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



COMMONWEALTH REGISTER

VOLUME 31 NUMBER 09

SEPTEMBER 28, 2009

COMMONWEALTH REGISTER

VOLUME 31 NUMBER 09 SEPTEMBER 28, 2009

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EXECUTIVE (<u>ORDER</u>	
Number: Subject:	2009-08 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:	Article III, Section 10 of the CNMI Constitution and 3 CMC §5121 of the Commonwealth Disaster Relief Act of 1979	
Office of the	Governor	029908

For Executive Order 2009-9 continuation#14 thru Executive Order 2009-13 continuation#17, see Volume 32, No.'06.



Lucia L. Blanco-Maratita Chairperson

Herman T. Guerrero Vice-Chairperson

Marylou S. Ada Secretary/Treasurer

Members Galvin S. Deleon Guerrero D. Tanya King

Non Public School Rep.

Francine R. Babanta Student Representative

Teacher Representative

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS STATE BOARD OF EDUCATION PUBLIC SCHOOL SYSTEM P.O. BOX 501370 SAIPAN, MP 96950



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 7, pp 029740-749, of July 23, 2009

Regulations of the Commonwealth Board of Education: § 60.30.2-790

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 029740 to 029749 in Volume 31, Number 7 on July 23, 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 with the following minor modifications and/or amendments:

The Board deleted the pay differential for the School Leadership Licensure Assessment (SLLA) because after further review, it was indicated that this certificate is not a requirement here in the CNMI. The two other pay differentials introduced in the proposed regulation remain unchanged.

The modification made by the Board of Education in removing the irrelevant certificate assessment does not substantially change the intent or effectiveness of the adopted regulation.

PRIOR PUBLICATION: The prior publication was as stated above. The Board adopted the regulations as final at its meeting of August 26, 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

website: httn://www.ncc.cnmi.mn

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

Commissioner of Education Telephone : (670) 237-3001 Fax : (670) 664-3708 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 abovecited 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 deckration was executed on the 18th day of September, 2009, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

Lucia L. Blanco-Maratita, Chairperson

Board of Education

Filed an 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

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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 September, 2009.

EDWARD T. BUCKINGHAM

Attorney General

Filed and Recorded by:

Esther M. San Nicolas

Commonwealth Register

9.28.09

Date

SUBCHAPTER 60-30.2 EMPLOYMENT OF CERTIFIED PERSONNEL REGULATIONS

60-30.2-790 Pay Differentials

- (a) After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, and have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation. Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.
- (b) Proposed differentials:
- (1) Coaches: \$300/sports season
- (2) After-school: \$30/daily (not to exceed 2 hrs)
- (3) Saturday: \$60/half day session
- (4) Before school: \$15/daily session (not to exceed 1 hr)
- (5) Summer school: \$100/full day (6 periods) \$60/half day (up to 4 periods)
- (c) Professional development differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This professional development differential shall be \$100/day for Saturdays (four hours or longer seminar, workshop or training) and \$30/evening (two hour or longer workshop or training after working hours).
- (d) Principals, vice principals, program managers, and teachers aspiring to become principals or vice principals, who take and pass the School Leadership Licensure Assessment (SLLA) are eligible for a one time pay differential of \$5,000.
- (d) Teachers who take and pass the National Teacher Exam (NTE) are eligible for a one time pay differential of \$3,000.
- (e) Principals, vice principals, program managers and teacher aides who take and pass both the PRAXIS I and applicable PRAXIS II exams are eligible for a one time pay differential of \$3,000.



Lucia L. Blanco-Maratita Chairperson

Herman T. Guerrero Vice-Chairperson

Marylou S. Ada

D. Tanya King

Scott Norman

Secretary/Treasurer Members Galvin S. Deleon Guerrero COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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



Commissioner of Education Rita A. Sablan, Ed.D.

coe.ras@pss.cnmi.mp

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS Non Public School Rep. REGARDING THE TRANSFER OF RELIGIOUS CREDIT GUIDELINES FOR THE PUBLIC SCHOOL SYSTEM

Student Representative Teacher Representative

Francine R. Rahauta

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:

The Commonwealth of the Northern Mariana Islands, Public School System ('PSS") 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 proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed regulation amends the current CNMI Administrative Code §60-20-430 (c).

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations set forth guidelines regarding accepting the transfer of religious courses for credit in the Public School System.

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: All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950, call 237-3010

mohaita. http://www.a.a.a.a.a.

SEPTEMBER 28, 2009 VOLUME 31 NUMBER 09 **COMMONWEALTH REGISTER**

BOGOMMONWE Telephone : (670) 237-3010 : (670) 664-3711

Commissioner of Education Telephone : (670) 237-3001

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or fax 664-3711 within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a)(2))

These regulations were approved by the Board of Education on August 27, 2009.

Submitted by:

Lucia L. Blanco-Maratita, Chairperson

Board of Education

9-18-09

Received by:

Filed and

Recorded by:

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 the **Z** 8 day of September, 2009.

Attorney General

60-20-430 Grade Placement for Transfer Students

- (a) All students entering the PSS from other educational settings are required to submit evidence of their achievement in the last grade attended, such as a copy of a transcript or report card. Grade placement of a student may be adjusted on the basis of examination of the student's previous record, achievement tests administered, or other factors, which the principal and staff believe are appropriate under the circumstances.
- (b) A student shall not be enrolled at any Public School System school without an official transcript or other official school verification of achievement from the previous school. However, a student may be permitted to enroll temporarily until an official record is obtained. A grace period of up to one month may be granted in the case of extenuating circumstances or unusual situations.

(c) Transfer of Credits

- (1) Religious courses will be accepted for credit using the following guidelines:
 - i) No more than one (1) credit will be accepted as a transfer credit.
 - ii) Any religious credit(s), transferred will be counted toward, and factored into the student's overall PSS Grade Point Average (GPA).
- (2) Courses taken outside of the Public School System may be transferred which meet any one of the following criteria:
 - i.) It is an U.S. accredited institution;
 - ii.) The institution's primary language of instruction is English;
 - iii.) The subject area coverage and time allotment are parallel to PSS; or
 - iv.) Credit by examination may be used as appropriate.

COMMONWEALTH GI SANGKATTAN NA ISLAN MARIANAS SIHA

STATE BOARD OF EDUCATION SISTEMAN ESKUELAN PUPBLIKU P.O. BOX 501370 SAIPAN, MP 96950

NOTISIAN PUPBLIKU POT I MANMAPROPONEN AREKLAMENTO YAN REGULASION SIHA NI PARA I AMENDASION PARA I AREKLAMENTO YAN REGULASION SIHA SIGUN I GINIHAN MATRANSFEREN KREDITON RELIHON SIHA PARA I SISTEMAN ESKUELAN PUPBLIKU

MANMAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islan Marianas Siha i Sisteman Eskuelan Pupbliku (PSS) ha sodda' na:

MA'INTENSIONA NA AKSION NI PARA U MA'ADÂPTA ESTE I MANMAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islan Marianas siha i Sisteman Eskuelan Pupbliku (PSS) ha intensiona para u adåpta komu petmanente na regulasion siha ni mañechetton gi Manmapropone na Regulasion siha, sigun i manera siha gi Åkton Administrative Procedure, 1 CMC 9104(A). I Regulasion siha para u efektibu gi halom dies(10)diha siha despues di adaptasion yan pupblikasion gi halom i Rehistran Commonwealth. (1 CMC § 9105(b)).

