MP 96950

Tel: (670) 234-2726; Fax: (670) 235-2732  
[Martinsablan2006@yahoo.com](mailto:Martinsablan2006@yahoo.com)

**NOTISIAN PUBLIKU POT I MAPROPONEN AREKLAMENTO YAN REGULASION  
SIHA NI PARA AMENDASION PARA I AREKLAMENTO YAN REGULASION SIHA GI  
DIPATTAMENTON PUBLIC WORKS, DIBISION BUILDING SAFETY**

**MA INTENSIONA NA AKSION PARA U MA'ADÁPTA ESTE I MANMAPROPNE NA  
REGULASION SIHA:** I Commonwealth gi Sangkattan na Islan Marianas siha, Dipattamenton  
Public Works, Dibision Building Safety, ha intensiona para u adápta komu petmaniente na  
regulasion siha ni mañechetton gi Manmapropone na Regulasion, sigun i manera siha gi Åkton  
Administratvie Procedure, 1 CMC § 9104(a). I Regulasion siha para u efektibu gi halom dies(10)  
diha siha despues di ma'adaptã-ña yan i publikasion gi halom i Rehistran Commonwealth.  
(1 CMC § 9105(b))

**ÅTURIDÁT:** I Lehislatura ha nå'i fuetsã-ña i Sekretário para u adápta i areklamento yan regulasion  
siha para i atministrasion yan dinimãmanda i estatua ni ginobebietna i aktibidãt-ña siha. 1 CMC § §  
2404 (I Sekretário ha laknos i regulasion siha); 2 CMC § 7153 (I Building Safety Official ha laknos  
regulasion siha ni para u dimãnda i lain building safety). *Atan lokkue' i Otden i Eksakatibu 94-3*  
(Umefektibu gi Agosto 23, 1994, ya mata'lon otganisa ni rãmas Eksakatibu).

**I SUSTANSIAN I PALÁBRA SIHA:** I Regulasion siha mapribeniyi para i adãptasion Lain  
International Building yan i minetgot probension lai siha, i Tropical Energy na yan minetgot  
probension lai siha, ma'adilãnta i masiñãlan ápas siha, adilãntan seismic yan typhoon standards,  
mana'klãru i lisensia, settifikasion yan dinimãndan probension siha, yan mana'dinanche i linachen  
typographical siha.

**I SUHETO NI MASUMÁRIA YAN ASUNTO NI TINEKKA:** Este na regulasion siha:

1. I CNMI kuãlifikão para i dies i ocho punto sais miyon pesos(\$18.6) gi federãt energy-related  
economic stimulus grants, gi papa' i federãt American Recovery yan Renewal Act gi 2009  
(ARRA), machuchule' pãsu siha para u ma'adilãnta i energy efficiency yan i mehnalom pot  
i ma'usan energy consonant yan i ARRA, yan, gi pattikulãt, ya mana'siguguru i tinilaikan i areklo.  
(ni umefektibu ginen i emergency regulation siha ántes di uttimon i Abrit 2009).

2. Para u mapupblika i CNMI goals, propositu yan intension siha anai para u inasiste para i fondon stimulus siha ni kumuálifika;
3. Para u implementa i International Building Code's (IBC)":
  - a. residential building energy code; yan
  - b. commercial building energy code;
4. Para u implementa i Tropical Energy Code;
5. Ginen i IBC muna'fatto gi CNMI i building code siha hulo' para umadilanta yan más para u gai fuetsa i Building Safety Official para u adilanta komu i construction industry yan i dimandan profesion-ña siha;
6. Para u marekoknisa yan adapta i propiu na seismic yan typhoon safety standards yan lai siha;
7. Para u pribeniyi para electronic filings, inekungok yan hunta siha ni manmababa para i pupbliku;
8. Para u mana'klaru i tema siha para lisensia yan settifika siha;
9. Para u mana'klaru na i violations manmatufong i ofensa siha kada diha;
10. Ma'adilanta yan matulaika i apas siha;
11. Madefina i tema siha;
12. Para u mana'klaru ginen i appendix na i dinirihi mafatto ginen i IBC; yan
13. Para mana'dinache i linachen typographical gi halom i presente na regulasion siha.


**CONCURRENT NA ADAPTACION I ENSIGIDAS NA REGULACION SIHA PARA SIENTO BENTE (120) DIHA SIHA:** I Building Safety Official ha tattitiyi i maneran i 1 CMC § 9104(b) yan (c) ni para u ma'adapta este siha i Manmapropone na Regulasion gi ensigidas na manera para i sientu bente (120) diha siha. I Gobietno ha fitma i ensigidas na regulasion siha gi Abrit 29, 2009. I ensigidas na regulasion siha esta manefektibu.

**DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA:** Este i Manmapropone na Regulasion siha debi na u mapupblika gi halom i RehistranCommonwealth gi seksiona ni mapropone yan nuebu na ma'adaptan regulasion siha (1 CMC 9102(a)(1) yan u mapega gi man kombiniente na lugat siha gi halom civic center yan gi ofisinan gobietnamiento siha gi kada distriton senadot, parehu gi English yan i prinsipat na lengguahen natibu. (1 CMC 9104(a)(1)0

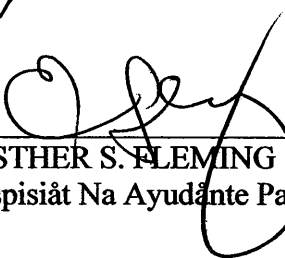


**PARA U MAPRIBENIYI OPIÑON SIHA:** Na'hanague osino entrega i opiñon-mu para si Martin Sablan, *Attn: "Regulasion Dibision Building Safety Siha"* gi sanhilo' na address, fax pat email address, yan i rāyan suheto "Building Safety Division Regulations". Todu opiñon debi na u fanhālom trenta (30) diha siha ginen i fechan notisian publikasion Pot fabot na'hālom infotmasion, opiñon, pat testamoñion kinentra siha. (1 CMC § 9104(a)(2))


Este i manmapropone na regulasion siha manma'apreba ginen i Building Safety Official gi Abrit 29, 2009.

Nina'hālom as:   
Martin Sablan  
Ofisiāt Building Safety  
Dipattamenton Public Works

5/15/09  
Fecha

Rinesibi as:   
ESTHER S. FLEMING  
Espisiāt Na Ayudante Para I Atministrasion


5/19/09  
Fecha

Pine'lo yan  
Rinekot as:   
Esther M. San Nicolas  
Rehistran Commonwealth

05.19.09  
Fecha

Sigun i 1 CMC § 2153(e) (I Abugādu Henerāt ha apreba i regulasion siha na para u macho'gue komu fotma) yan 1 CMC § 9104(a)(3) (hentan inapreban Abugādu Henerāt) i manmapropone na regulasion siha ni mañechetton guini ni manmarebisa yan ma'apreba komu fotma yan suficiente ligāt ginen i CNMI Abugādu Henerāt yan debi na u mapublika, 1 CMC § 2153(f) (publikasion areklamento yan regulasion siha).

Mafecha gi diha 19 gi Māyu, 2009.

  
GREGORY BAKA  
Acting Abugādu Henerāt

**Commonwealth Téel falúw kka falúwasch Efáng Marianas**

**Bwulasyool Public Works**

Diego Songsong, Samwool

Dibisionul Building Safety, P.O. Box 510008 CK aruwowal pwó, Joeten Comm. Bldg.,  
Middle Road, Amai raw, Seipél, MP 96950

Tilifoon: (670) 234-2726, Fax: (670) 235-2732

Martinsablan2006@yoo.com

**ARONGOL TOULAP REEL POMWOL ALLÉGH KKA EBWE SSIWEL NGÁLI  
ALLÉGHÚL PUBLIC WORKS**

**MÁNGEMÁNG REEL EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:**

Commonwealth Téel falúw kka falúwasch Efáng Marianas, Bwulasyool Public Works, Dibisionul Building Safety, e mwuschel ebwe ipighil fillóóy allégh kka e appasch, bwelle Administrative Procedure Act. 1 CMC Tálil 9104(a). Allégh kkaal ebwe kkamalló llól seigh (10) raalil ngáre raa fillóóy me atéw llól Commonwealth Register. (1 CMC Talil 9105(b)).

**BWÁNGIL:** Sów Fféerúl Allégh nge e ngáleeey bwángil Samwoolul Public Works bwe ebwe fillóóy allégh kkaal ngáli administrative me bwangil igha e lemeli aweewel 1 CMC Tálil kka 2404 (isisiwowul allégh mereel Samwool); 2 CMC Tálil 7153. (Ammwelil building ye e atotoowow mereer Assamwool bwelle rebwe mwoghutaagheli ammwelil Safety code). *Bwal amweri* Tingórol Sow Lemelem 94-3 (schéschéel wóól Elúwel 23, 1994, aghatchúwuló tipal Executive branch).

**AWEWEEL ME KKEPASAL:** Re ayoora Allégh kkaal bwelle rebwe fillóóy ammwelil International Building Code me ammwelil energy, Tropical Energy Code me ngáre aweewel energy code, aghatchúwuló ótol óbwós (fee), ammwela seismic me alléghúl malamal, ammwela lisensial, schéel alúghúlúgh (certification me ammwelil rebwe mwóghutáágheli, me awela ischil (typographical errors)).

**ÓUTOL ME KKEPASAL:** Allégh kkaal ebwe:

1. Mmwelil bwe CNMI ebwe bwughi \$18.6 ssel (million) reel salapial federal energy – iye e ghil ngáli economic stimulus, faal federal American Recovery me Renewal Act llól 2009 (ARRA), igha ebwe ammwela ghatchúw energy me

2. Ayoora yaal CNMI goals, bwulul me aghiyeghil bwelle rebwe fillong llol fundool stimulus.

3. Ayoora International Building Code's (“CIBC”)

- a. ammwelil residential building code reer aramas;
- b. commercial building energy code;

4. Ayoora Tropical Energy Code;


5. Sáangi IBC nge e aghatchúwwuló CNMI building Code me Assamwool kkaal re sóbweey bwángil reel rebwe aghatchúwwuló akkayúúl industry me ngáre alapeló ghuleyeer;.
6. Ghuleey me fillóoy schéshéél seismic me ammwelil malamal me code;
7. Ayoora ammwelil (filings) electronic, arongol, yéélághil igha ebwe susu ngáli toulap;
8. Affata mille terms reel lisensia me certificates;
9. Affata bwe ngáre rese tabweey aweweel nge e páápá alongal rál;
10. Aghatchúwwuló me lliweli salaapial óbwós;
11. Aweewey mille terms;
12. Affatawow mellól appendix bwe aweewe yeel nge tooto me IBC; me
13. Awelaaló ischil llól allégh kka ighila

**ALÚGHÚLÚGH REEL FILLÓÓL GHITIPWOTCHOL ALLÉGH KKAAL LLÓL EBWUGHÚW RUWEIGH (120) RÁÁL:** Assamwoolul Building Safety e tabweey mwóghutul 1 CMC Talil 9104(b) me (e) ebwe fillóoy Pomwol Allégh kka rebwe ghitipwotchuw llól ebwughúw reweigh rááil (120). Sów Lemelem nge aa takkal makkey ghitipwotchol allégh yeel wóól Séétá 29, 2009. Ghitipwotchol allégh kkaal nge aa fis ighila.

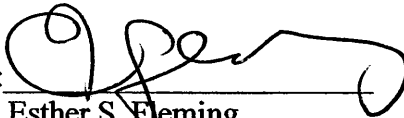
**AFALAFAL REEL AMMWELIL ME AKKATÉÉL:** Pomwol allégh kkaal ebwe akkatééló llól Commonwealth Register llól táilil ye re pomwoli me fillóoy allégh kka e ffé (1 CMC táilil 9102(a)(1)) me appaschetá igha toulap rebwe matafáágheli me llól bwulasiyool gobenno kkaal kka senatorial district, llól ischil Amerikkónu, Remeraalis me Refalúwasch. 91 CMC tallil 9104(a)(1))

**REEL ISISILONGOL AGHIYEGH:** Afanga ngáli Martiin Sablan, Attn: Building Safety Division Regulations, mereel address ye weiláng, fax me ngáre email address, reel kkepas ye “Building Safety Division Regulations”. Ischil mángemáng ebwe isisilong llól eliigh (30) rááil ngáre schagh raa takkal atéew arong yeel. Ów ischil Mááfiyámi (1 CMC Táilil 9104(a)(2)).

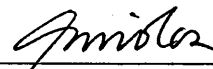
Pomwol allégh kkaal nge allégheló mereel schóoy Assamwoolul Building Satety Code wóól Séétá 29, 2009.

Isaliyallong:   
Martin Sablan  
Building Safety Official  
Byulasiyool Public Works

5/15/09  
Rál

Mwir sáangi:   
Esther S. Fleming  
Sów alillisil Sów Lemelem

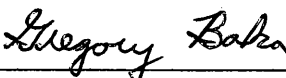
5/19/09  
Rál

Ammwelil sáangi:   
ESTHER M. SAN NICOLAS  
Commonwealth Register

05.19.09  
Rál

Sáangi allégh ye 1 CMC Tálil 2153(e) (Alúghúlúgh mereel AG reel allég kka ebwe akkaté ighila) me 1 CMC Talil 9104(a)(3) (bweibwogh alúghúlúgh mereel AG) reel pomwol allégh e appasch ika raa takkal amweri fischi me allégheló mereel CNMI Sów Bwungul Allégh Lapalap ebwe akktééló. 1 CMC Tálil 2153(f) (akktéél allégh kkaal).