ÅTURIDÅT: I mapropone na amendasion siha para i PSS na regulasion siha manmacho'gue sigun gi åturidåt i Kuetpo komu mapribeniyi ginen i Attikulu XV gi Konstitusion CNMI, Lai Pupbliku 6-10 yan i Åkton i CNMI Administrative Procedures.

I SUSTÂNSIAN I PALÂBRA SIHA: I mapropone na regulasion ha amenda i presente na CNMI Administrative Code §60-20430 (c).

I SUHETO NI MASUMARIA YAN ASUNTO NI TINEKKA: Este na areklamento yan regulasion siha manmapega mo'na i giniha siha sigun i ma'akseptan i matransferen religious courses para kreditu gi halom i Sisteman Eskuelan Pupbliku.

DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA: Este i Manmapropone na Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi seksiona ni mapropone yan nuebu na ma'adapta na regulasion siha. (1 CMC § 9102(a)(1) yan u mapega gi mankombiniente na lugat siha gi halom i civic center yan gi ofisinan gobietnamento siha gi kada distriton senadot, parehu gi English yan i lengguahen natibu. (1 CMC § 9104(a)(1))

PARA U MAPRIBENIYI OPIÑON SIHA: Todu maninterisão na petsona siha u ma'eksamina i manmapropone na amendasion siha yan u mana'hålom i infotmasion, opiñon, pusision, pat testamoñon kinentra gi manmapropone na amendasion siha guatu gi Kabiseyu, Kuetpon Edukasion, P.O. Box 1370 CK, Saipan, MP 96950, ågang 237-3010 pat fax 664-3711 gi halom trenta(30) diha siha gi sigiente na fechan pupblikasion gi halom i Rehistran Commonwealth ni este na amendasion siha.

Este na regulasion siha manma'apreba ginen i Kuetpon Edukasion gi Agosto 27, 2009.

Nina'hålom as: Lucia L. Blanco-Maratita, Kabiseyu Kuetpon Edukasion	9-18-09 Fecha
Rinesibi as: Esther S. Fleming Espisiat Na Ayudante Para I Atministrasion	09-38-09 Fecha
Pine'lo yan Rinikot as: Esther M. San Nicolas Rehistran Commonwealth	9.28.09 Fecha

Sigun i 1 CMC § 2153(e) (Inabpreban Abugådu Heneråt ni regulasion siha na para u macho'gue komu fotma) yan 1 CMC § 9104(a)(3) (hentan inapreban Abugådu Heneråt) i manmapropone na regulasion siha ni mañechetton guini manmaribisa yan ma'apreba komu fotma yan sufisiente ligåt ginen i CNMI Abugådu Heneråt yan debi na u mapupblika (1 CMC § 2153(f) (pupblikasion areklamento yan regulasion siha)).

Mafecha gi diha 26 gi Septembre, 2009.

EDWARD T. BUCKINGHAM

Abugådu Heneråt

60-20-430 Grade Placement para i Matransferen Estudiante Siha

- (a) Todu estudiante siha ni manhahalom gi PSS ginen otro na educational settings manmadimanda para u mana'halom ebidensia pot kinemplen-ñiha gi uttimon i gradu ni ma'atende, tat komu kopian transcript pat report card. Pinegan gradu gi estudiante siña mana'maolek sigun gi eksaminasion i uttimo na rekot estudiante, kinemplen tes ni madirihi, pat otro na manera siha, ni i principal yan i staff mahongge na apropositu(propiu) gi papa' i sikumtansia siha.
- (b) I estudiante ti debi na u mana'hålom gi maseha månu na Sisteman Eskuelan Pupbliku na eskuela sin i ofisiåt na transcript pat otro na official school verification gi achievement ginen i uttimo na eskuela. Låo, siña mapetmiti para u hålom temporario asta ki mahenta i ofisiat na rekot. Siña ma'ekstende asta un mes sigun gi konsiderasion i sichuasion siha.

(c) Trinansferen Kreditu Siha

- (1) I Religious courses siña ma'aksepta para kreditu ma'u'usa i sigiente na giniha siha:
 - i) Tåya' mås ki unu (1) na kreditu para u ma'aksepta komu i transferen kreditu.
 - ii) Maseha håfa na religious credit(s) ni matransferi u matufong kontra, yan detitminan i estudiånte i overall i PSS Grade Point Average (GPA).
- (2) Courses ni machule' gi hiyong i Sisteman Eskuelan Pupbliku siña matransferi ni para u afakcha' yan unu gi sigiente na criteria:
 - i.) Yanggen U. S. accredited na instutusion;
 - ii.) I instutusion i primet na lengguåhen instroksion English;
 - iii.) I subject area coverage yan time allotment manparalel yan i PSS pat
 - iv.) Kreditu ni ginen eksaminasion siña ma'usa apropositu(propiu).

ARONGOL TOULAP REEL POMWOL ALLÉGH KKA EBWE SSIWEL BWELLE EBWE ATOTOOLONG AWEWEEL RELIGIOUS CREDIT LLÓL ALLÉGHÚL GAKKOOL TOULAP

POMWOL ALLÉGH KKAAL: Alléghúl Gakkool Toulap mellól <u>Commonwealth</u> Téél falúw kka falúwasch Marianas nge e schungi bwe:

AGHIYEGHIL IGHA E MÁNGI EBWE FILLÓÓY POMWOL ALLÉGH KKAAL: Alléghúl Gakkool Toulap mellól <u>Commonwealth</u> Téél falúw kka falúwasch Marianas ("PSS"') e mwuschel ebwe loofósch allégh kka rekke Pomwoli, bwelle Mwóghutughutul <u>Administrative Procedure Act</u>, 1 CMC Tálil 9104(A). Allégh kkaal nge ebwe malaw schagh llól seigh (10) ráálil kka me akkatééló llól <u>Commonwealth Register</u>. (1 CMC Tálil 9105(b))

BWÁNGIL: Pomwol ssiwel kkaal ngáli alléghúl PSS ikka e akkaté bwelle reel bwángil mwiisch iye e toowow mellól Article XV CNMI Allégh Lapalap, Alléghúl Toulap ye 6-10 me CNMI <u>Administrative Procedure Act</u>.

AWEWEEL ME ÓUTOL: Pomwol ssiwel kkaal ebwe siweli Alléghúl CNMI Administrative Procedure Code Tálil 60-20-430 (c).

AWEEWE KKA EKKE TÉÉTÁ: Allégh kkaal nge e ayoora aweweel bwelle rebwe atiwa atotoolongol <u>religious credit</u> llól Alléghúl Gakkool Toulap.

AFALAFAL ME AKKATEEL: Pomwol Allégh kkaal ebwe akkatééló llól

Commonwealth Register Ilól Tálil ye re pomwoli me fillóóy allégh kka e ffé. (1 CMC Tálil 9102(a)(1) me appaschetá igha e fis mellól civic center kkaal me Ilól bwulasiyool gobenno me bwal alongal senatorial district, Ilól mwaliyeer

Amerikkonu me aramasal faleey. (1 CMC Talil 9104(a)(1))

ISISILONGOL AGHIYEGH: Schóókkka re tipeli nge emmwel rebwe amweri fischi pomwol ssiwel kkaal me isisilongol ischil mángemáng reel Samwool, Mwiischil Imwal Gakko, P.O. Box 1370 CKK, Seipel, MP 96950, faingi 237-3010 me ngáre fax reel 664-3711 llól eliigh (30) ráálil mwiril yaal akkatééló llól <u>Commonwealth</u> <u>Register</u> reel ssiwel kkaal. (1 CMC Tálil 9104(a)(2))

Allégh kkaal nge aa aléghéléghéló mereer Mwiischil Imwal Gakkool Toulap ótol Elúwel 27, 2009.

Isaliyallong:

Lucia L. Blanco-Maratita, Samwool

Mwiischil Gakkool Toulap

Mwir sangi:

Sów Alillisil Sów Lemelem

9-18-09

Rál

Rál

Ammwel sángi:_

STHER M. SAN NICOLAS

Commonwealth Register

9.28.0

Rál

Sángi Allegh ye 1CMC Talil 2153 (e) alúghúlúgh reel allégh kkaal ebwe akkatééló ighila) me 1 CMC Tálil 9104 (a)(3) (bweibwogh alúghúlúgh mereel AG) Pomwol allégh kka e appasch nge raa takkal amweri fischi me allégheló mereel Sów

Bwungul Allégh Lapalap me ebwe akkatééló llól (1 CMC Talil 2153 (f) (akkatéél allégh kkaal).

Rállil ye 200 llól ótol Maan, 2009.

EDWARD T. BUCKINGHAM Sów Bwungul Allégh Lapalap

60-20-430 Leliyeer atel meleitey kka rebwe afangaar

- (a) Alongeer atel meleitey kka rebwe toolong llól PSS ikka re tooto mellól eew gakko nge rebwe isisilong dokkomento ye ekke bwaari arorosol gróódo ye e tabweey, sibwe transcript me ngare report card (tilighial). Emmwel bwe rebwe amweri fischi mwo yaal record (tilighial) atel meleitey, mwiril nge raa isali igha ebwe lo iye., yaal asóssót kka e féérú, me factors (ghilighil), igha principal me sów afal rebwe lúghúlúgh sangi.
- (b) Ese mmwel bwe atel meleitey rebwe toolong Ilól Gakkool Toulap ngáre esóór lamal dokkomento kka ebwe bwáári mereel mmwal gakko ye e tabweey. Bwal eew, emmwel bwe olighát ebwe toolong Ilól gakko temporório mille yaal yoor official record (lamal dokkomento) ye re bwughi. Eyoor eew maram ow bwe alúghúlúgh ngare eghal eyoor fitighogho.
- (c) Akkafangal Credits

- (1) Emmwel bwe <u>religious courses</u> ebwe páápáálong llól credit ngáre re amweri aweewe kkaal:
 - i) Essóbw luuló eew <u>credit</u> rebwe alisi bwe <u>transfer</u> credit.
 - ii) Alongal <u>religious credits</u> kka rebwe alisi nge ebwe páápáálong, me ghilighil Ilól <u>PSS Point Average</u> (GPA).
- (2) <u>Course</u> kka re bweibwogh me lúghúl Gakkool Toulap ebwe atotoolong llól tálil kka faal:
 - i.) Ebwe mwir sangi <u>U.S. accredited instution</u>;
 - ii.) Schéschéél akkabwung ebwe English;
 - iii.) <u>Subject area</u> me <u>time allotment</u> ebwe ghil ngáli PSS;
 - iv.) Emmwel bwe assósótol <u>credit</u> rebwe yááyá sángi.

Commonwealth of the Northern Mariana Islands
Department of Commerce
Michael J. Ada, Secretary/Insurance Commissioner
Caller Box 10007
Saipan, MP 96950

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS

WHICH AMEND EXISTING RULES AND REGULATIONS FOR THE DEPARTMENT OF COMMERCE, INSURANCE SECTION (Comm. Reg. January 17, 2005 Vol. 27 No. 01 pp. 23819-826 and Comm. Reg. February 17, 2005 Vol. 27 No. 02, pg. 024086)

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:

The Commonwealth of the Northern Mariana Islands, Department of Commerce, Insurance Section 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 Insurance Commissioner is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities. 1 CMC §2454 and 4 CMC §7105(b). See also Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch).

THE TERMS AND SUBSTANCE: The Rules and Regulations provide for procedures regarding the handling of security deposits and premium retention reserves for labor bonds.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

- 1. Provide for procedures for bonding companies to access premium retention funds to pay for wage, labor and repatriation claims by the Director of Labor;
- 2. Set the minimum labor retention reserve at an amount not less than \$100,000;
- 3. Prohibit labor bonding companies with impaired capital from accessing retention reserves;

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 Michael J. Ada, at the above address, fax or email address, with the subject line "Amended Insurance Rules and 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))

Submitted by:

SIXTO K. IGISOMAR
Acting Insurance Commissioner

Received by:

ESTHER'S. FLEMING
Governor's Special Assistant for Administration

Filed and Recorded by:

ESTHER SAN NICOLAS
Commonwealth Register

These proposed regulations were approved by the Insurance Commissioner on September ______,

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 29 day of September, 2009.

EDWARD BUCKING AM

Attorney General

COMMONWEALTH GI SANGKATTAN NA ISLAN MARIANAS SIHA

Dipattamenton Kometsio
Michael J. Ada, Sekritårio/Kumisinan Insurance
Caller Box 10007
Saipan, MP 96950

Tel: (670)664-3000; Fax: (670)664-3067 commercedept@pticom.com

NOTISIAN PUPBLIKU POT I MANMAPROPONEN AREKLAMENTO YAN REGULASION SIHA NI MANMA'AMENDA I PRISENTE NA AREKLAMENTO YAN REGULASION SIHA PARA I DIPATTAMENTON KOMETSIO, SEKSIONAN INSURANCE (Comm. Reg. Baluma 27 No. 01 pp. 23819-826, yan Baluma 27 No. 02 pg. 024086)

MA'INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE SIHA I MANMAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islan Marianas siha, Dipattamenton Kometsio, Insurance Section ha intensiona para u adapta komu petmaniente na regulasion siha ni mañechetton i Manmapropone na Regulasion siha, sigun gi areklo gi Åkton Administrative Procedure 1 CMC § 9104(a). I Regulasion siha para u efektibu gi halom dies (10) diha siha despues di adaptasion yan pupblikasion gi halom i Rehistran Commonwealth. (1 CMC § 9105(b)).

ÅTURIDÅT: I Lehislatura ha åturisa i Kumisinan i Insurance para u adåpta i areklamento yan regulasion siha para i atministrasion yan minetgot gi estatua ni ginebebietna i aktibidåt-ña siha.

1 CMC § 2454 yan 4 CMC § 7105(b). Atan lokkue' i Etden Eksakatibu 94-3 (efektibu gi Agosto 23, 1994, ya mata'lon ma'arekla i råmas Eksakatibu).

I SUSTÅNSIAN I PALÅBRA SIHA: I Areklamento yan Regulasion siha ha pribeniyi areklo pot i taimanu mago'teña i security deposit siha yan i premium retention reserves para i labor bonds.