Rááilil ye 19 llól maramal Ghúúw, 2009

  
GREGORY BAKA  
Acting ngáli Sów Bwungul Allégh Lapalap

**COMMONWEALTH OF THE NORTHERN MARIANA  
ISLANDS**

**COMMONWEALTH PORTS AUTHORITY**

Efrain F. Camacho, P.E., Executive Director  
Main Office: SAIPAN INTERNATIONAL AIRPORT, 2<sup>nd</sup> Floor Arrival Bldg.  
P.O. Box 501055, Saipan, MP 96950

Tel. (670) 237-6500 Fax. (670) 234-5962  
E-mail Address: [cpa.admin@pticom.com](mailto:cpa.admin@pticom.com)

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE  
AMENDMENTS TO THE COMMONWEALTH PORTS AUTHORITY  
TERMINAL TARIFF**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:**  
The Commonwealth Ports Authority intends to adopt as permanent regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. 1 CMC § 9105(b).

**AUTHORITY:** Pursuant to 2 CMC § 2122 (g) CPA has the statutory authority to determine the charges or rentals for the use of any property under its management and control, and the terms and conditions under which the property may be used.

**THE TERMS AND SUBSTANCE OF THE TERMINAL TARIFF:** These Rules and Regulations provide for the increase of fees that will allow CPA to generate sufficient revenues to maintain the 125% revenue-to-bond-payment-ratio at all times for the duration of the bond.

**SUBJECTS AND ISSUES INVOLVED:** These rules and regulations:

To make certain amendments to the Commonwealth Ports Authority Terminal Tariff Fees and to adopt a new terminal tariff fees in order to collect sufficient seaport revenues to comply with the revenue-to-bond-payment-ratio as required by the Seaport Bond Indenture.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).

TO PROVIDE COMMENTS: Send or deliver your comments to Mr. Efrain F. Camacho, P.E., CPA Executive Director, at the above address, fax or email address, with the subject line "Terminal Tariff Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments.  
1 CMC § 9104(a)(2).

These proposed regulations were approved by the CPA Board of Directors on January 14, 2009.

Submitted by: Efrain F. Camacho 5/14/09  
EFRAIN F. CAMACHO, P.E. Date  
CPA Executive Director

Received by: [Signature] 05/19/09  
ESTHER S. FLEMING Date  
Governor's Special Assistant for Administration

Filed and Recorded by: [Signature] 05.19.09  
ESTHER M. SAN NICOLAS Date  
Commonwealth Register

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

Dated this 19 day of May, 2009.

Gregory Baka  
GREGORY BAKA  
Acting Attorney General

**COMMONWEALTH GI SANGKATTAN NA ISLAN MARIANAS SIHA  
COMMONWEALTH PORT AUTHORITY**

Efrain F. Camacho, P. E., Direktot Eksakatibu  
Main Office: SAIPAN INTERNATIONAL AIRPORT, 2<sup>nd</sup> Floor Arrival Bldg.  
P.O. Box 501055, Saipan, M.P. 96950

Tel: (670)237-6500 Fax: (670)234-5962  
E-mail Address: [cpa.admin@pticom.com](mailto:cpa.admin@pticom.com)

**NOTISIAN PUBLIKU POT I MANMAPROPONEN AREKLAMENTO YAN  
REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTO YAN  
REGULASION SIHA GI POT I COMMONWEALTH PORTS AUTHORITY  
TERMINAL TARIFF**

**MA'INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE SIHA I  
MANMAPROPONE NA AREKLAMENTO YAN REGULASION SIHA:** I Commonwealth  
Ports Authority ha intensiona na para u adapta komu petmanente i regulasion siha, sigun gi  
manera siha gi Akton Administrative Procedure, 1 CMC § 9104(a). I Regulasion siha para u  
efektibu dies(10) diha siha depues di adaptasion yan publikasion gi halom i Rehistran i  
Commonwealth. 1 CMC § 9105(b).

**ATURIDAT:** Sigun i 2 CMC § 2122(g) CPA guaha aturidat-na ni estatua para u detitmina i  
kuenta pat atkilon siha para uson maseha hafa na propiadat gi papa' i manehante-na yan  
ginobietna, yan i tema siha yan kondision siha gi papa' propiadat ni siña ma'usa.

**I SUSTANSIAN I PALABRA SIHA:** Este i Areklamento yan Regulasion siha manpribeniya  
para i hinatsan apas siha ni para u sedi i CPA para u na'kalamten sufisiente salappe' para u  
mantiene i sientu bente i singko pot sientu(125%) revenue-to-bond-payment-ratio todutempo  
siha para i duranten i bond.

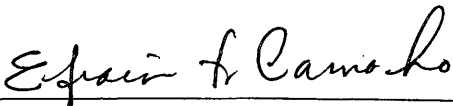
**SUHETO NI MASUMARIA YAN ASUNTO NI TINEKKA:** Este i areklamento  
yan regulasion siha:

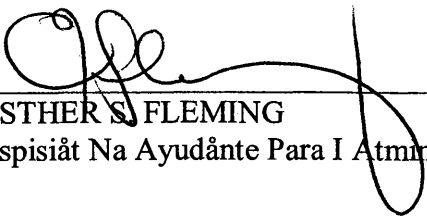
Para u fatinas fitme na amendasion siha para i Apas i Commonwealth Ports Authority Terminal  
Tariff yan para u ma'adapta i nuebu na apas terminal tariff siha anai siña para u sufisiente  
rumikohi i salappe' seaport para u komple yan i revenue-to-bond-payment-ratio komu  
madimanda ginen i Seaport Bond Indenture.

**DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA:** Este i Manmapropone na Areklamento yan Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi seksiona ni manmapropone yan nuebu na ma'adãptan regulasion siha, 1 CMC § 9102(a)(1), yan mapega gi kombiniente na lugãt gi halom i civic center yan i ofisinan gobietnamento siha gi kada distriton senadot, parehu English yan prinsipãt na lengguãhen natibu. 1 CMC § 9104(a)(1).

**PARA U MAPRIBENIYI OPIÑON SIHA:** Na'hanãgue osino entrega i opiñon-mu guatu gi as Siñot Efrain F. Camacho, P. E., CPA Executive Director, gi sanhilo' na address, fax pat email address, yan i rãyan suheto "Regulasion Terminal Tariff Siha". Todu opiñon debi na u fanhãhom trenta(30) diha siha ginen i fechan este na notisian pupblikasion. Pot fabot na'hãlom i infotmasion, opiñon, pat testamonion kinentra siha. 1 CMC § 9104(a)(2).

Este i manmapropone na regulasion siha manma'apreba ginen i CPA Kuetpon Direktot siha gi Ineru 14, 2009.

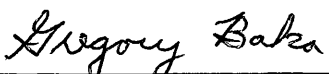
Nina'hãlom as:  5/14/09  
EFRAIN F. CAMACHO, P.E. Fecha  
CPA Puetton Direktot

Rinisibi as:  5/19/09  
ESTHER S. FLEMING Fecha  
Espisiãt Na Ayudãnte Para I Atmmistrasion

Pine'lo Yan Rinekot as:  05.19.09  
ESTHER M. SAN NICOLAS Fecha  
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e) ( I Abugãdu Henerãt ha apreba i regulasion siha na para u macho'gue komu fotma) yan 1 CMC § 9104(a)(3) (hentan inapreban Abugãdu Henerãt) i manmapropone na regulasion siha ni mañechetton guini ni manmarebisa yan manma'apreba komu fotma yan sufisiente ligãt ginen i CNMI Abugãdu Henerãt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion areklamento yan regulasion siha).

Mafecha guini gi diha 19, Mayo, 2009

  
GREGORY BAKA  
Acting Abugãdu Henerãt



**COMMONWEALTH TÉÉL FAÚW KKA FALÚWASCH EFÁNG MARIANAS**

**COMMONWEALTH PORTS AUTHORITY**

Efrain F. Camacho, P.E., Samwool  
Main Office: SAIPAN INTERNATIONAL AIRPORT, 2<sup>nd</sup> Floor Arrival Bldg.  
P.O. Box 501055, Seipel, MP 96950

Tilifoon. (670) 237-6500 Fax. (670) 234-5962  
E-mail Address: [cpaadmin@pticom.com](mailto:cpaadmin@pticom.com)

**ARONGOL TOULAP REEL POMWOL ALLÉGH:** Commonwealth Port Authority nge e tipeli ebwe schésh;éél fillóoy allégh kkaal bwelle mwóghutul Administrative Procedure Act, 1 CMC Tálil 9104(a). Allégh kkaal ebwe kkamalló llól seigh (10) ráálil ngáre schagh raa fillóoy me akkatéélong llól Commonwealth Register. 1 CMC Talil 9105(b).

**BWÁNGIL:** Sáangi allégh ye 2 CMC Talil 2122 (g) CPA nge eyoor bwángil ebwe ghuleey kkapasal óbwós me akkilon llól bwuley kka e amwaschú me ngare lemeli, me kkapasal aighúghúl me kkapasal bwuley igha rebwe yááli.

**KKAPASAL ME AWEWEEL TERMINAL TARIFF:** Allégh kkaal nge ekke ira bwe ebwe sássaráta óbwós iye CPA ebwe mmwelil bweibwógh salaapi bwelle ebwe amwaschú schagh 125% salaapial ghilighil kkaal.

**ÓUTOL ME KKPASAL KKA E TÉÉTÁ:** Allégh kkaal:  
Ebwe ffeer eghús ssiwel ngáli Commonwealth Ports Authority Terminal Tariff reel óbwós me fillóoy salaapial terminal tariff ye e ffé bwelle rebwe bweibwogh salaapial seaport bweigha rebwe tabweey aweewel salaapi ye seaport e tittingor,

**AFALAFAL ME AMMWELIL:** Pomwol Allégh kkaal ebwe akkatéélong llól Commonwealth Register llól Tálil ye rekke pomwoli me fillóoy allégh kka e ffé, 1 CMC Tálil 9102(a)(1), me appaschetá igha e fil iye mellól civic center kkaal me llól bwulasyool gobenno kkaal llól alongal senatorial district, eweewe schagh llól kkasal Amerikkónu, Remeraalis me Refalúwasch. 1 CMC Talil 9104(a)(1).

**ISISILONGOL MÁNGEMÁNG:** Bwughiilo ischil mángemángúm w reel Sówmwár ye Efrain Camacho, P.E., Samwoolul CPA, reel address ye weiláng, fax me email address, reel kkapas ye :” Terminal Tariff Regulations”. Aghiyegh ebwe toolong llól eliigh (30) ráálil ngáre schagh aa arongowow. Ów isisilong ischil mááfíyámi. 1 CMC Talil 9104(a)(2).

Pomwol allégh kkaal nge aa aléghéléghéló mereel Mwiischil CPA ótol Schoow 14, 2009.

Isaliyallong: Efrain F. Camacho  
EFRAIN F. CAMACHO, P.E.  
Samwoolul CPA

5/14/09  
Rál

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

5/19/09  
Rál

Ammwel sangi: Esther M. San Nicolas  
ESTHER M. SAN NICOLAS  
Commonwealth Register

05.19.09  
Ral

Sáangi allégh ye 1 CMC Talil 2153(e) (alúghúlúgh mereel AG reel allégh kka ebwe akkatéeló ighila) me 1 CMC Tálil 9104(a)(3) (bwughi alúghúlúghúl AG) pomwol allégh kka e appasch ighila nge raa takkal amweri fischi mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkateelong llo, 1 CMC Talil 2153(f) (Akkateel allegh kkaal).

Rááilil ye 19 llól maramal Ghúúw, 2009.

Gregory Baka  
GREGORY BAKA  
Acting ngali Sów Bwungul Allégh Lapalap

Sáangi Commonwealth Ports Authority Act, 2 CMC Tálil 2102 et. Seq.; Commonwealth Ports Authority sáangi Samwool ekke isisiwow arong reel tálil elo faal:

**PEIGH 200- WHARFAGE**

**Tálil 40-20.2-201 Wharfage Rates (Óbwóssul wharfage)**

Commonwealth of the Northern Mariana Islands

Department of Finance

Eloy S. Inos, Secretary

Department of Finance,

P.O. Box 5234

Capitol Hill, Saipan MP 96950

Tel. 664-1100

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS  
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF THE  
DEPARTMENT OF FINANCE,**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND  
REGULATIONS:**

The Commonwealth of the Northern Mariana Islands, Department of Finance, intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

**AUTHORITY:** The Secretary of Finance ("Secretary") is empowered by the Legislature to adopt rules and regulations under authority of Executive Order 94-3 (abolishing Lottery Commission and transferring authority to Secretary of Finance) 1 CMC § 9305 (authority to operate and license); 9306 (authority to promulgate lottery regulations); 1 CMC § 9101-9115 (Administrative Procedure Act).

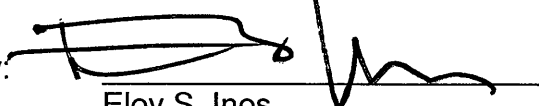
**THE TERMS AND SUBSTANCE:** The purpose of these regulations is to update existing Department of Finance regulations concerning lottery operations. This update includes elimination of language concerning lottery activities that are no longer applicable, and amending language to reflect new lottery games.

**THE SUBJECTS AND ISSUES INVOLVED:** These rules and regulations: Address the regulation of lottery activities in the Commonwealth.

**TO PROVIDE COMMENTS:** Send or deliver your comments to Eloy Inos, Secretary of Finance at the above address, with the subject line "New Lottery Regulations." Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

These proposed regulations were approved by the Secretary on April 6, 2009.

Submitted by:

  
Eloy S. Inos  
Secretary of Finance

MAY 19 2009

Date

Received by:

  
ESTHER S. FLEMING

Governor's Special Assistant for Administration

5/19/09

Date

Filed and  
Recorded by:

  
ESTHER M SAN NICOLAS  
Commonwealth Register

05.19.09

Date

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 proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 19 day of <sup>May</sup>~~April~~, 2009.



GREGORY BAKA,  
Acting Attorney General

**Commonwealth Téel falúw kka falúwasch Efáng Marianas**

Bwulasiyool Finance  
Eloy S. Inos, Samwool  
Bwulasiyool Finance,  
P.O. Box 5234  
Capitol Hill Seipél MP 96950  
Tilifoon: 664-1100

**ARONGOL TOULAP REEL POMWOL ALLEGH KKA EBWE LLIWEL NGÁLI  
ALLÉGHÚL BWULASIYOOL FINANCE**

**MANGEMANG IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:**

Commonwealth Téel falúw kka falúwasch Efáng Marianas Bwulasiyool Finance, e tipeli ebwe schéschéél fillóóy pomwol allégh kka e appasch. Bwelle reel mwóghutul Administrative Procedure Act, 1 CMC Talil 9104(a). Allégh kkaal ebwe kkamalló llól seigh ráálil (10) ngáre schagh raa fillóóy me atéw llól Commonwealth Register. (1 CMC Tálil 9105(b)).

**BWÁNGIL:** Samwoolul Finance (“Samwool”) nge re ngáleeey bwángil mereer Sów Fféerúl Allégh igha rebwe fillóóy allégh kkaal faal 94-3 (ayúuwuló Lottery Commission me alusu bwángil ngáli Samwoolul Finance) 1 CMC Tálil 9305 ( bw’ngil ebwe mwóghutáágheli me lisensial); 9306 (bwángil ebwe akkaté alléghúl lottery); 1 CMC Tálil 9101-9115 (Administrative Procedure Act).

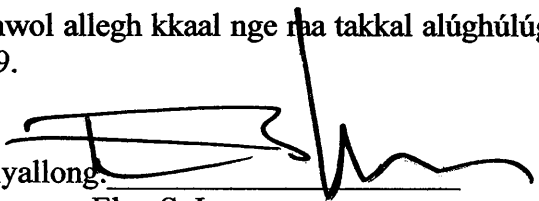
**AWEWEEL ME KKAPASAL:** Pomwol allégh kkaal ebwe aghatchúwuló alléghúl Bwulasiyo ye ighila bwelle mwóghut lottery. Aweewe yeel nge e toolong atotoowowul mwaliilil lottery iye ese fillo, me siweli mwaliili ye ekke bwáari urul lottery ye e ffé.

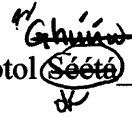
**ÓUTOL ME AWEEWE YE EYOOR IGHILA:** Allégh kkaal nge ekke bwáari alléghúl mwóghutul lottery mellól Commonwealth.

**ISISILONGOL MÁNGEMÁNG:** Bwughiiló ischil mángemáng reel Eloy Inos, Samwoolul Finance reel address ye weiláng, reel kkapas ye “New Lottery Regulations:” Aghiyegh ebwe atotoolong llól eliigh (30) ráálil ngare schagh raa atéw arong yeel. Ów isisilong ischil mááfiyámi. ( 1 CMC Talil 9104(a)(2))


Pomwol allegh kkaal nge raa takkal alúghúlúghúwuló mereel Samwool ótol Seeta 6 .  
2009.

Isaliyallong.

  
Eloy S. Inos  
Samwoolul Finance

  
MAY 19 2009  
Rál

Mwir sáangi:

  
ESTHER S. FLEMING  
Sów Alillisil Sów Lemelem

5/19/09  
Rál

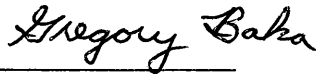
Ammwel sáangi:

  
ESTHER SAN NICOLAS  
Commonwealth Register

05.19.09  
Rál

Sáangi allégh ye 1 CMC Talil 2153 (e) (Alúghúlúgh mereel AG me ebwe akkaté ighila) me 1 CMC Tálil 9104(a)(3) (Bwughi yaal alúghúlúgh AG) pomwol allégh kka e appasch nge raa takkal amweri fischi me allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkateelo. 1 CMC Talil 2153(f) (akkateel allegh kkaal).

Rállil ye 19 <sup>Ghúúw 4-B.</sup> llól maramal ~~Séetá~~, 2009.



GREGORY BAKA  
Sów Bwungul Allégh Lapalap

**Commonwealth Gi Sankattan Na Islan Marianas Siha  
Dipattamenton Finance**

Eloy S. Inos, Sekretario  
Dipattamenton Finance,  
P.O. Box 5234  
Capital Hill, Saipan MP 96950  
Tel: 664-1100

**NOTISIAN PUBLIKU POT I MANMAPROPONEN AREKLAMENTO YAN  
REGULASION SIHA NI PARA I AMENDASION PARA I AREKLAMENTO  
YAN REGULASION SIHA GI DIPATTAMENTON FINANCE**

**MA INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE I  
MANMAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I**  
Commonwealth gi Sangkattan na Islan Marianas siha, i Dipattamenton Finance, ha  
intensiona para u adapta komu petmanente na regulasion siha ni mafiechetton gi  
Manmapropone na Regulasion siha, sigun gi manera siha gi Akton Administrative  
Procedures 1 CMC § 9104(a). I Regulasion siha para u efektibu gi halom dies(10)  
diha siha despues di adaptasion yan publikasion gi halom i Rehistran Commonwealth  
(1 CMC § 9105(b))

**ATURIDAT:** I Lehislatura ha na'i fuetsa-ña i Sekretarion Finance ("Secretary") para u  
adapta areklamento yan regulasion siha gi papa' aturidat i Executive Order 94-3 (diroroga  
i Komision Lottery yan mantransferi aturidat para I Sekretarion Finance) 1 CMC 9305  
(aturidat para u mamaneha yan lisensia); 9306 (aturidat para u macho' gue regulasion  
lottery siha); 1 CMC § 9101-9115 (Akton Administrative Procedure).

**I SUSTANSIAN I PALABRA SIHA:** I rason este na regulasion siha para u ma'adilanta  
i lala'la' na regulasion siha gi Dipattamenton Finance ni tinetekka i operasion lottery  
siha. Este na inadilanta ha engklulusu i mana'suhan i lengguahi ni tinetekka i aktibidat  
lottery siha ni esta ti manaplikapble, yan amemenda i lengguahi para u riflek i nuebu  
na huegon lottery siha.

**SUHETO NI MASUMARIA YAN ASUNTO NI TINEKKA:** Este na areklamento  
yan regulasion siha: Yinaman i regulasion aktibidat lottery siha gi halom i  
Commonwealth.

**PARA U MAPRIBENIYI OPIÑON SIHA:** Na'hanâgue osino entrega i opiñon-mu guatu gi as Eloy Inos, Sekretârión Finance gi sanhilo' na address, yan i râyán suheto "Nuebu Na Regulasion Lottery Siha". Todu opiñon debi na u fanhâlom trenta(30) diha siha ginen i fechan i publikasion este na notisia. Pot fabot na'hâlom infotmasion, opiñon, pat testamoñion kinentra siha. (1 CMC § 9104(a)(2))

Este i manmapropone na regulasion siha manma'apreba ginen i Sekretârió gi Abrit 6,  
2009.

Nina'hâlom as:

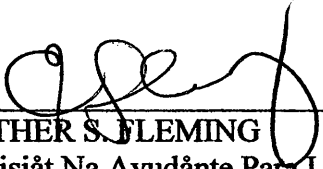


Eloy S. Inos  
Sekretârión Finance

MAY 19 2009

Fecha



Rinesibi as:   
ESTHER S. FLEMING  
Espisiát Na Ayudánte Para I Atministrasion

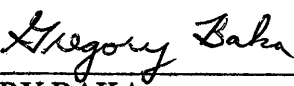
5/19/09  
Fecha

Pine'lo yan Rinekot as:   
ESTHER M. SAN NICOLAS  
Reihistran Commonwealth

05.19.09  
Fecha

Sigun i 1 CMC § 2153(e) (I Abugádu Henerát ha apreba I regulasion siha na para u macho'gue komu forma) yan 1 CMC § 9140(a) (3) (hentan inapreban Abugádu Henerát) i manmapropone na regulasion siha ni mañechetton guini ni manmarebisa yan mapapreba komu fotma yan sufisiente ligát ginen i CNMI Abugádu Henerát yan debi na u mapupblika, 1 CMC § 2153(f) (publikasion areklamento yan regulasion siha).

Mafecha gi diha 19 <sup>Mayo</sup> ~~Abri~~, 2009.

  
GREGORY BAKA  
Acting Abugádu Henerát

## DEPARTMENT OF FINANCE REGULATIONS

**Date: 3-12-09**

**Regulation Title:** Amendments to Chapter 70-50 Division of Revenue and Taxation;  
Lottery Rules and Regulations

Under the authority of 1 CMC §§ 9305, 9306, 9313 the Rules and Regulations of the Commonwealth of the Northern Mariana Islands are hereby amended. Specific amendments are identified in the sections below.

**Section 70-50.1-010(f)** is amended by deleting this section in entirety and replacing with the following.

Charitable Purpose: A charitable purpose is an activity undertaken by an organization recognized as a charitable tax-exempt organization by the Commonwealth of the Northern Mariana Islands under section 501(c)(3) of the NMTIT.

**Section 70-50.1-010(g)** (definitions) is amended by deleting this section in its entirety and replacing with the following language:

(g) Commonwealth Lottery: The Commonwealth has the authority to license a variety of lottery games. The term "Lottery Operator" refers to an individual or entity licensed by the Department to operate specific lottery games in the Commonwealth. Authority to operate lottery games is specifically limited to the type of game identified in the lottery operator license and does not authorize operation of any other game or activity or provide any exclusive right to control the Commonwealth's ability to limit license activity or issue other licenses.

**Section 70-50.1-010(j)** (definitions) is amended by deleting this section in its entirety and replacing with the following:

(j) Retailer: A retailer or Lottery retailer is an individual or entity which has been licensed by the Department to sell lottery tickets for a specific lottery game. Authority to sell or participate in lottery activities is specifically limited by the authorization provided in the license.

**Section 70-50.1-010(m)** is amended by adding the following language after the first sentence:

Only Instant Tickets purchased from vendors approved by the Department are authorized to be used in Lottery Operations. The price of the ticket, game structure, vendor supplying tickets, odds for winning something of value (i.e., prize), and the value of the prize all must be authorized by the Department prior to initiation or sale of the Instant Tickets.

**Section 70-50.1-010(p)** is amended by deleting in its entirety and replacing it with the following:

(p) License: A license is a permit or authorization issued by the Department pursuant to the Act and the rules and regulations in this subchapter by which a person or organization is entitled to either operate an approved, specified, CNMI Lottery game (i.e., license to operate lottery); or conduct sales of lottery tickets associated with the Marianas Super Lottery and Instant Games only (lottery retail license). The operator of a specific CNMI Lottery game shall be issued a CNMI Lottery operator's license for the specified lottery game. The issuance of a CNMI Lottery License grants authority for operation of only the game and type of lottery specified and no others. A person or organization selling Marianas Super Lottery tickets and Instant Games Tickets in the CNMI must possess a Lottery Retail license issued by the Department for each retail location where sales occur.

**Section 70-50.1-010(q)** is amended by deleting in its entirety and replacing it with the following:

Licensee: Any person or organization to whom a lottery license has been issued by the Department. Separate licenses are issued for lottery operations and lottery sales.

**Section 70-50.1-010(s)** (definitions) is amended by deleting this section in its entirety and replacing with the following:

(s) Lottery Equipment: The term "Lottery Equipment" refers to all of the equipment associated with operation of any lottery game (including instant games) in the Commonwealth. The term equipment includes, but is not limited to, centralized computer, lottery tickets, random number generator, terminals for the issuance of tickets, instant tickets, ticket dispensers, report, and monitoring and reporting equipment. All Lottery Equipment is to provide acceptable documentation from the vendor as required by the Department as to the accuracy, odds, and other certifications or assurances required by the Department prior to its use.

**Section 70-50.1-010(t)** (definitions) is amended by deleting this section in its entirety and replacing with the following:

Lottery Operator: The term Lottery Operator is the party to whom the Department has issued a license to operate either Marianas Super Lottery or Marianas Super Scratch-it Lottery Operator is used to refer to individuals or entity licensed by the Commonwealth to operate Video Lottery Games and is a distinct license from that for operation of the Marianas Super Scratch-it or Marianas Supper Lottery.

**Section 70-50.1-010(v)(2)-(6)** (definition of non-profit organization) is amended by deleting these sections in entirety.

**Section 70-50.1-010(w)** (On-line Game) is amended by adding the following sentence to the end of this section.

The term "On-line Game," refers to the fact that the selection of numbers associated with the lottery game is conducted with a central computer system. The term "on-line" does not indicate a game structure in which individuals may purchase or play lottery games via the internet or any other connection with computer system or other electronic or telephonic purchase. All lottery players must purchase tickets through lottery retailers through physical exchange of consideration at a lottery retailer from customer to retailer at approved lottery retail locations and no direct electronic purchase is allowed.

**Section 70-50.1-010(w)** (definitions) is amended by deleting this section in its entirety and replacing with the following:

(w) On-Line Game:

(1) An on-line lottery game is any type of lottery game which utilizes electronic equipment such as computer system to administer play and in which a player may select:

- a. a combination of numbers to be played;
- b. the type of game to be played;
- c. the amount of play for one or more specified drawing dates, and

(2) a random drawing or number is selected whereby, pursuant to chance, the winning combination or combinations of numbers are selected with such numbers then used to determine the award of prizes in accordance with the rules of the specific on-line game being played.

(3) the term "on-line" refers to the interaction between the retail lottery licensee and administration of lottery game and is not meant to infer permission or authorization by the Commonwealth for licensees to conduct direct electronic purchase, sales or any participation in lottery activities by customers through electronic or telephonic communications. All lottery sales and participation is restricted to physically present

purchases by participants from lottery retailers at approved retail locations within the Commonwealth.

**Section 70-50.1-010(x)** (definitions) is amended by deleting this section in its entirety and replacing with the following:

**Operator of the CNMI Lottery:** refers to a licensed operator of a specific type of lottery game as identified in the license. There can be multiple Operators of the CNMI Lottery at any given time depending upon the number of licenses issued by the Department. Authority to operate any lottery is controlled by the specific game and terms identified in the license.

**Section 70-50.1-010(dd)** is amended by deleting this section in its entirety and replacing with the following:

(dd) **Retailer:** A retailer or "Lottery Retailer" is any person or organization to whom the CNMI Lottery has issued a license to sell lottery tickets for a specified lottery game to the public.