SUHETO NI MASUMÀRIA YAN ASUNTO NI TINEKKA: Este na Areklamento yan regulasion siha:

- 1. Pribeniyi para i areklo siha para i bonding companies para i access premium retention funds para i apas suetdo, hotnaleru, yan repatriation claims ginen i Direktot Hotnaleru;
- 2. Mana'guaha i minimum labor retention reserve gi bali-ña låo menus di \$100,000;
- 3. Pribi i labor bonding gi kompaniha siha ya ti numahong kapitat ginen i accessing retention reserves;

DIREKSION PARA U MAPO LO YAN MAPUPBLIKA: Este i Manmapropone na Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi halom i seksiona gi manmapropone yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1) yan mapega gi kombiniente siha na lugat gi halom i civic center yan ofisinan gobietnamento siha gi kada distriton senadot, parehu English yan i dos na lengguåhen

natibu. (1 CMC § 9104(a)(1))

PARA U MAPRIBENIYI OPIÑON SIHA: Na'hanågue pat entrega i infotmasion-mu guatu gi as Michael J. Ada, gi sanhilo' na address, fax pat email address, yan i råyan suheto "Ma'amenda Na Areklamento yan Regulasion Siha"

Todu infotmasion siha debi na u fanhålom trenta(30) diha siha ginen i fechan este na notisian pupblikasion. Pot fabot na'hålom i enfetmasion, opiñon, testamoñon kinentra siha. (1 CMC 9104(a)(2))

Este i manmapropone na regulasion siha manma'apreba ginen i Kumisinan Insurance eptembre, 2009.	gi
SIXTO K. IGISOMAR Acting Kumisinan Insurance	,
Rinisibi as: ESTHER SI FLEMING Espisiåt Na Ayudånte Para I Atministrasion Fecha	
Pine lo Yan Rinekot as: ESTHER M. SAN NICOLAS Rehistran Commonwealth Pine lo Yan 9.28.09 Fecha	

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

Mafecha guini gi diha 20, Septembre, 2009

EDWARD BUCKINGHAM

Abugådu Heneråt

Commonwealth Téél falúw kka falúwasch Efáng Marianas Bwulasiyool Commerce Micheal J. Ada, Samwoolul/Insurance Commissioner Caller Box 10007 Seipél, MP 96950 Tel: 670-3000, Fax 670-664-3067 commercedept@pticom.com

ARONGOL TOULAP REEL ALLÉGH IKKA EBWE SIWELI ALLÉGH KKA IGHILA MELLÓL <u>BWULASIYOOL COMMERCE</u>, TÁLIL <u>INSURANCE</u> (Comm. Reg. Vol. 27 No. 01 pp. 23819-626; Vol. 27 No. 02 pg. 024086)

AGHIYEGHIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL: Commonwealth Téél falúw kka falúwasch Efáng Marianas, Bwulasiyool Commerce, Tálil Insurance e mwuschel ebwe schéschéél fillóóy allégh kka e pasch, bwlle reel mwóghutul Administrative Procedure Act, 1 CMC Tálil 9104(a). Allégh kkaal ebwe kkamal llól seigh (10) ráálil ngáre schagh raa fillóóy arong yeel lll Commonwealth Register.)1 CMC Talil 9105(b)).

BWÁNGIL: Sów fféérúl Allégh nge e ngálleey bwángil <u>Insurance Commissioner</u> ebwe fillóóy allégh kkaal ngáli <u>administration</u> me mwóghutáágheli alléghúl ye e lemeli angaangal 1 CMC Talil 2454 me 4 CMC Talil 7105(b). Amweri tipal Sow Lemelem 94-3 (schéschéél Elúwel 23, 1994.(bwungúw sefááli Executive branch).

ÓUTOL ME KKEPASAL: Eyoorátá Allégh kkaal bwelle ebwe atamagheli <u>security</u> <u>deposi</u>t kkaal me aisisil premium ye eyoor ngáli ammwelil <u>labor</u>.

KKEPASAL ME AWEEWE KKA E TÉÉTÁ: Allégh kkaal ebwe:

- Ayoora lamal kompania kkaal. iye emmwel rebwe toolong (access) llol <u>premium</u> <u>retention funds</u> igha rebwe óbwóssuw <u>wage, labor me</u> salaapi kka e assefál mereel Samwoolul Labor.
- 2. Ayoora minimum labor retention reserve iye e ssbw toori \$100,000
- 3. Ayúwúló kompanial <u>labor bonding</u> me <u>capital</u> ye esóór ngáre eghús ngáre toolong llól <u>retention reserve</u>;

AFALAFAL ME AKKATEEL: Pomwol Allégh kkaal ebwe akkatééló llól Commonwealth Register llól tálil ye re pomwoli me fillóól allégh kka ffé (1 CMC Tálil 9102(a)(1)) me appaschetá igha efil iye llól civic center kkkaal me bwal bwulasiyool gobenno kkaal me llól alongal senatorial district, e weewe schagh llól kkasal Amerikkónu, Refalúwasch, Remeraalis. (1 CMC Talil 9104(a)(1)).

ISISILONGOL AGHIYEGH: Afanga ischil mááfiyámw ngáli Michael J. Ada, reel <u>address</u> ye weiláng, fax me ngáre <u>email address</u>, fengál me kkepas ye "Amended Insurance Rules and Regulations".

Pomwol allegh kkaal nge aléghéléghéló mereel insurance Commissioner wóól

Maan 2009.

SIXTO K. IGISOMAR

Acting Samwoolul Insurance

Mwir sángi: 9/22/09

ESTHER S. FLEMING

Sów Alillisil Sów Lemelem

Ammwel

Sángi: 9, 28.09

ESTHER SAN NICOLAS

Aghiyegh nge ebwe isisilong llól eliigh (30) ráálil sángi schagh igha e akkatééló arong yeel. Ów ffailong, ischilong ngáre eyoor yáámi ayegh. (1 CMC Talil 9104(a)(2))

Sángi allégh ye 1 CMC Tálil 2153(e) (Alughulugh mereel AG igha ebwe akkatééló) me 1 CMC Tálil 9104(a)(3) (bwughi alughulughul AG) pomwol allégh kkaal nge raa takkal amweri fischi allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééló. 1 CMC Tálil 2153(f) (akkatéél allégh kkaal)

Rállil ye 26 llól maramal Maan, 2009.

Commonwealth Register

EDWARD BUCKINGHAM

Ngáli Sów Bwungul Allégh Lapalap

SECTION 15. SECOND RULE. SECURITY DEPOSIT

A. As security for the faithful performance of its obligations, each insurer, as a condition of engaging in the business of issuing surety bonds for nonresident worker labor-related risk exposure, as required by the Director of Labor for the bonding of nonresident worker labor-related risk exposure, for calendar year 2005 shall deposit in an established escrow account with a duly licensed bank in the Commonwealth, on a monthly basis, with a duly-licensed bank in the Commonwealth (10) percent of its premiums written each month on every surety (labor) bond for nonresident workers, in addition to the required One Hundred Thousand (\$100,000) Dollars in time deposits for a period of one year, or the One Hundred Thousand (\$100,000) Dollars in irrevocable letter of credit in a duly licensed bank in the Commonwealth, for the benefit of labor-related risk exposure of nonresident workers, with such deposits to be maintained at all times. Each following calendar year, the same insurer shall, in addition to the required One Hundred Thousand (\$100,000) Dollars in time deposits for a period of one year, or the One Hundred Thousand (\$100,000) Dollars in irrevocable letter of credit, shall increase the monthly deposit into the escrow account by an additional five (5) percent of its labor-related risk exposure for nonresident workers. The additional calendar year five (5) percent increases in monthly deposits shall continue until the monthly deposits reach twenty-five (25) percent of the total nonresident worker labor-related risk exposure.