**Section 70-50.1-010(cc)** (Religious Organization) is amended by deleting these sections in entirety and replacing with the following language:

**Religious Organization:** A religious organization is a group having a continuous existence for at least a period of 180 days and comprised of not less than ten people whose primary purpose is to meet on a regular basis in common worship and religious observance and which has received tax-exempt status of a 501(c)(3) organization in the Commonwealth of the Northern Mariana Islands.

**Section 70-50.1-010(ee)** (Rules of Games) is amended by deleting sections (2) through (6) inclusive and replacing with the following:

- (2) CNMI Instant Ticket Regulations;
- (3) CNMI Lottery Regulations;
- (4) Juenteng Regulations;
- (5) Video Lottery Regulations

**Section 70-50.1-010** (definitions) is amended by adding the following language:

(gg) **Video Lottery:** Any lottery conducted on a video lottery machine or linked video lottery machines with an aggregate progression prize or prizes.

(hh) **Video Lottery Machine:** any machine in which coins, credits or tokens are deposited in order to play any game of chance in which the

results, including options available to the player, are randomly and immediately determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding (i) the use of an electronic credit system making the deposit of bills, coins, or tokens unnecessary, or (ii) the fact that the video lottery machine has employed dual function terminal technology.

**Section 70-50.1-015** is deleted in its entirety and replaced with the following:

Every person interested in engaging in lottery activities either as a Lottery Operator or Lottery Retailer in the CNMI must submit an application as prescribed by the Department and be issued a license.

**Section 70-50.1-020** (Applicant's Requirements) is amended by deleting the first paragraph in its entirety and replacing with the following:

In order to be eligible to apply for a lottery license, all parties with an ownership or equity interest in the applicant must be identified as well as any holders of notes owed by the applicant. All individuals and entities who have any interest in the applicant and the applicant must meet and or comply with the following:

**Section 70-50.1-020** (Applicant's Requirements) is amended by adding the following:

(d) additional appropriate conditions for application may be imposed for individuals or entities applying for licenses of specific types of lotteries at the discretion of the Secretary.

**Section 70-50.1-101** is amended by deleting in its entirety and replacing it with the following:

The Commonwealth Lottery shall be comprised of all lottery games set forth below. The Commonwealth may increase the number and types of games permitted at any given time. Authority to operate any identified lottery game is distinct and requires separate application and approval by the Commonwealth. All lotteries must strictly comply with applicable Department rules and applicable laws. In order to operate any of these games requires the issuance of a specific license authorizing the operation of the specific type of lottery game. All lottery operations are subject to inspection and review of operations. All Lottery licensees are subject to review of financial records by the Commonwealth Department of Finance and their representatives and the Office of the Public Auditor. Failure of any Licensee to immediately comply with requests for access to financial records shall be cause for immediate suspension of license.

**Section 70-50.1-105** is amended by adding the following section:

(e) Video Lottery

**Section 70-50.1-110(c)** is amended by deleting this section in its entirety and replaced with the following:

The number and size of prizes awarded shall be determined by game rules and hereby made a part of the rules and regulations in this subchapter.

**Section 70-50.1-110(d)** is amended by deleting this section in its entirety.

**Section 70-50.1-115(On-line prizes)** is amended by deleting this section in entirety and replacing it with the following:

**Section 70-50.1-115 Monitoring and Reporting Requirements**

The Lottery Operator shall monitor daily sales of all lottery tickets and provide a daily report to the Department of all sales in a format established by the Department. The Department shall be furnished a daily report from the Lottery Operator by 10 a.m. each day for the sales that occurred during the pervious 24-hour period (12:01 a.m. through 12:00 p.m.) Report shall indicate serial number of each ticket sold, identification of Lottery retailer which sold lottery ticket; type of lottery game; amount of sale; any winning tickets; and if a Marianas Supper Lottery Ticket is sold, the five number combination selected. All reports are to be signed by authorized representation of Lottery Operator attesting to the accuracy of the information under penalty of perjury.

**Section 70-50.1-120** the first paragraph of this section is amended by deleting it in its entirety and replacing with the following:

An important element of establishing trust and confidence of the public is quick payment of all prizes with the minimum of delay due to authentication procedures. The manner of payment of prize winners shall be dependent upon the game played with such payment for each game made pursuant to the game rules referred to above and made part of this subchapter.

**Section 70-50.1-120(h)(1)** this section shall be deleted in its entirety and replaced with the following:

(1) All proceeds from the sale of any Lottery tickets received by a lottery retailer shall be held in trust until paid to the Lottery Operator either directly or by deposit with the Lottery Operator's authorized collection representative or institution.

**Section 70-50.1-120(h)(2)** this section shall be deleted in its entirety and replaced with the following:

(2) A Lottery retailer shall have a fiduciary duty to preserve and account for lottery proceeds and shall be liable to the Lottery Operator for all such proceeds.

**Section 70-50.1-120** this section shall be amended by the addition of the following section:

(1) In order to ensure that the Lottery Operator has sufficient funds to make all prize payments, the Lottery Operator must maintain a United States Treasury listed bond ("Bond") in the amount of \$500,000 payable upon demand to the Commonwealth upon written notice that a winning ticket has been reasonably authenticated and yet has not been paid within ten calendar days of written demand by the Department. This Bond shall be established two weeks prior to the issuance of any lottery tickets by a Lottery Operator and shall be maintained for 365 days after termination of the Lottery Operator's license. The Bond must be in a form and with agency acceptable to the Department.

**Section 70-50.1-130(a)** (where lotteries permitted) is amended by deleting the first three sentences in entirety.

**Section 70-50.1-130(b)** (location of authorized lotteries) is amended by deleting the first sentence in this section in entirety and replacing with the following language.

Selection of licensee(s) and the locations where each will operate shall be at the sole discretion of the Department.

**Section 70-50.1-140(a)** is amended by deleting the first paragraph in its entirety and replacing it with the following:

(a) The license to operate a lottery (i.e., "Lottery Operator license") is limited to specific games identified in the license. The Commonwealth may issue multiple lottery operator licenses at any given time for approved lottery games. Thus, an individual or entity licensed to operate the Marianas Super Lottery is not authorized to operate Video Lottery or any other game. However, the license to operate the specific game is an exclusive license for the operation of this type of game during the term of the license. Multiple licenses to sell lottery tickets for a specific lottery game (i.e., "Lottery Retailer license") are permitted at any given time, the number of which is at the discretion of the Department, acting in the best interest of the Department. The license to sell lottery tickets does not permit the licensee to engage in any lottery games not specifically



identified in the lottery retailer license and the activity permitted is restricted to sale of approved chances of an identified lottery game stated in the license. The receipt of a CNMI Lottery license is a privilege not a right, however any such license once issued is revocable by the Department only for cause. The Department may grant or deny an application for a license or revoke a license issued to a lottery operator or any licensee based on any one or more factors listed in § 70-50.1-130(b) of this subchapter. In addition, the Department may deny an application for a license or revoke a license issued to a licensee pursuant to the Act and this subchapter upon a finding that the applicant or holder of such license or any individual with any ownership or equity interest in the license, applicant, or license holder:

**Section 70-50.1-140(a)** (license period) is amended by adding the following language after the second sentence.

A Lottery Operator and Retailer license is only valid for the time period identified. At the termination of this period of license or upon revocation by the Commonwealth, the licensee has no further rights in this license. Each game may have additional licensing requirements that an applicant for the specific lottery game shall be required to meet to obtain the specific license for this specific game.

**Section 70-50.1-140(d)** (license period) is deleted in its entirety and replaced by the following language:

A Lottery Operator's license shall be issued for a period as determined by the Secretary but not to exceed a five-year period ("License Period"). At the conclusion of this License Period, the availability of the license shall be advertised to the public seeking proposals for lottery operations and licensing.

Section 70-50.1-140 is amended by adding the following language as section (g)

All lottery operators shall submit to the Secretary of Finance within 45 days of the start of each calendar year an original signed copy of their annual audit for the previous calendar year performed by a Certified Public Accountant licensed to practice in the Commonwealth ("Audit"). The Audit of finances and accounts shall be based on GAAP and GAAS standards. Failure to precisely comply with this requirement will be considered a material breach of lottery license requirements and just cause for immediate suspension and or revocation of lottery license.

**Section 70-50.1-160(2)-(3)** (lottery license fee) is amended by deleting these sections in their entirety and replacing them with the following:

(2) Instant Scratch Game. The license fee for this game shall be included within the fee for the Marianas Super Lottery.

(3) Marianas Super Lottery. A fixed annual fee of \$150,000.

**Section 70-50.1-160** (lottery license fee) is amended by adding the following language.

(4) Video Lottery. An annual fixed fee to be determined by the Secretary.

**Section 70-50.1-150(9)** (Gift enterprise lottery) is amended by adding the following language.

(9) The Secretary of Finance may provide a written waiver of the limit on the number of Gift Enterprise Lotteries in a given year and requirement of 90 day period between lotteries upon written request of a merchant.

**Section 70-50.1-160(a)(2)** is amended by deleting in its entirety and replacing with the following language:

(2) Instant Scratch Game: The license to operate the Marianas Lottery shall also allow the operator to operate the Instant Scratch Game without the payment of any additional licensing fee. However, as soon as the license to operate the Marianas Lottery expires, is revoked or otherwise inoperative, the ability to operate the Instant Scratch Game shall also cease.

**Section 70-50-180** is amended by adding the following language after the first sentence:

Any change in ownership by either by an individual, corporation, shareholder, or partnership who or which has been issued a license shall be considered an assignment of the license and shall act to cancel the license unless prior written authorization is received by the Secretary.

Section 70-50.1 is amended by adding a new section 70-50-186 Lottery Equipment by addition of the following language:

**Section 70-50-186 Lottery Equipment**

The term "Lottery Equipment" refers to all equipment and supplies used in lottery games including but not limited to: game pieces, software, electronic equipment, computers, terminals, etc. All Lottery Equipment must be approved by the Commonwealth and meet standards, inspections, and certifications established by the Commonwealth. Only lottery equipment approved by the Department and purchased from vendors designated by the Department are permitted to be used in Lottery activities. All Lottery Equipment must conform to standards approved by the Department as to inspections, maintenance, security requirements, monitoring, verifications, and certifications. Use of any Lottery

Equipment other than that approved by the Department or failure to follow equipment requirements shall be cause for immediate suspension of the license to operate a lottery. Costs for Lottery Equipment and associated inspections and certifications shall be borne by the Lottery Operator and or Retailers.

**Section 70-50.1-205** is amended by adding the following language.

(21) The licensee has violated any Commonwealth or United States laws.

**Section 70-50.1-210(b)** (inapplicability of regulations) is amended by adding the following language at the end of the first sentence.

Religious or non-profit organization must be recognized as tax-exempt organizations under the NMTIT 501(c)(3).

**Section 70-50.1-305** (Scratch-it or Instant Games) is amended by deleting this section in its entirety.

**Section 70-50.1-310(a)-(c)** (On-line OZ Lotto game rules) is amended by deleting these sections in their entirety.

**Section 70-50.1-315(a)-(c)** (On-line Power Ball rules) is amended by deleting these sections in their entirety.

**Section 70-50.1-320(a)-(c)** (On-line Lotto rules) is amended by deleting these sections in their entirety.

**Section 70-50.1-325(a)-(c)** (On line keno rules) is amended by deleting these sections in their entirety.

**Section 70-50.1-330(a) – (j)** (Game Rules for Marianas Lottery) is amended by deleting the term "Marianas Lottery" wherever it appears and is replaced with the term "Marianas Super Lottery."

**Section 70-50.1-330(a)** (Game Rules for Marianas Lottery) is amended by deleting the first sentence in its entirety and replacing with the following:

(a) Definitions

The Marianas Super Lottery is an on-line lottery game in which players select six numbers, or are assigned from a field of numbers one (1) to forty-two (42) for the chance to participate in a later random drawing. This lottery is distinct and separate from a video lottery and a license to operate the Marianas Super Lottery does not permit or allow one to preclude video lottery activities nor does a video lottery license permit operation of the Marianas Super Lottery. The following definitions apply

to the Marianas Super Lottery unless the contract requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the Commonwealth Department of Finance

**Section 70-50.1-330(a)(2)** is amended by deleting this section in its entirety and replaced with the following:

"Central Computer system" means a computer system approved by the Department and purchased and maintained according to Department procedures for the recording of tickets sold for a particular drawing.

**Section 70-50.1-330(a)(3)** is amended by deleting this section in its entirety and replaced with the following:

"Drawing" means that process whereby the Department through the use of a random number generator selects six winning numbers between 1 and 42.

**Section 70-50.1-330(a)(4)** is amended by deleting this section in its entirety and replaced with the following:

"Drawing Coordinator" means the Office of the Attorney General which shall develop and implement procedures for conducting drawings.

**Section 70-50.1-330(a)(6)** is amended by deleting this section in its entirety and replaced with the following:

"Game Ticket" or "Ticket" means a ticket produced by a terminal which contains "Marianas Super Lottery" a game in which players select six numbers between 1 and 42, followed by the drawing date, the price of the ticket, a retailer number, and a serial number.

**Section 70-50.1-330(a)(9)** is amended by deleting this section in its entirety and replaced with the following:

"Play" or "game play" means the six different numbers from 1 through 42 which appear on the ticket and are to be played by a player in a game.

**Section 70-50.1-330(a)(10)** is amended by deleting this section in its entirety and replaced with the following:

"Quick Pick" means the random selection by a terminal of six different numbers from 1 through 42, which appear on the ticket and are to be played by player in the game.

**Section 70-50.1-330(a)(12)** is amended by deleting this section in its entirety and replacing with the following:

“Supplemental Number” means the random selection of a seventh number after the selection of the initial six numbers from the same number pool.

**Section 70-50.1-330(a)(13)** is amended by deleting this section in its entirety and replaced with the following:

"Terminal" or “Smart Terminal” means a device approved by the Department and owned by the Marianas Lottery Operator and leased to an authorized retailer and is the only device that can issue game tickets.

**Section 70-50.1-330(a)(14)** is amended by deleting this section in its entirety and replaced with the following:

"Winning Numbers" means the six numbers between 1 and 42, randomly selected at each drawing, which will be used to determine the winning plays contained on a game ticket.

**Section 70-50.1-330(b)(1)** is amended by changing the price of the ticket to \$2.

**Section 70-50.1-330(c)(1)** is amended by deleting this section in its entirety and replacing it with the following:

Marianas Supper Lottery is a pari-mutuel lotto game. A player must select a set of six different numbers with an optional supplemental number, between 1 and 42 for input into a terminal. Slips for play can be purchased from a terminal operated by an authorized retailer. Player or retailer inserts the marked slip into the Smart Terminal. The Smart Terminal reads the marked slip and instantly transmits data to the Operational Main Server, where there is an automatic backup system. The Smart Terminal then dispenses a receipt to the player, showing the numbers chosen. Authorized retailers shall cease selling tickets for a particular drawing 60 minutes before the scheduled drawing.

**Section 70-50.1-330(d)(1)** is amended by deleting the first sentence and replacing it with the following:

(1) Marianas Super Lottery drawings shall normally take place on Friday of each week at 7:00 p.m.

**Section 70-50.1-330(d)(3)** is amended by deleting this section in its entirety and replaced with the following:

(3) The Office of the Attorney General shall designate a drawing coordinator. Drawings shall be conducted pursuant to procedures developed by the drawing coordinator and approved by the Office of the Attorney General. The objective of a drawing shall be to randomly select six winning numbers between 1 and 42. Drawings may be conducted with the aid of mechanical drawing equipment or a random number generator or other such devices as the Office of Attorney General may approve.

**Section 70-50.1-330(d)(6)** is amended by deleting this section in its entirety and replaced with the following:

(6) The Office of Attorney General or the Department may delay any payment of all prizes by the Marianas Super Lottery licensee if any evidence exists or there are grounds for suspicion of equipment malfunction, tampering, or fraud. Payment shall be made after an investigation is completed and the Office of the Attorney General approves the drawing and or procedures.

**Section 70-50.1-330(e)(1)-(3)** is amended by deleting this section in its entirety and replaced with the following:

(e) Prizes

(1)(i) Marianas Super Lottery is a pari-mutuel game, ~~which are set~~ prize pools. For each draw, 50 percent (50%) of the net sales after cancels and promotional plays from the sale of the base \$2.00 (U.S.) Marianas Super Lottery tickets in the corresponding Marianas Super Lottery sales period shall be allocated as the winning pool for the payment of prizes as provided below:

(A) The base Jackpot prize pool shall consist of 60.0 percent (60.00%) of the winning pool for the drawing plus any base Jackpot money carried forward from the previous draws. The base Jackpot prize shall be divided equally among the players matching all six official winning numbers. If there is no Jackpot winner in a drawing, the base Jackpot pool shall be carried over and added to the base Jackpot pool of the next Marianas Super Lottery drawing.

(B) The second prize pool shall consist of 10.0% percent (10.0%) of the winning pool for the drawing. The second prize pool shall be divided equally among the players matching five (5) of the six (6) official winning numbers, plus (+) one (1) bonus number. If there is no winner in the second prize category for a drawing, the second prize pool shall be carried over and added to the base Jackpot prize pool of the next Marianas Super Lottery drawing.

(C) The third prize pool shall consist of 10 percent (10%) of the winning pool for the drawing. The third prize pool shall be divided equally among the players matching five (5) of the six (6) official winning numbers. If there is no winner in the third prize category for a drawing, the third prize

pool shall be carried over and added to the base Jackpot prize pool of the next Marianas Super Lottery drawing.

(D) The fourth prize pool shall consist of 20.0 percent (20.0%) of the winning pool for the drawing. The fourth prize pool shall be divided equally among the players matching four (4) of the six (6) official winning numbers. If there is no winner in the fourth prize category for a drawing, the fourth prize pool shall be carried over and added to the base Jackpot prize pool of the next Marianas Super Lottery drawing.

(E) The fifth prize shall consist of no money or funds. The fifth prize is 5 (five) Free games to play and is awarded to each player who matches three (3) of the six (6) official winning numbers.

(F) The base Jackpot prize will pay the exact guaranteed dollar amount. The second, third and fourth prizes will be rounded down to the nearest fifty cents (\$.50); provided, however, that the fourth prize shall be no less than \$3.50.

**Section 70-50.1-330(e)(4)-(6)** is amended by re-numbering these sections as follows:

<u>Current number</u>	<u>New number</u>
Section 70-50.1-330(e)(4)	Section 70-50.1-330(e)(2)
Section 70-50.1-330(e)(5)	Section 70-50.1-330(e)(3)
Section 70-50.1-330(e)(6)	Section 70-50.1-330(e)(4)
Section 70-50.1-330(e)(7)	Section 70-50.1-330(e)(5)

**Section 70-50.1-330(f)-(h)** is amended by deleting these sections in their entirety and replacing with the following:

**(f) Determination of Prize Winners**

In order for a ticket to be a winning ticket, numbers appearing in a single horizontal row on the ticket (A, B, C, D, E, F, G, H, I, or J) must match the official winning Marianas Super Lottery numbers in any order for the draw date for which the ticket was purchased. The prizes are set forth as follows:

- (1) Jackpot Prize(s): Six of six official winning numbers.
- (2) Second Prize: Five of six official winning numbers, plus (+) one (1) bonus number.
- (3) Third Prize: Five of six official winning numbers.
- (4) Fourth Prize: Four of six official winning numbers.
- (5) Fifth Prize: Three of six official winning numbers

**(g) Marianas Super Lottery Odds of Winning.**

The odds of winning the prizes are as follows:

- (1) Jackpot Prize(s) – 1:5,245,786.
- (2) Second Prize – 1:874,298.
- (3) Third Prize – 1:24,980.
- (4) Fourth Prize – 1:555.

(5) Fifth Prize -- 1:37

(6) The overall odds of winning a prize in a Marianas Super Lottery drawing are 1:\_\_\_\_\_.

(h) Claiming a Prize

(1) Holders of First through the Fourth prize-winning plays redeem at the Super Lotto Operator's office after confirmation of win and number of winning numbers.

(2) Player with a winning 5th Prize can redeem at a Super Lotto outlet after confirmation of win.

(3) Taxes withheld from winnings as required by CNMI law.

(4) CNMI taxes shall be applied and withheld from the prize amount at the time payment is made, pursuant to applicable provisions of the CNMI tax code

(5) Any interest or earnings accrued on a Marianas Super Lottery Jackpot prize prior to the prize payment shall accrue to the CNMI and not to the winner.

**Section 70-50.1-335** is amended by deleting the term "Marianas Scratch-it" where ever it occurs in this section and replacing it with the term, "Marianas Super Scratch it."

**Section 70-50.1-335** is amended by deleting the term "Marianas Lottery Office" where ever it occurs in this section and replacing it with the term, "Marianas Super Lottery office"

**Section 70-50.1-340(a)(6)** is amended by deleting the first sentence in its entirety and replacing it with the following:

(6) "Scratch-it" means an instant ticket game, as defined by these regulations, in which the winning tickets are produced as the time of manufacture with the aid of equipment, and the winning tickets are identified after purchase by scanning the bar code or manually entering the bar code numbers printed on the back of each ticket with equipment provided by the Lottery Operator.

**Section 70-50.1-340(d)(2)** is amended by deleting the term "Director's" in the first sentence and replacing it with the term "Lottery Operator."

**Section 70-50.1-345** is amended by deleting this section in its entirety.

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix D (Daily Activity Report)** is amended by deleting this section in its entirety.

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix A (Sample Tickets)** is amended by deleting this section in its entirety.



**Title 70 Department of Finance, Subchapter 70-50.1, Appendix A-1 (Sample Tickets) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix B (Monitor Log Sheets) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix C (Monitor Log Sheets) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix D (Daily Activity Report) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix E (Daily Activity Report - Summary) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix F (Instant Lottery Regulation) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix G (Oz Lotto rules) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix H (On-line power ball rules) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix I (On-line lotto rules) is amended by deleting this section in its entirety.**

**Title 70 Department of Finance, Subchapter 70-50.1, Appendix J (On-line keno rules) is amended by deleting this section in its entirety.**

**APPROVAL AS TO FORM AND LEGAL SUFFICIENCY**

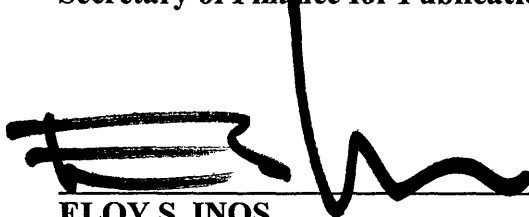
**As required under 1 CMC § 9104(a)(3) (approval of Attorney General Required in adoption of any regulation) and 1 CMC § 2153 (DUTY OF Attorney General to approve all regulations as to form and sufficiency) these regulations are approved.**

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**GREGORY BAKA**  
**Attorney General**

**AUTHORIZATION**

**Under Authority of Executive Order 94-3 (abolishing Lottery Commission and transferring authority to Secretary of Finance) 1 CMC § 9305 (authority to operate and license); 9306 (authority to promulgate lottery regulations); 1 CMC § 9101-9115 (Administrative Procedure Act) the Regulations above are approved by the Secretary of Finance for Publication**



\_\_\_\_\_  
**ELOY S. INOS**  
Secretary

**APR 06 2009**

\_\_\_\_\_  
Date



**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
OFFICE OF THE SECRETARY**

Second Floor Afetña Square Building, San Antonio, P.O. Box 10007, Saipan, MP 96950  
Telephone no. (670) 236-0907 or 0911 Facsimile no. (670) 236-0990



GIL M. SAN NICOLAS  
Secretary

CINTA M. KAIKAT  
Deputy Secretary

**PUBLIC NOTICE  
OF PROPOSED RULES AND REGULATIONS  
WHICH ARE AMENDMENTS TO  
THE EMPLOYMENT RULES AND REGULATIONS  
ISSUED BY THE SECRETARY OF LABOR**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:**  
The Commonwealth of the Northern Mariana Islands, Secretary of Labor, intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b))

**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.

**THE TERMS AND SUBSTANCE:** The proposed revisions are to provide additional opportunities for the employment of U.S. citizens, to advance the phase-out of the moratorium, to suspend the provisions for periodic exit until the uncertainties of the federalization law are resolved, and to decrease the Department's paperwork burdens and make certain other administrative changes.

**A SUMMARY OF THE SUBJECTS AND ISSUES INVOLVED:**

These rules and regulations are promulgated:

1. To broaden the requirement to post job vacancy announcements on the Department's free website so that job opportunities are made known within the community and to increase the requirements for an exemption from the workforce participation requirement of 20% U.S. citizens in order to promote the employment of U.S. citizens;
2. To advance the phase-out of the moratorium to July 1, 2009 in order to increase flexibility for local businesses under the current adverse economic circumstances and to suspend the provisions for periodic exit until the uncertainties of the federalization law are resolved so that local businesses are not faced with potentially conflicting requirements;

3. To simplify the provisions for part-time employment of foreign national workers in order to decrease the paperwork burdens on local employers;
4. To simplify the regulations with respect to deductions from wages in light of minimum wage increases;
5. To eliminate or simplify certain paperwork burdens on the Department and to make minor adjustments in fees;
6. To provide guidelines for judicial review of final agency actions.

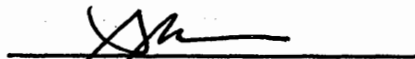
**CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES AND REGULATIONS.**

These proposed regulations will supersede the designated sections of Title 20, Chapter 30, Subchapters 30.1, 30.2, and 30.3 of the N.M.I. Administrative Code and by adding Subchapters 30.4 and 30.5 of the N.M.I. Administrative Code.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

**TO PROVIDE COMMENTS:** Send or deliver your comments to the Secretary of Labor, Gil San Nicolas, c/o Eli Golub, Labor Counsel, at P.O. Box 10007, Saipan, MP 96950, or by fax at 236-0991 or by email at [eligolob.aag.cnmi@gmail.com](mailto:eligolob.aag.cnmi@gmail.com), with the subject line "Proposed Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or proposed changes. (1 CMC § 9104(a)(2))

Submitted by:



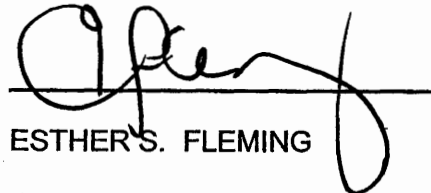
Gil M. San Nicolas

Secretary of Labor

05/15/09

Date

Received by:



ESTHER S. FLEMING

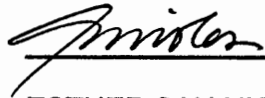
Governor's Special Assistant for Administration

5/19/09

Date

Filed and

Recorded by:

  
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ESTHER SAN NICOLAS

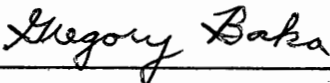
Commonwealth Register

05.20.09

Date

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 proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 19 day of May, 2009

  
\_\_\_\_\_

GREGORY BAKA

Acting Attorney General

## Notisian Pupbliku

Pot maproponen Areklamento yan Regulasion siha  
Amendasion siha para  
I Areklamento yan Regulasion siha pot manemplea  
Ninahuyong ginen I Sekretarion I Labor

**INTENSION PARA MA'ADAPTA I MAN MAPROPONEN I AREKLAMENTO SIHA:** I Commonwealth I Sangkattan na Islan Mariana siha, Sekretarion I Labor, ha intensiona para ma'adopta komo petmanente I regulasion siha ni manchecheton na maproponen Regulasion siha sigun I kinalamten I Adm. Procedure Act, I CMC 9104 (a). I regulasion siha umefektibu siempre gi halom dies (10) diha siha, despues de adoptasion. (I CMC 9105 (b))

**ATURIDAT:** I Sekretarion Labor ma'aturisa para u famatinas regulasion siha pot manemplean I citizens siha, permanent residents, yan foreign national workers siha, sigun I Lai Pupbliku 15-108 § 4530, 4606, 4961, 4971 yan 4972.