For example: for calendar year 2005, the monthly deposit shall be ten (10) percent of the total nonresident worker labor-related premiums written; for calendar year 2006, the monthly deposit shall be fifteen (15) percent of the total nonresident worker labor-related premiums written; for calendar year 2007, the monthly deposit shall be twenty (20) percent of the total nonresident worker labor-related premiums written; and, for calendar 2008 and beyond, the monthly deposit shall be twenty-five (25) percent of the total nonresident worker labor-related premiums written.

The Insurance Commissioner prescribes the following procedures and guidelines:

- 1. On or before renewal of an insurer's Certificate of Authority, it must present to the Insurance Commissioner the required security deposits or irrevocable letter of credit and a quarterly listing of all nonresident labor bonds. The listing shall include such items as names of insured, employers, amount of coverage, and dates of the expiration of such bonds;
- 2. Time deposit account or irrevocable letter of credit must show "Insurance Company" and "Insurance Commissioner" as holders of the account or as beneficiaries;
- 3. The Commissioner shall turn over the time deposit to the CNMI Treasurer for safekeeping;
- 4. The savings/escrow account for the reserve requirement as percentage of premiums written must show "Insurance Company" and "Insurance

Commissioner" as holders of the account. Deposits to this account must be made on a monthly basis. In addition to the submission of a monthly labor bond report, insurers shall also be required to show proof on a monthly basis that the retention amount, based on total premiums written, has been duly deposited into the escrow account. The deadline to submit proof (i.e. copy of deposit slip) is on the 20th of every month. For example, the March monthly report will be due on April 20th, and the April report will be due on May 20th. Failure to comply with the submission deadline will subject bonding companies to a \$50/day late filing fee for each day that the report or proof remains outstanding, or suspension of the insurer's COA, at the Insurance Commissioner's discretion.

5. Release of the Security Deposits and demand on letter of credit shall be accompanied by the Authority from the Insurance Commissioner and only upon satisfaction of the following conditions:

(RE-NUMBERED)

- a. A reasonable determination by the Insurance Commissioner and after making findings that the circumstances surrounding the release warrants for such release. Reasons, findings, and determinations must be documented.
- b. All its outstanding labor bonds have either expired, unearned premiums returned, or have been assumed by another bonding company;
- c. All existing claims arising out of insurance transacted in the CNMI have been paid in full.
- d. The bonding company shall cause publication of a notice of its intention to petition for the release of its security deposits and demand on letter of credit in a newspaper of general circulation in the CNMI once a week for four (4) consecutive weeks, and shall cause said newspaper to file an affidavit of publication with the Commissioner.
- e. If the Director of Labor or any person shall object to such release within one (1) week from date of last publication, and give good and sufficient cause therefore, the Commissioner may order that the release may be denied.
- f. If the Insurer has complied with the provisions of this section and no objection has been made, or if objection is made but without good and sufficient cause, the Commissioner shall order the release of the security deposits and demand on letter of credit.
- g. The minimum accumulated premium retention amount shall at all times be One Hundred Thousand (\$100,000) Dollars. Bonding companies may be allowed to utilize the funds in escrow above the One Hundred Thousand Dollars (\$100,000) amount only under the following conditions:

- i. The request for utilization of the escrow account shall only be made for payment of Wage, Labor & Repatriation bond claims as demanded by the Director of Labor. Any attempt to request utilization of the escrow account for other than the intended purpose shall be denied and any fraudulent claims will result in the immediate suspension and/or revocation of an insurer's Certification of Authority (COA).
- ii. In compliance with the Department of Labor's bond claim requirements, bonding companies shall use the attached "Wage, Labor & Repatriation Claim Form" to request for utilization of escrow funds. The Insurance Commissioner shall approve all labor bond claims to be paid through the escrow account.
- iii. Bonding companies with impaired capital pursuant to 4 CMC §7306(0)(5) based on their latest audited financial statements shall not be allowed to utilize the funds in escrow. Such companies shall be required to submit quarterly financial statements until the impairment is removed.
- h. The Insurance Commissioner, at his discretion, may allow insurers subject to the labor bond premium retention requirement, to cease making additional deposits into the escrow account, if the amount retained has reached \$100,000.
- i. The Insurance Commissioner reserves the authority through the issuance of administrative order to raise the minimum labor premium retention value from One Hundred Thousand Dollars (\$100,000) to a more appropriate amount if he or she believes that the existing threshold is insufficient to cover bond claims exposure.

WAGE, LABOR & REPATRIATION CLAIM REQUEST FORM

NOTICE OF CLAIM FROM DEPARTMENT OF LABOR (See Attached)

BANK	
ESCROW ACCT. NUMBER	
CLAIM AMOUNT	
AUTHORIZED PERSON REQUESTING DISBURSEMENT	
DATE OF RELEASE	
SURETY BOND COMPANY	
BOND NUMBER	
EMPLOYER	
EMPLOYEE	
REQUEST: APPROVED DENIED	
-	CNMI INSURANCE COMMISSIONER
DATE	



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial Governor

25

Eloy S. Inos Lt. Governor

1	EXECUTIVE ORDER 2009-08
2	
4	DECLARATION OF A STATE OF DISASTER EMERGENCY:
5	COMMONWEALTH UTILITIES CORPORATION'S
6 7	IMMINENT GENERATION AND OTHER FAILURE AND THE NEED
8	TO PROVIDE IMMEDIATE RELIABLE POWER DURING REPAIRS
9	CONTINUATION #13
10 11	
12	I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the
13	Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth
14	Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby
15	declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands
16	due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power
17	generation service to the CNMI and the extreme, immediate and imminent threat such condition
18	poses to the Commonwealth of the Northern Mariana Islands.
19	
20	This Executive Order is intended to, and does, continue in effect the Governor's preceding
21	disaster emergency declarations on this matter, EO 2008-10, -13, -17, -20 through -22., and EO
22	2009-01 through -07, except as specifically modified. As more fully stated below, this Executive
23	Order shall expire on the 31st day following the date of my signature. The following findings
24	and conclusions further support continuation.

PAGE 029908

I find that:

- 1. All findings and conclusions of EO 2008-10, -13, -17, -20 through -22 and of EO 2009-01 through -07 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 Executive Order, and the relevant directives, will remain effective until Aggreko has completely demobilized in September.
- a. 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.
- b. 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. With the Aggreko contract fee running at roughly \$500,000 per month, and contract advance notice requirements mandating that CUC tell Aggreko whether to stay or leave, CUC approaches a key deadline of September 12. While CUC's customers would benefit from saving the monthly fee, the decision to terminate the Aggreko contact was not final, until recently.
- c. A shortage of manpower forced by legislation limiting skilled foreign workers, shipping delays for delivery of parts, and ongoing unplanned technical issues complicated the CUC decision. For instance, since March 2009, CUC has been trying to hire 16 new employees, consisting of 8 mechanics and 8 power plant operators. CUC vigorously recruited locally, but, as of today, only 3 qualified operators have been hired. At the same time CUC lost another 3 plant employees, who resigned for various reasons. While CUC may be able to bring on entrylevel trade assistants, it still needs 16 qualified technical employees to make the production system work right.
- d. However, CUC has determined that it should be able to produce from its owned units by September 12 at least 55 MW. This would give CUC a reserve of 15

MW, the minimum needed to reliably manage the system. CUC gave Aggreko notice on June 12, 2009, that the contract will not be extended.