**I TEMA SIHA YAN TINETEKKA:** I manmapropone na ribision siha para u probeniyi mas bintaha para manemplean I sidudanon U.S. siha, para u ma'adbansa I phase-out moratorium, para masuspendi I probision siha para I periodic exit estaki klaru pot I lai federalization ya masatba yan para u maribaha I che'cho pappet siha gi dipattamento yan asigurao I palu na tinilaikan administrative siha.

### I SUMARIAN I ATTIKULU SIHA

Esti siha na areklamento yan regulasion manma'establesi:

1. Para u mana' ancho I ginagagao siha para I notisian bakante para I post job gi website I dipattamento, kosaki I opetunidat cho'cho u famta huyong gi komunidad yan u ma'umenta I ginagao siha para exemption ginen I ginagao pattisipasion I 20% sidudanun U.S. kosaki mahatsa I manemplean U.S. citizens.
2. Para ma'adbansa I phase-out moratorium para Hullio 1, 2009, kosaki u mas flexibility para I local businesses siha gi presenti na baban ekonomia yan para masuspendi I pribision siha estaki klaru pot I lai federalization ya masatba, kosaki I local business siha timafana I conflicting requirements siha;
3. Para manalibianu I probision siha para I part-time employment I foreign national workers, kosaki u menos che'cho pappet gi local employers;
4. Para manalibianu I probision siha para I deduction siha ginen I apas siha gi inaksan I minimum wages.

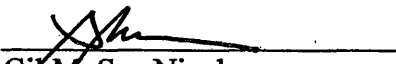
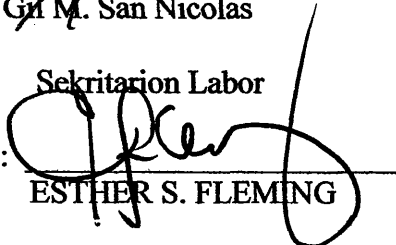
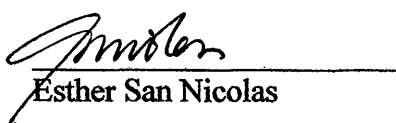
- 5 Para manasuha osino manalibiano palu na che'cho pappet gi dipattamento yan adjustment siha gi fees.
- 6 Para maprobeniyi giniha siha para I ribision hustisia pot I aksion I ahensia siha.

**NOTAN I MANACHULE YAN/PAT INAFEKTAN I STATUA, AREKLAMENTO YAN REGULASION SIHA:**

I manmapropone na regulasion siha siempre ha supersede I manmadesign na seksiona siha gi Title 20, Chapter 30, subchapter 30. 1, 30.2, yan 30.3 gi kodigon N.M.I. Administrative yan manahalom subchapters 30.4 yan 30.5 gi NMI Administrative Code.

**DIREKSION PARA PINELU YAN PUPBLIKASION SIHA:** I manmapropone na regulasion siha u mapuplisa gi halom Rehistran Commonwealth gi seksionan propone yan nuevo na inadoptan regulasion siha. (1 CMC 9402 (a) (1) yan mapega gi kombinente na lugat siha gi civic center yan gi ofisinan gobietnamento kada senatorial district, gi fino English yan I prinsipat na lengguahe. ( 1 CMC 9104 (a)(1)

**PARA MENSAHE SIHA:** Na hanao pat chule I mensahi-mu guato gi Sekretarion Labor, Gil San Nicolas, c/o Eli Golub, Labor Counsel, P.O. Box 10007, Saipan, MP 96950 osino fax 236-0991 pat email [eligolob.aag.cnmi@gmail.com](mailto:eligolob.aag.cnmi@gmail.com). I mensahe siha pot I "Proposed Regulations" nahalom gi trenta (30) diha siha gi ha'ane ni mapupblika I notisia. Pot fabot nahalom opinion, mensahe pot manmaproponen I tinilaika siha. (CMC 9104 (a)(2).

Ninahalom:	 _____ Gil M. San Nicolas	<u>05/15/09</u> Fecha
Maresibe As:	 _____ ESTHER S. FLEMING	<u>05/19/09</u> Fecha
	Spesiat na Ayudanten Gobietno	
Pinelo As:	 _____ Esther San Nicolas	<u>05.20.09</u> Fecha

Commonwealth Register

Sigun I 1 CMC 2153 (e) (inapreban I AG pot I regulasion siha komo mafotma) yan I CMC 9104 (a) (inapreban AG) I man checheton na regulasion esta marebisa yan ma'apreba komo sufisienti yan ligat nui Abugado Hinerat ya u mapblisa, I CMC 2153 (f) (pupublikasion I areklamento yan regulasion siha).

Mafecha gi 19 diha gi Mayo 2009.

*Gregory Baka*  
\_\_\_\_\_  
GREGORY BAKA

Acting para I Abugato Hinerat



## ARONGOL TOULAP

### REEL POMWOL AMMWEL ME ALLÉGH KKAAL IKKA EBWE SSIWEL MEREEL AMMWELIL ME ALLÉGHÚL EMPLOYMENT ( SCHÓÓL ATTARABWAAGHO) ISALIYALEWOW SAMWOOLUL LABOR

**AGHIYEGH IGHÁ EBWE FILLÓÓY POMWOL AMMWEL ME ALLÉGH KKAAL:** Commonwealth Téél falúw kka falúwasch Efang Marianas, Samwoolul Labor, e mángi reel fillóól bwe ebwe allegh ffósch, allégh kka e appasch reel pomwol allégh kkaal, sángi allégh ye Administrative Procedure Act, 1 CMC 9104(a). Allégh kkaal ebwe kkamalló llól seigh (10) ral, mwiril yaal filló. ( 1 CMC Tálil 9105(b))

**BWÁNGIL:** Samwoolul Labor nge eyoor bwángil ebwe akkaté allágh kka e ghil ngáli employment of citizens (yaar toulap angaang), permanent residents (schóókka re lollo faleey), me foreign national workers (schóól angaang kka aramasal lúghúl) bwelle PL 15-108 Tálil kka 4530, 4606, 4971, me 4972.

**ÓUTOL ME KKAPASAL:** Pomwol ssiwel kkaal ebwe ayoora eghÚs alillis (opportunities) ngÁliir schóóy angaang kka amramasal U.S, igha rebwe ghitipwotchol ayúwulú mwo aweewel federóód kka ekke atotoolong mille yaal ammwel ghatcheló, me fischeli angaangal pappit mellól Bwulasiyo me siweli eghús angaangal llól administrative.

### EGHÚS KKAPSAL ME AWEEWE KKA E TÉÉTÁ:

Allégh kkaal ebwe akkaté bwe:

1. Rebwe affawow angaang kka ebwe toowow mellól yaal Department website bwe toulap rebwe kkeyil ghuleey me alapeló yááyál kka ebwe ayúwulú mwo atotoolongol schóól angaang ye ebwe yoor 20% aramasal U.S. bwelle rebwe aghatchuwulo schóól angaang kka aramasal U.S.
2. Rebwe kkeyil atoowowu mwo aweewel llól Wuun 1, 2009 bwelle igha rebwe aghatchuwulú local business sangi nngówal ekkonomial ighila me ayúwulú aweewel federóód kka ekke yoor ighila mille yaal ammwel ghatchelo bwe local business ressóbw fitighoogho reel tingórol kkaal;
3. Rebwe tilifischi angaangal part-time ngaliir aramasal schóól lúghúl bwelle essóbw lap angaangal tiliighial local employee
4. Rebwe tilifischi allégh kka ebwe fischelitiw wages bwelle reel minimum wage increase (sássáril óbwós);

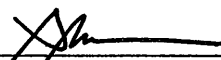
5. Rebwe fischeli angaangal pappit mellol Bwulasiyo me ayoora ssiwel reel óbwós;
6. Ayoora guidelines (ammataf) ngáli judicial sáangi mwóghutughutul agency.

**AKKATÉ KKA EGH L ME/ALLÉGH KKA E AWEIRESI.**

Pomwol allégh kkaal ebwe siweli llól Talil kka Title 20, Chapter 30, Subchapters 30.1, 30.2, me 30.3 mellól N.M.I Administrative code me aschulong Subchapters 30.4 me 30.5 mellól N.M.I Adminsitrative Code.

**AFALAFAL REEL AMMWELIL ME AKKATÉÉL:** Pomwol Allégh kkaal ebwe akkatéélong llól Commonwealth Register llól Tálil ye raa pomwoli me fillóoy allégh kka e ffé (1 CMC Tálil 9102(a)(1)) me appaschetá igha e fisch meiyé llól civic center kkaal me llól bwulasiyool gobenno kkaal llól kada senatorial district, e weewe llól Amerikkonu, Remeraalis me Refalúwasch. ( 1 CMC Talil 9104(a)(1))

**REEL ISISILONGOL MÁNGEMÁNG:** BwughiiO’ reel Samwoolul Labor, Gil San Nicolas, c/o Eli Golub, Labor Counsel, reel P.O. Box 10007, Seipel, MP 96950, me ngare fax reel 236-0991 me email reel eligolob.aag.cnmi@gmail.com, reel aweewe ye “Proposed Regulations”. Ischil mángemáng ebwe atotoolong llól eliigh (30) rál, sáangi schagh igha raa atéew arong yeel. Ów isschilong mááfiyámi reel pomwol liiwel yeel. (1 CMC Tálil 9104(a)(2))

Isaliyallong:   
 Gil M. San Nicolas  
 Samwoolul Labor

05/15/09  
 Rál

Mwir sáangi:   
 ESTHER S. FLEMING  
 Sow Alillisil Sow Iemelem

5/19/09  
 Rál

Ammwel sáangi:   
 ESTHER SAN NICOLAS  
 Commonwealth Register

05.20.09  
 Rál

Sáangi allégh ye 1 CMC Tálil 2153(e) (Alúghúlúgh mereel AG sáangi allégh kka ebwe akkaté) me 1 CMC Tálil 9104(a) (bweibwogh alúghúlúgh mereel AG reel pomwol allégh kka e appasch ikka raa takkal amweri fischi me aléghéléghéló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééwow, 1 CMC Tálil 2153(f) (akkatéél allégh kkaal).

Rál ye 19 llól maramal Ghúúw, 2009

*Gregory Baka*

GREGORY BAKA

Acting ngáli Sów Bwungul Allégh Lapalap

# PROPOSED CHANGES IN THE LABOR REGULATIONS

## SUBCHAPTER 80-20 DEPARTMENT OF LABOR

Section 80-20.1 Delegation of authority. The Secretary 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, 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 full force and effect until rescinded, altered, or modified as circumstances require. A delegation of the Secretary's authority to the Deputy Secretary shall occur whenever the Secretary is off-island.

## SUBCHAPTER 80-30 EMPLOYMENT OF CITIZENS AND PERMANENT RESIDENTS

### Section 30.2 Private sector employment preferences

#### Section 30.2-400 Job referral

§ 30.2-445 No waivers. There are no waivers available with respect to the publication requirement.

§30.2-450 Publication filing. When a job vacancy announcement is published on the Department's website, no filing of proof of publication is required. If the job vacancy announcement is published elsewhere to fulfill the requirements of §30.2-440(a), the employer must file with Employment Services, no later than thirty (30) days from last publication, a statement or invoice from the provider of publication services showing the dates on which the job vacancy announcement was published.

§30.2-460 Cancellation of the job vacancy announcement. Employment Services may cancel a job vacancy announcement or deny certification if insufficient reasons are stated for failure to hire or if no statement is received within 14 days. A denial may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Section 80-50.4-155.)

#### §30.2-480 Workforce plan.

(b) Employers covered. Every employer, unless exempted, is required to have a workforce plan.

(g) Loss of exemption. An employer against whom two or more judgments in labor cases or consolidated agency cases are entered in Department proceedings within any two year period automatically loses any applicable exemption and a plan must be filed with Employment Services within 30 days of the entry of the second judgment. No administrative proceeding is required to remove the exemption. A "judgment" for purposes of this subsection 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. "Within a two-year period" for purposes of this section is any 24-month period. This period does not relate to a calendar year.

Section 80-30.2-600 Workforce participation by citizens and permanent residents

§30.2-620 No waivers. There are no waivers available with respect to the participation requirement.

Section 80-30.2-700 Exemptions.

§30.2-705 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 except as provided in this section and, with respect to this section, do not apply to owner-operated businesses with no employees other than owners. For purposes of this section, all full-time employees are counted. All retail establishments that handle food stamps shall have at least employee who is a citizen or permanent resident after June 30, 2008. All employers with fewer than five employees shall have at least one employee who is a citizen or permanent resident after October 1, 2009. All such employers are subject to the job vacancy announcement requirements for all job vacancies.

§30.2-715 Incentive exemption. An incentive exemption with respect to Section 4521 (job preference) but not with respect to Section 4525 (workforce participation by citizens) or Section 4522-23 (job vacancy announcements and referrals) shall be available if the citizen and permanent resident employees in the full-time workforce of an employer in that O-NET classification exceeds substantially thirty (30) percent of the employer's total full-time workforce in these positions. The incentive benchmark is fifty (50) percent for the employer's total full-time work force in the A-List and B-List jobs , however all job vacancies must be advertised. (See Section 80-30.2-205).

§30.2-725 Loss of exemption. An employer against whom two or more judgments in labor cases or consolidated agency cases are entered in Department proceedings within any two year period automatically loses any applicable 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. "Within a two-year period" for purposes of this section is any 24-month period. This period does not relate to a calendar year.

## **SUBCHAPTER 80-40 MORATORIUM**

Section 80-40.1 Moratorium phase-out. The previously legislated moratorium on the hiring of foreign national workers is phased out as follows:

Section 40.1-100 Visitor industry. 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.