- This decision to rely on CUC's own generation, at a substantial cost savings for e. the people of the CNMI, is safe as long as CUC can employ the staff required to manage its system. Aggreko was not bound by the artificial US-only hiring decision presently mandated by CNMI legislation. It is rational to expect that CNMI law will change to permit the islands' key industry to operate rationally, and hire the people essential to providing critical electric, water and wastewater services.
 - f. Until Aggreko ends service, the CUC environmental conditions discussed below will be in effect.
- Starting on August 31, all of Aggreko's 18 generators will be shut off. The CUC g. system will be adjusted through September 11, when the Aggreko gensets will be disconnected from CUC's system. Thereafter, the Aggreko installation will be removed, the site returned to at least as good a condition as when Aggreko began operation, and CUC will generate its own power.
- 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 shutdown 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. The progress made in this area warrants removing this concern from the scope of this Executive Order.
- 5. CUC has taken concrete steps to address the storage and disposal of used oil, consonant with the federal court's Stip Order 2. The progress made in this area warrants removing this concern from the scope of this Executive Order. Federal court Stipulated Order #2, relates to the used oil from the engines for four facilities (Power Plants 1, 3, 4 and Rota) and all CUC transformers. USA v. CUC & CNMI, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 2").

- 6. CUC has substantially minimized the risk of losing generation capacity, which has created intermittent blackouts on portions of its system. It therefore advised Aggreko in June that the temporary power contract will not be extended past its September termination date. This will save CUC customers at least \$6 million per year in fees. But it presents risks, as the strategy requires proper operation and maintenance of CUC's owned engines by CUC's technical staff.
- a. CUC continues to rehabilitate its owned power plants. 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. CUC will begin the overhaul of PP #1 unit DE-5 on September 7. In October four other units will undergo overhaul during the ensuing 12-month period.
- b. 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. 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, could seriously compromise CUC's ability to generate and distribute power.
- c. 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 after August 31: PP #4 generates 14 MW. PP #4, as an IPP, is not subject to the Legislature's limitation on foreign workers.
- d. A new, avoidable power crisis is approaching. Generation and proper distribution and supply of power is at risk without increasing the specialized staff required to adequately operate and maintain the equipment and machinery. This is because the Legislature, through 3 CMC §4972(5), as amended by PL 16-14 (Aug. 27, 2008), has limited CUC's ability to hire technical staff, up to 19 foreign workers only. The CUC Act, as subsequently re-enacted by PL 16-17 (Oct 1, 2008), provides that CUC shall hire such persons as are necessary for operations, except as otherwise limited by other law. 4 CMC § 8123(h).

- e. There are not enough technical specialists at CUC to get the power generation work done. CUC believes that the vast majority of skill sets must come from non-US personnel.
- f. CUC has hired some local staff recently thanks to the aggressive steps of CUC HR and the Executive Director. CUC hired six US citizens and 2 foreign workers who have IR status a total of 8 workers. But CUC also lost technical workers one more technician recently resigned, bringing the total to four this year. CUC is, thus, net four, and still needs 12 more skilled workers for power plant operations and maintenance. However as more units begin working after the rehabilitations are largely complete in September, CUC will need more staff to operate and maintain them.
- g. The impact of an inadequate workforce will be three-fold. First, there will be a direct effect on the existing consumers. There will be brownouts, or area blackouts. Second, the power plants will again degrade, producing more outages. Third, there will be an indirect effect, on rates. CUC will be unable to convince large commercial customers, particularly the hotels, to join its system. The hotels need reliable, 24/7 power. If the hotels were to become part of the system, they could help pay CUC fixed costs, which would lower everyone else's rates. Further, the failure to meet federal court deadlines could result in appointment of a federal receiver and consulting team all charged to CUC customers. Thus, the indirect effect of an inadequate workforce will be to boost rates.
- h. CUC has repeatedly asked the Legislature to lift the restrictions on foreign workers. None of the independent generators Aggreko, PMIC and Telesource operates under these limits. If the Legislature fails to act on the CUC request, it will effectively set the stage for loss of service and higher rates. It will thereby reverse the \$6 million-per-year benefit of terminating the Aggreko temporary power contract.
- i. Rota is now suffering blackouts from inadequate generator maintenance. The power plant's other facilities and the island's distribution system similarly need the attentions of additional manpower. The present alternative for Rota is akin to Saipan's purchasing higher cost power from the Rota Resort. Two Rota units will undergo overhaul.
- j. CUC has lost 2 senior accountants plus a related specialist, with a federally-mandated interim financial plan due in September. The IT and billing department is down to one staffer, having advertised for 4 weeks to no avail. But, with the suspension of the ban on new foreign workers from EO-12, CUC is taking steps to hire needed staff at the power plants and elsewhere in the company.

- k. To summarize: CUC's ability to supply power is at risk. While the utility company's owned hardware looks to be ready for Aggreko's September departure, the generation and power distribution services will not be adequately staffed without an immediate lifting of the artificial legislative regulation of CUC's workforce. Water and wastewater services will be compromised if new professional staff cannot be hired. CUC *MUST*, have the staff required to adequately operate and maintain its equipment and machinery, or higher costs and loss of service will follow. As a result of the July Directive #10, suspending the limitations on CUC hiring foreign workers, CUC has been able to hire qualified technical employees.
- 1. There is no indication that any of the above manpower situation will be resolved in the next month without continuation in effect of this EO and Directive #10. See below. However, the Aggreko situation should resolve after Aggreko leaves and the site is decommissioned.
- 7. The water/wastewater progress warrants removing this concern from the scope of this Executive Order, except for issues relating to proper staffing of the Divisions and, particularly, meeting the requirements of the federal Stipulated Order #1. While the Divisions face important challenges, these do not rise to the level of disaster emergency alone. As long as the Divisions can hire competent staff and receive power from the Power Division, they can function.
- 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. 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 as it relates to Aggreko will be resolved before Aggreko leaves and the site decommissioned 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 will continue to work with the PUC to develop rates that fully pay the costs of safely operating CUC's water and wastewater systems.
- 10. In its most recent LEAC order, of April 2, 2009, the Commonwealth Public Utilities Commission modestly reduced electric rates in order to reflect, among other things, the lowered world price of oil. The Commission will be revisiting CUC rates, fees, charges and operations at its early September meeting. 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. 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 have settled the matter. CUC has petitioned the Commission for approval of the settlement. The matter should be heard by the PUC at its early September meeting.