Section 40.1-200 Services industry. 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.

Section 40.1-300 Agricultural. As of July 1, 2009, the moratorium does not apply to agricultural, fishing and fisheries, forestry, and groundskeeping positions.

Section 40.1-400 All other. As of July 1, 2009, the moratorium expires with respect to all remaining positions.

## **SUBCHAPTER 80-50 EMPLOYMENT OF FOREIGN NATIONAL WORKERS**

Section 80-50.2 Entry into the Commonwealth

Section 50.2-200 Approved employment contract

§50.2-205 Application. An application for approval of an employment contract must be signed by a director, officer, or manager of a corporation or other business organization and must be submitted to the Director of Labor on a standard form provided by the Department in person by an employee of a corporation or other business organization who shall present sufficient identification and proof of status. An application must be signed and submitted in person by a non-business employer. No person who is an agent and no person holding a power of attorney may sign or submit an application. The Director shall review the application to ascertain if it is complete. An incomplete application will not be accepted. The Director shall take action on a complete 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. Approval of the application is an

agreement or contract between the Director and the employer as to the terms under which the employer will operate. A denial shall be on a standard form. No other documentation with respect to a denial is required. A denial may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Section 80-50.4-155.)

### Section 80-50.3 Standards for Employment

#### Section 50.3-100 Standard conditions of employment

§50.3-105(c)(iii): Hiring for part-time. An employer may employ a foreign national worker part-time for no more than 32 hours a month. An employer who has signed an approved employment contract with a foreign national worker may not hire that foreign national worker for part-time work.

§50.3-140(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 personal 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 or \$100 per month for non-business employers.

#### §50.3-155 Contract extension, contract amendment and reduction in hours.

(a) An extension to an existing approved employment contract for up to six months may be agreed by the parties at any time during the term of the contract and filed with the Department on the standard form provided by the Department for that purpose.

(b) A change (amendment) to an existing approved employment contract may be implemented or performed only with prior agreement of both parties to the contract and with prior submission on a standard form provided by the Department, provided however that hours may not be reduced below thirty-two (32) per week.

(c) A contract extension or amendment does not require prior approval of, but may be denied by, the Director of Labor. A denial by the Director may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Section 80-50.4-155.)

#### Section 50.3-300 Contract renewal, non-renewal, and termination

§50.3-305(d): 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. A request for renewal may be submitted and approved without an accompanying health certificate, but the health certificate must be submitted within sixty (60) days of approval or the renewal is subject to revocation. A request for renewal may be submitted and approved if the Job Vacancy Announcement is on file (on line), but the JVA must be certified within sixty (60) days of approval or the renewal is subject to revocation.

Section 50.3-400 Transfer by administrative order.

§50.3-420. Extension of time. Extensions of time within which to locate an employer may be granted by the Administrative Hearing Office upon application submitted within ten (10) days after expiration of the initial period of time within which to locate an employer and assumption of full responsibility by the foreign national worker for medical and other expenses with an appropriate guarantee under terms acceptable to the hearing officer and payment of a fee.

§50.3-422. Objections to proposed transfer. The Director of Employment Services shall circulate to all Sections within the Department each request for permission to transfer received by Employment Services. If no objection is received, a hearing officer may issue an order granting permission to transfer. If an objection is received, a hearing officer shall conduct a hearing on the objection and the burden of proof is on the objecting officer of the Department.

Section 50.3-500 Reductions in force

§50.3-540 Limitations on new hires of foreign national workers.

- (a) On-island hires. An employer who has laid off citizens, permanent residents, or 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 citizens, permanent residents, or 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.

§50.3-545 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.



Section 50.4 Adjudication of disputes

Section 50.4-700 Orders and relief

§50.4-725 Whistleblower relief. In order to promote the public interest in securing compliance with Commonwealth law, a foreign national worker who provides the Department with information on the basis of which a compliance agency case is brought may be granted a transfer by a hearing officer even if not qualified under Section 80-50.4-720 above.

Section 50.4-900 Judicial review. Judicial review of a final action of the Secretary is authorized after exhaustion of all administrative remedies. Appeal from a final action by the Secretary shall be directly to the Commonwealth Superior Court and shall be initiated within thirty (30) days of the final action.

Except as otherwise required by a rule of the Commonwealth Superior Court, the pleading initiating judicial review shall be a Petition for Judicial Review. The Petition shall identify the order of the Secretary being appealed and the order of the Administrative Hearing Office that was appealed to the Secretary and shall attach copies of both. The Petition shall set out each ground for appeal in summary form in a separate numbered paragraph, and shall state that the requirements of the Commonwealth Employment Act with respect to appeals of final orders of the Secretary have been met.

**SUBCHAPTER 80-60 OTHER PROVISIONS**

Section 60.8 Fees. The following fees shall be collected by the Department. All fees are nonrefundable and nontransferable unless otherwise provided in these regulations.

<del>6. Application for part-time employment</del>	<del>_____</del>	<del>\$40.00</del>
13. Penalty fee for untimely renewal (limit <del>45</del> <u>60</u> days)		\$5.00/day
14. Processing a temporary work authorization ( <u>6 months</u> )		\$150.00
15. Renewal of temporary work authorization ( <u>per month</u> )		<del>\$50</del> <u>25.00</u>
16. Mediation of labor disputes		No fee
17. Filing a labor complaint ( <u>per person</u> )—		\$20.00
18. Filing an appeal to the Secretary ( <u>per person, except in agency cases</u> )		\$40.00
19. <u>Appeal to the Hearing Office (per person)</u>	<u>_____</u>	
	<u>\$25.00</u>	
27. <u>Contract extensions (up to six months)</u>	<u>_____</u>	<u>\$2535/month</u>

Section 60.9 Statistical data

Section 60.9-200 Standard data sets. The Department will publish on its website and provide to the Department of Commerce quarterly statistics with respect to the number of permit transactions within industry categories.

Section 60.12 Transition

Section 60.12-335 Effect of PL 110-229. In order to promote recovery from severely adverse economic conditions, to accommodate the uncertainties with respect to implementation of PL 110-229 (the federalization law), to minimize costs imposed on businesses, and to allow the labor department to function efficiently under a substantially reduced budget, the requirements of the periodic exit have been suspended until further publication of regulations.



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lt. Governor

## **EXECUTIVE ORDER 2009-04**

### **DECLARATION OF A STATE OF DISASTER EMERGENCY: COMMONWEALTH UTILITIES CORPORATION'S IMMINENT GENERATION AND OTHER FAILURE AND THE NEED TO PROVIDE IMMEDIATE RELIABLE POWER DURING REPAIRS**

#### **CONTINUATION #9**

I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power generation service to the CNMI and the extreme, immediate and imminent threat such condition poses to the Commonwealth of the Northern Mariana Islands.

This Executive Order is intended to, and does, continue in effect the Governor's preceding disaster emergency declarations on this matter, EO 2008-10, -13, -17, -20 through -22., and EO 2009-01 through -03, except as specifically modified. As more fully stated below, this Executive Order shall expire on the 31st day following the date of my signature. The following findings and conclusions further support continuation.

I find that:

1. All findings and conclusions of EO 2008-10, -13, -17, -20 through -22 and of EO 2009-01 through -03 are incorporated by reference, except as specifically varied in this Executive Order. The narrative paragraphs of this EO address improvements in the circumstances that gave rise to the preceding orders.
2. CUC's contractor, Aggreko, has commissioned approximately 15 MW of temporary, diesel-fired power generators, pursuant to CUC contract # CUC-PG-08-CO16. This generation has meant the difference between rolling blackouts and generally continuous electric service to CUC customers. Because unforeseen technical issues have arisen periodically, there have been some forced outages. Although the Aggreko installation is professionally managed, events can occur which require the attention of non-CUC personnel, including security, pipe-fitters, and the related personnel, materials and supplies. Other issues may arise that will require rapid attention by CUC contractors and the securing of materials and supplies. While CUC must continue to rely on Aggreko's generation, the facility's output has been reliable and of high quality.
3. Although CUC desires to comply in advance with environmental and land use regulations, the lack of permits and the permitting process would have postponed or eliminated the in-service date and uninterrupted service provided by the Aggreko power generating equipment. In particular, taking Aggreko's units off line, while undergoing the time and expense of computer modeling of the emissions of Lower Base power plants, would trigger renewed rolling blackouts for Saipan. Eliminating the declaration would place CUC, Aggreko, and their employees and contractors, in the position of violating CNMI environmental regulations, thereby effecting a shut-down of this required 15 MW of capacity. There is no indication that any of the above situation will be resolved in the next month.
4. CUC faces additional challenges due to the failure of its electric distribution facilities. However, some of these challenges have been met, and some of the conditions have been moderated.
  - a. In particular, the transformer feeding the Chalan Kiya distribution transformer still requires immediate maintenance. Its failure could plunge the south end of Saipan into lengthy blackouts, including the prison, the Courthouse and Public Safety offices, water wells in the Airport area and the Agingan Point sewage treatment facilities. CUC is trying to settle matters with the vendor and get the facility fixed as soon as possible. CUC expects to have resolved the following in the next month: a contract and repair plan should be in place. Due to the time

required to mobilize off island men and materials, the work may not be done in the next month, however. Until the repair work is done on the backup unit, therefore, the risk of a half-island outage remains.

- b. The distribution system lacked airbrake switches and reclosures on each of its 7 circuits, or feeders, so that small feeder faults tripped breakers at Power Plant #1, bringing large parts of the system off-line. The new equipment has been specified and has been procured, with some arriving already. The new equipment is being installed to avoid these problems. (See below, paragraph 6.)
- c. During January Saipan experienced 22 hours of partial blackouts and one 4-hour whole-island blackout. The situation has markedly improved. In February Saipan experienced 23 hours of partial field outages, but no whole island blackout. Some of the outages were necessary, scheduled outages. Virtually all of these outages were due to deteriorated power distribution hardware. Thus, CUC has achieved relatively good generation system reliability. It has developed a plan to upgrade the distribution system, and, with increasingly stable revenues, is implementing the plan.
- d. Also, the service trucks were failure-prone, interfering with service and repair of other facilities. CUC has instituted a repair and maintenance plan to increase service vehicle reliability, including a series of qualified vehicle repair contracts and increased employee responsibility for their vehicles.

5. CUC has determined that its Tank 104 used oil facility is structurally unsound and must be emptied of its used oil in advance of severe weather, particularly a serious typhoon, to avoid any potential harm to the Commonwealth's waters, including the Lagoon. Further, there are 2,800 sealed barrels of used oil nearby which must also be removed.

- a. The removal must comply with federal environmental law. CUC lacks the internal capability to carry out the removal and must contract for these services. A related concern is the effect on the structural integrity of Tank 104 which drawing down its contents will create; suggesting that the proper plan and contractor are critical. In the meantime, CUC is trying to reduce its 2800 drums of used oil through incineration. This situation will continue to challenge CUC well past the next month.
- b. CUC is taking concrete steps to resolve this situation, in compliance with the federal stipulated order in *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 2"). See also <http://www.usdoj.gov/enrd/Consent>

Decreases.html. It has undertaken an emergency, competitive procurement for expert oil-issue-related environmental consulting firms to help it timely and competently meet the requirements of the first 90 days' deliverables in Stip Order 2. It is incinerating oil stored in drums and has provided drums to Island businesses which can properly burn the oil to make power. It is developing plans for "secondary containment", typically berms, for the oil drums.

6. CUC has substantially minimized the risk of losing generation capacity, which has created intermittent blackouts on portions of its system.

- a. The Island of Saipan lost power on January 10' when poorly maintained protective devices in the distribution system failed, and protective relays at Power Plant #1's busbar also failed, thereby exposing the generators to a transient, causing the generators' own relays to trip. (See above, paragraph 4.b.) CUC is repairing the distribution system equipment and taking steps to increase the manpower needed for a proper protective system. (See below, paragraphs 6.c and 9.c, on manpower.)
- b. CUC continues to rehabilitate Power Plant #1 engine/units No.'s 5 and 1. The rehab of engine No. 7 by CUC staff has been completed. CUC tries to maintain and rehabilitate the operating units to adequately meet load. CUC has secured federal funds to buy needed parts to avoid outages. But, in spite of advertising locally, CUC lacks the contractors or in-house staff to carry out complete maintenance and repair.
- c. A major challenge to carrying out this rehabilitation will be finding as soon as possible the 8 more mechanics and 8 more operators who are needed to carry out this project and run the equipment. They must be ready for service when needed and they must be affordable. But there is a shortage of such US professionals with experience with CUC's type of engines. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding all the qualified candidates. CUC has identified 16 potential new staff after interviews – 7 mechanics, 1 welder, 1 machinist, and 7 operators. Two of the operator candidates are US citizens, one. Presently CNMI law (PL 16-14) prohibits CUC from hiring any more non-US technical workers than the 19 skilled professionals presently with CUC. CUC plans to ask the Legislature for relief from this statute regulating the Government's workforce. In the meantime CUC is concerned that any significant reduction in its present technical workforce, as by the feared swine flu pandemic, could seriously compromise CUC's ability to generate and distribute power.

- d. CUC is presently operating with 60 MW of power generation to meet the recently experienced peak loads of about 40 MW. PP #1 offers 25 MW and PP #2 offers 6 MW. The PP #1 capacity includes units 6 and 8, which are undergoing maintenance that allows them to be brought on line from standby, for emergency purposes. Utility industry safety margins for isolated, island systems, typically require a reserve equal to the capacity of the two largest units; in CUC's case this would be another 15 MW of load. The independent power producers provide as follows: PP #4 generates 14 MW and Aggreko generates 15 MW. This means that PP #4 and the Aggreko units are essential to meeting Saipan load of about 40 MW plus the reserve margin.
- e. There is no indication that any of the above situation will be resolved in the next month.