- f. But CDA required that CUC's Board accept the deal. Therefore, it is critical that CUC sign the deal with the authority of a Board. My directive below has provided 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.
- The CDA matter is before the Commission on its September 3, 2009, g. agenda.
- h. Once the Aggreko matter has been resolved, and the Commission acts on the CDA matter, I will need to examine the scope of the Executive Director's authority and the tasks before him in order to determine whether to terminate this Executive Order and its directives, notably Directive #9.
- 13. As described above, CUC is approaching a crisis due to its lack of qualified trained and professional staff, addressed above. The crisis will produce an inability to generate power; and to meet federal legal requirements. Action is needed immediately to forestall disaster.
- The CNMI Legislature has subjected CUC to its broad restriction against the a. CNMI Government's employing foreign workers. 3 CMC § 4972(b)(5), as enacted by Public Law 15-108 and most recently amended by Public Law 16-14.
- While they have created difficulties for CUC in the past, the restriction will b. shortly cause a disaster. CUC's contract with Aggreko for temporary electric power generation expires in September 2009, eliminating a 15-MW security cushion for CUC power generation. Soon CUC will have to insure that its power plants are operating properly and ready to generate upon demand.
- c. But CUC does not have sufficient staff levels to operate and maintain the Saipan and Rota power generation facilities. It will take at least a month to hire qualified staff. CUC's electric power rehabilitation of the main power plant facilities requires 16 additional skilled workers who are familiar with the engines at the plants and can commence work with the engines immediately.
- d. Presently CUC is overworking its technical staff. Over pay period numbers 2 through 11 of the year 2009, CUC accumulated 18,053 hours of overtime from technical employees who have each worked 40 or more hours of overtime in a pay period. This condition is extreme. Such excessive hours result in inefficiencies and poor work quality, and can lead to dangerous mistakes. Workers cannot continue to perform adequately.

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Declaration of Disaster Emergency: CUC Continuation 13

- e. CUC has taken extra measures to recruit staff, but has been unable to fill these positions with permanent residents or citizen employees possessing the education, training and experience required;
- f. CUC is also subject to the two federal Stip Orders, which demand technical performance on dozens of timelines, with no excuses for CUC's inability to find qualified workers. Performance is required for the water, wastewater and oil disposal functions discussed in this Executive Order.
- g. CUC has less than a month left to solve this critical staffing problem, which is due solely to the Legislative prohibition. The required workers are available as nonresident workers, and cost-effectively so. It will take a few weeks to advertise positions, interview and hire.
- h. Thus, relief from the prohibition of hiring foreign national workers is necessary to ensure the delivery of uninterrupted power, water, and wastewater services to the people of the Commonwealth.
 - i. There is no Legislative relief coming. For months CUC has repeatedly asked the Legislature for such relief. CUC submitted a bill in July. The Legislature has declined to respond. There is no alternative to providing this relief other than an order from the Governor. Inaction will produce a disaster in which CUC is unable to provide its critical community services.
- j. My Directive # 10 was designed to avert this crisis. Once the Aggreko matter has been resolved, I will need to examine the CUC employment situation and the affected statute to determine whether to terminate this Executive Order and its directives.
- 14. 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:

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.

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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.

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

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: Reserved.

Directive 7: Reserved.

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.

Directive 10: The following strike-out-formatted language of the quoted provision of the following statute regulating government employment is suspended immediately:

(b) Transition exemptions for government employment. (5) <u>Commonwealth Utilities Corporation</u>. Engineers, and professional employees in technical or trade areas may be exempted and CUC may contract with manpower services or directly hire power plant mechanics and utility technicians who may be exempted.

Declaration of Disaster Emergency: CUC Continuation 13

3 CMC § 4972(b)(5), as most recently amended by PL 16-14. (Underlining in original) That is, the following language is suspended: "provided that direct or manpower hire of foreign national workers shall not exceed nineteen (19) employees. This exemption shall expire on September 30, 2010, and no contract may provide to the contrary."

The effect of the suspension shall be that CUC shall have the complete power, without regard to citizenship or otherwise lawful immigration status, to hire engineers, professional employees in technical or trade areas, power plant mechanics and utility technicians, either directly or indirectly. These professional employees may include, but shall not be limited to, sanitarians, engineers, accountants, information technology specialists, mechanics, electricians, well-drillers, pipefitters, plumbers, wastewater treatment facilities operators, and other trades technicians.

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".

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.

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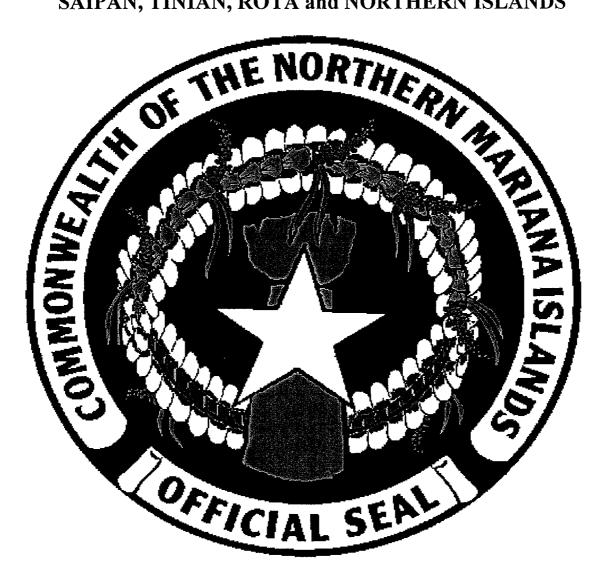
Declaration of Disaster Emergency: CUC Continuation 13

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. 1 CMC § 7403(a); 3 CMC § 5121(c). 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 28th day of August 2009.

0.EO 2009-08 CUC Dis Decl continu 13 (28aug09) fiinal clean copy wpd

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



OCTOBER 6, 2009

ADDENDUM TO

COMMONWEALTH REGISTER
VOLUME 31
NUMBER 09
SEPTEMBER 28, 2009

OCTOBER 6, 2009

ADDENDUM TO

COMMONWEALTH REGISTER

VOLUME 31 NUMBER 09 SEPTEMBER 28, 2009

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NOTICE !	AND CERTIFICATION	OF ADOPTION OF	FRULES AND REGU	JLATIONS

PUBLIC NOTICE OF ADOPTION OF REVISIONS TO THE **IMMIGRATION RULES AND REGULATIONS**

OFFICE OF THE ATTORNEY GENERAL, DIVISION OF IMMIGRATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS Volume 31, Number 08, pp. 029813 et seq. of August , 2009

Immigration Rules and Regulations of the Office of Attorney General, Immigration Division: Part 5, Subchapter 40

Please take notice that the Office of the Attorney General, Division of Immigration, hereby adopts as permanent the referenced Proposed Regulations. I also certify by signature below that such adopted regulations are being adopted without modification or amendment except as follows, which changes are non-material:

- Section 5-40.3-230 has been amended to repeal the last paragraph as unnecessary under current circumstances.
- 2. Section 5-40.3-240(e) has been amended to allow families to stay together where they have minor children under the age of 16.
- 3. Section 5-40.3-240(p) has been amended so that a party to a matter before a Commonwealth court or agency is covered temporarily while the matter is being processed or decided.

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

Pursuant to 1 CMC §9105(b), these adopted regulations are effective on October 1, 2009 or the date which is 10 days after compliance with 1 CMC §§9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

The prior publication was as stated above.

COMMONWEALTH REGISTER

Comments and agency concise statement. Pursuant to 1 CMC §9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. The agency has responded to all written and oral submissions with a concise statement of the principal reasons for and against its adoption incorporating therein its reasons for overruling the considerations urged against its adoption. The following is the agency's concise statement in response to the filed comments that were not adopted: One commenter suggested that the immediate relatives of FAS citizens be included in the eligibility for a two-year permit. The agency declined to accept this change because FAS citizens are aliens admitted to the Commonwealth pursuant to an arrangement with the United States government, not the Commonwealth, and the options available after November 27, 2009 should be determined by

the U.S. government. The Commonwealth currently accords these immediate relatives a oneyear permit. Another commenter suggested that the provision with respect to violence against women should be expanded from "spouse" to "immediate relative." This provision is based on a statute which is intended to protect women. The comment would extend the protection beyond the statute to children and parents. In order to remain consistent with U.S. provisions in this regard, this proposal was not adopted. The proposed regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 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).