7. The water/wastewater division has been negatively impacted during the past month, and has experienced some improvements in the past month:

- a. CUC is providing more water to more people than ever before. Three wells are down, however, due to salinity and heat. As fresh water supplies decreased with the dry season, the pumps had to operate in more difficult conditions, which caused the failures. CUC has bottomed out on the fresh water supplies in some of the aquifers. While some water supplies have been compromised, if the rains resume soon there will be adequate water.
- b. CUC has installed 2,000 new Severn-Trent smart meters, manufactured for the CNMI's environment. Another 3,500 are on order, with 2,000 due for delivery in early May.
- c. The water well drill rig has been out of service, awaiting parts and service, scheduled to come in mid-May. The rig's unavailability continues to impede CUC's ability to expand service.
- d. The two wastewater treatment plants have been effectively compromised due to age and lack of maintenance. While the Agingan Point treatment plant waits for delivery of drive components so that staff can repair the non-functioning clarifier, staff have fabricated drives from a junked 20-year old unit. The solids inventory has stabilized, but the plant is still operating outside of limits for BOD and enterococci. The Sadog Tasi Plant's solids handling equipment still awaits proper parts, so, in the meantime the staff jury-rigged treatment equipment from scrap material. Tons of biosolids still must be processed later. The aeration system is

compromised by large leaks. The bids for the projected rehab of Sadog Tasi were twice the amount of CUC's projected budget, requiring a halt to the project schedule, and a continuing search for more funds. There is no indication that this situation will be resolved in the next month.

8. The U.S. Department of Justice (DoJ), Environment and Natural Resources Division has sued CUC in federal court to come into compliance with critical water and sewage treatment requirements. *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 1"). See also [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). In July 2008 CUC, the CNMI and (in September 2008) the U.S. Environmental Protection Agency (EPA) stipulated to two orders lodged with the U.S. District Court on the date the Complaint was filed. These orders require CUC to implement a series of improvements to its water and wastewater systems that respond to years of neglect, for which it presently lacks the funds and the complete technical capability. CUC requires a constant supply of electricity to run its water and wastewater treatment systems. CUC has very limited on-site emergency generation capability for only portions of these systems. CUC's ability to buy and install needed parts and materials rests on its ability to continue to generate revenue; it cannot afford to shut down or lose the revenues from any of its services. Continued electric service revenues are critical, because the Commonwealth Public Utilities Commission has determined that CUC presently runs its water/wastewater system at a \$7 million per year loss. While CUC intends to do everything it can to comply with the federal requirements, there is no indication that this situation will be resolved in the next month. Nonetheless, the Water and Wastewater Division has continued to meet Stip Order 1 deliverables within the prescribed time frame.

9. CUC faces additional, critical challenges in the water/wastewater area. Failures of key aspects of the systems could harm our people and our ability to meet our commitments to the EPA and the federal district court.

- a. As of this writing, three different pumps are out of service at CUC water wells. See above.
- b. Materials have entered the wastewater collection pipes through pipe failure. Pipe failures result from age (some over 30 years old) and undue corrosion. For instance, the iron pipe for the main pumping station to the Agingan Point Wastewater Treatment Plant failed completely after only six years of service. Sewage lift stations are vulnerable. Approximately 60 miles of force and gravity sewer mains have been compromised by naturally occurring hydrogen sulfide gas. This means holes throughout and 200-foot section collapse in San Jose last month. While this collapse was fixed, other collapses are likely.



- c. There are no backup pumps for sewage transport, but they have been ordered. The backup generators in the wastewater treatment plants have failed and do not function. CUC has put out a work order for assessment and potential repair of the generators. The only cost-effective responses were from foreign nationals, one of whom who had an excellent track record in assessment and repair. But local law prohibited the hire.
- d. While CUC staff are working hard to fix these problems, CUC lacks the manpower or available funding to fully address these conditions.
- e. New water rates, set by the Commonwealth Public Utilities Commission, only partially provide for full cost recovery, due to the potential "rate shock" effect of full cost rates. Due to billing lag, those rates do not produce meaningful revenues for 60 days, or until June collections.

10. The CPUC issued a partial electric rate case opinion and order on December 19, 2008. *Investigation of the Commonwealth Utilities Corporation's Electric Rate Structure and Related Matters*, Decision and Order (CPUC Dec. 19, 2008). The order, in effect, freezes CUC's electric rates for three-to-six months, including CUC's fuel clause rates. There are escape valve provisions of the order, but these have not yet been tested. In its most recent LEAC order, of April 2, 2009, in the same docket, the Commission modestly reduced rates in order to reflect, among other things, the lowered world price of oil.

- a. If the Commission order's estimated oil price rate is too low, CUC could be prevented from purchasing needed supplies and material, including oil, during the period between the perceived price rise and the entry of a CPUC emergency order. Such a contingency would impede CUC's ability to power all of its generators, including the generators of its three IPPs, Telesource, PMIC and Aggreko, and to begin steps to meet the above-referenced federal consent orders. CUC must continue to pay cash for oil, often weekly.
- b. CUC has begun to develop cash reserves pursuant to the new rates from the December and April rate orders. CUC's and the CPUC's developing regulatory relationship has addressed funding required personnel, material and supplies while CUC takes steps to enhance efficiency and accountability. The preceding EO 2009-03 clarified the broad scope of the CPUC's power and authority, and the limited reasons for restrictions during this disaster emergency. The revised, clarifying language of the EO continues in this EO.

11. The CPUC's Contract Protocol Order of December 19, 2008, agreed to by CUC, also provides for the Commission's advance review and approval of CUC procurements in excess of \$350,000 and for each year's aggregate capital budget. The order provides that currently active procurements will not be affected by the advance approval requirement. In some circumstances such advance review and approval could impede CUC's resolution of an emergency, particularly if the 35-day approval period were observed (para. 2(c)); however, due to continued interaction between CUC and the CPUC it is thought that the two agencies will be able to communicate on all but the most sudden of emergencies.

12. CUC has been unable to borrow money to run its operations since the inception of this State of Disaster Emergency due to (a) its poor financial condition and (b) the existence on its books of a liability to the Commonwealth Development Authority ("CDA") of approximately \$115 million. This situation must be corrected.

- a. That booked obligation has rendered CUC nominally insolvent. While CUC is deemed insolvent, CUC cannot borrow money.
- b. But CUC must be able to borrow money to bridge the need to spend money with the lagged collection of revenues. While the CPUC, in its oversight of CUC, has begun to address improvements in CUC's finances, sound business practices require that CUC be able to borrow money.
- c. Further CUC has functioned without a Board of Directors, because it has had to. While CUC's enabling act, now PL 16-17, as amended, authorizes a Board, there is no CUC Board yet because, while the staff of the Governor's Office have diligently tried to find Board volunteers who meet the statutory qualifications, they have been unable to do so. Nonetheless, CUC must continue to function, including it must be able to resolve the CDA relationship to allow it to borrow money.
- d. The Legislature has fully authorized CUC to settle the matter with CDA. CUC has come to an agreement to eliminate the CDA debt, converting the debt to preferred stock, forgiving some of the principal, postponing interest payments and giving CDA a Board of Directors seat.
- e. CUC and CDA wish to immediately present a stipulation to the CPUC embodying these and the other settlement conditions, for that regulatory body's approval.
- f. But CDA has required that CUC's *Board* accept the deal. Therefore, it is critical that CUC be able to sign the deal with the authority of a Board. My directive

below provides such authority to the Executive Director. It also permits him to continue to run CUC, providing power, water and wastewater services, until the remaining members of a Board can be identified, confirmed, and convened for business.

13. This Declaration is still necessary to protect the health and safety of our children, our senior citizens, businesses and all other CNMI residents and visitors.

Therefore, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat facing the Commonwealth of the Northern Mariana Islands.

Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the issuance of Executive Directives setting forth the measures to be taken to address the State of Disaster Emergency pursuant to 3 CMC § 5121(f), which states:

(f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;
- (3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

3 CMC § 5121(f)(1)-(3).

I direct:

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Directive 1: CUC shall comply with CUC Procurement Regulations and the CNMI Procurement Regulations applicable to CUC, except as follows:

Upon a written finding by the CUC Executive Director that such compliance is not feasible for purposes of responding to the State of Disaster Emergency, the CUC Procurement Regulations and the CNMI Procurement Regulations applicable to CUC, if any, are suspended as to such CUC procurements. CUC must fully document all such procurement activity for Executive, CPUC, Public Auditor, and Legislative review.

Directive 2: The Commonwealth Public Utility Commission Act of 2006, Pub. L. 15-35, as amended, and the new CUC Act, Pub. L. 16-17, as amended, and orders issued under either are suspended insofar as they would require the CPUC's advance approval of CUC contracts and other procurement measures which: (1) relate to the supply of power or the operation and maintenance of CUC's system during the State of Disaster Emergency; and (2) are in an amount of less than \$350,000. Except that the \$350,000 limitation on the suspension shall itself be lifted if the following takes place: the CUC Executive Director makes a written finding that such compliance is not feasible for purposes of responding to an emergency. Thereafter, within three days, or as soon thereafter as emergency conditions allow, the Executive Director shall file details of the procurement activity with the CPUC.

Directive 3: CUC is specifically empowered to execute any wholesale generation power contract it has negotiated with an independent power producer for a period of two years or less.

Directive 4: All regulatory statutes and regulations relating to the Aggreko temporary wholesale generation power contract, # CUC-PG-08-CO16, which CUC determines in writing will interfere with the deployment, in-service dates, and/or operation of the temporary power production facilities, are hereby suspended, except that CUC must within 30 days provide to me in writing its plan for compliance, and a copy of each agency's permits or a complete explanation why compliance has not yet been achieved and how it will be achieved.

Directive 5: CUC shall notify as soon as possible by email after each procurement governed by Directive 1, at least the following persons, advising of at least the following matters:

a: Persons: The Governor, President of the Senate, Speaker of the House, Public Auditor; and

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b: Matters: Subject of the procurement; contractors and/or suppliers; amounts involved; the extent to which competitive bids or proposals were used; and short description of the reason for the action.

Directive 6: CUC shall procure as soon as practicable the necessary technical expertise and other labor, parts and materials to remedy the failings of its Chalan Kiya-related distribution facilities.

Directive 7: CUC shall procure with all deliberate speed the contractors necessary to remove used oil from Tank 104 and the hundreds of nearby barrels; and, in particular, shall take every measure to insure that a typhoon shall not cause any of that oil to pollute the Lagoon.

Directive 8: Reserved.

Directive 9: The Executive Director of CUC shall have all the powers of the CUC Board, thereby enabling him to carry out all critical business of CUC, pending the earlier of either (1) the confirmation and convening of an operating CUC Board, or (2) the termination of the authority of this order. In particular, the Executive Director shall have full power and authority to agree to swap CDA debt and related obligations for preferred stock and related features and rights.

As stated in EO 2008-10, Pub. L. 16-9 removed substantial impediments to CUC's securing by contract immediate, reliable, and cost-effective temporary power from an independent, non-utility power producer. That law amends the Commonwealth PUC Act of 2006, specifically requiring a gubernatorial declaration of disaster emergency pursuant to 3 CMC § 5121, so that CUC might sign an emergency wholesale power generation contract for two years or less without pre-review of the CPUC or the CPUC's issuance of a certificate of convenience and necessity. Each of these CPUC decisions would have taken so long to investigate and make that the conditions discussed above may have developed in the meantime.

I determined that, if CUC could immediately execute such a contract, it could quickly have temporary replacement generators placed into service and then shut down the dangerous Power Plant #1 engines. By disaster declaration EO-2008-10 I intended to enable CUC, within the definitions of Pub. L. 16-9, to sign a power contract with the appropriate "person".

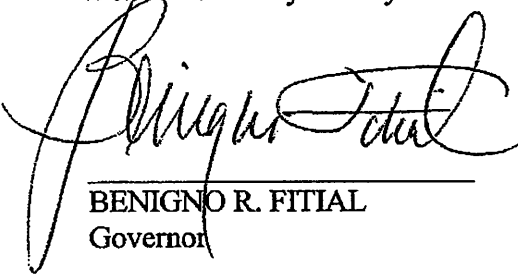
EO 2009-04

Declaration of Disaster Emergency: CUC Continuation 9

By today's disaster emergency declaration, I intend to enable CUC, within the intent of Pub. L. 16-9, to continue to implement the temporary power contract which it signed. The purpose is to make the electric system as reliable as practicable, as soon as practicable, during the period of repair of CUC's generators. I also intend that government leaders be kept informed as to the operation of the temporary power equipment into service.

This Declaration of a State of Disaster Emergency shall take effect immediately and all memoranda, directives and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of my constitutional authority shall be transmitted to the presiding officers of the Legislature as soon as practicable in accordance with 1 CMC § 7403(a).

Done this 1<sup>st</sup> day of May 2009.



BENIGNO R. FITIAL  
Governor

0 Exec Ord 2009-04 CUC Disaster Emergency continuation 9 (1May09).wpd



# Commonwealth of the Northern Mariana Islands OFFICE OF THE GOVERNOR

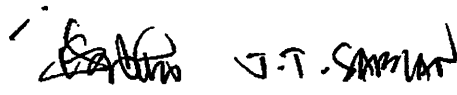
## ACKNOWLEDGMENT OF RECEIPT OF HAND-DELIVERED DOCUMENT(S)

### DOCUMENT (S) DESCRIPTION:

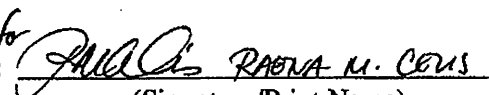
1. Transmitting EXECUTIVE ORDER #2009-04 Continuation #9:  
Declaration of a State of Disaster Emergency: Commonwealth Utilities Corporation's Imminent Generation and other failure and the need to provide immediate reliable power during repairs.

Received by:   
(Signature/Print Name)  
**Senate President**

5/1/09  
Date/Time

Received by:  J.T. SERRANO  
(Signature/Print Name)  
**Speaker of the House**

05/01/09 1:17pm  
Date/Time

Received by:  RAONA M. CRUZ  
(Signature/Print Name)  
**Office of Programs & Legislative Review**

5/1/09 3:30  
Date/Time