VINCENT B. LIZAMA **Acting Director of Immigration** 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).

NUNC PON NNC

9-30-09

EDWARD BUCKINGHAM

Attorney General

Filed and

Recorded by:

ESTHER SAN NICOLAS Commonwealth Registrar Date

10.06.09

NUMBER 09

ADOPTED CHANGES

The following changes have been adopted in paragraphs contained in the current Immigration Regulations. Sections in which language has been changed or deleted are reproduced below. Sections (and paragraphs within sections) that remain unchanged <u>are not included</u> in the items set out below.

* * 1

§5-40.0-201(k) "Entry permit" means documentation authorizing the entry into and the continued presence of a nonimmigrant alien in the Commonwealth, including but not limited to an entry permit document or card issued by the Division of Immigration, a Visitor Entry Permit form, a passport stamp, or a visa; The entry permit is issued for purposes of providing entry to and exit from the Commonwealth for qualified persons, as long as the person remains qualified under the particular requirements applicable to each class of entry permit as provided in Part 5-40.3-240;

§5-40.1-200 CNMI Permanent Residents.

Persons are permanent residents of the Commonwealth who are aliens and who were granted permanent resident status in the District of the Northern Mariana Islands by the Administration of the Trust Territory of the Pacific Islands prior to January 9, 1978 or who were granted permanent resident status pursuant to Commonwealth law prior to April 1981.

§5-40.2-405 Non-performance of Requested Service.

If employees have reported to work in order to provide requested overtime services, but services are not performed by reason of circumstances beyond the control of the employees concerned, compensation shall be in accordance with Section 5-40.2-401(a)(1).

§5-40.3-220(e) The Division may refuse to allow a person to be a sponsor of an alien applying in an entry class as an immediate relative if the sponsor fails to demonstrate income over the immediately preceding four months at a rate that will provide a gross annual income totaling 40 hours per week for 52 weeks at the prevailing federally-mandated minimum wage in the Commonwealth. The Director may waive this income requirement in the interests of the Commonwealth.

§5-40.3-230 Applications for a two-year permit will be accepted, at the discretion of the Director, for entry permit class 240(d) immediate relatives of citizens, U.S. nationals, and permanent residents, 240(g) and 240(o) foreign investors, 240(h) foreign students; 240(k) foreign workers, and 240(n) long term business owners upon the Director's finding that a two-year permit is in the interests of the Commonwealth. The Director shall make available automatic two-year permits for CNMI permanent residents (as defined in § 5-40.0-201(q)), and for the immediate relatives of deceased U.S. citizens, U.S. nationals, and U.S. permanent residents should permitting be needed or required for any reason.

Last paragraph repealed.

§5-40.3-240(b) Government Employment Entry Permit

An alien hired as a Commonwealth government employee in accordance with 3 CMC §4532 or §4972, an alien hired as a Federal government employee, or an alien performing services under a contract (either directly or indirectly) with the Commonwealth or Federal governments, who meets other applicable requirements to enter the Commonwealth as set out in these regulations, may enter and remain in the Commonwealth for one (1) year. The application must include a copy of the contract which has been approved by the government agency.

This class of entry permit is renewable.

Holders of this class of entry permit may engage in any work in the Commonwealth that is covered by the government employment or contract.

§5-40.3-240(d) Immediate Relative of Citizen, U.S. National or CNMI Permanent Resident **Entry Permit**

Immediate relatives of persons who are citizens, U.S. nationals, or CNMI permanent residents may enter and remain in the Commonwealth for one year so long as the immediate relative status is in effect, the citizen, U.S. national, or permanent resident meets the qualifications as a sponsor of the alien, and all other qualifications are met. The application for an Immediate Relative Entry Permit shall be filed not earlier than 60 days following the marriage and during the period in which the alien has a lawful immigration status in the Commonwealth. In the event a marriage is terminated by judicial decree, the alien has a grace period of 60 days from the date of the final decree either to change to a different lawful immigration status or to depart the Commonwealth. In the event a marriage is terminated by the death of the U.S. citizen spouse, a widow or widower may apply at any time for a two-year permit in order to facilitate change of status to U.S. permanent resident (green card holder) or other status.

Upon application and such documentation as the Director may require, the Director may waive restrictions applicable to an immediate relative who is a dependent child or dependent adult who is physically or mentally challenged and whose care and support is provided by the sponsoring U.S. citizen or other person qualified under this section.

§5-40.3-240(e) Immediate Relative of Alien Entry Permit

An immediate relative of an alien, or a common-law marriage spouse of an alien whose family unit includes one or more natural, adopted, or step children under the age of 16 years, may enter and remain in the Commonwealth under an Entry Permit for the same term as the sponsoring alien's Entry Permit if the immediate relative or common-law marriage spouse satisfies the applicable requirements under these regulations, the sponsoring alien meets the requirements to be a sponsor, the sponsoring alien posts a cash bond with the Director in the amount of twice the cost of return travel to the point of origin at the time of application, and the immediate relative or

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common-law marriage spouse is not an excludable alien.

This class of entry permit has the following sub-classifications:

EB: Immediate relative of a government employee

EF: Immediate relative of a diplomat

EG: Immediate relative of a foreign investor

EI: Immediate relative of a representative of foreign press

EK: Immediate relative of a foreign national worker

EL: Immediate relative of a minister or religious leader

EM: Immediate relative of a missionary

EN: Immediate relative of a long-term business permit holder

EO: Immediate relative of a retiree investor

ET: Immediate relative of the holder of a passport issued by a Freely Associated State

Upon application, the Director may waive restrictions applicable to an immediate relative who is a dependent child who is physically or mentally challenged and whose care and support is provided by the sponsoring alien.

§5-40.3-240(h) Foreign Student Entry Permit

This class of entry permit does not include enrollees or students in preschool programs.

§5-40.3-240(i) Foreign Press Entry Permit

An alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the Commonwealth solely to engage in such vocation, and who meets the other applicable immigration requirements in these regulations may be issued a Foreign Press Entry Permit.

This entry permit shall be valid for a maximum of 90 days.

This class of entry permit is renewable.

A holder of this class of permit may not work or be employed in the Commonwealth except as a representative of foreign media.

§5-40.3-240(m) Missionary Entry Permit

Prior to October 1, 2008, an alien who is a bona fide missionary who is in the Commonwealth solely for the purpose of engaging in religious doctrine teaching and not receiving compensation at the level of a living standard of monetary compensation, may be issued a Missionary Entry Permit. The missionary must be petitioned for by a bonafide religious organization showing that the missionary's services are needed by a denomination having a bonafide organization in the Commonwealth. Missionary work is limited to teaching religious doctrine in a church,

classroom, or in a home visit setting. After October 1, 2008, the entry class of missionary ceases to exist, provided however that persons holding multi-year permits issued prior to October 1, 2008 may register each year within this class until the term of the original permit expires.

§5-40.3-240(n) Long-term Business Entry Permit

The Long-Term Business Entry Permit allows an alien to remain in the Commonwealth for up to two (2) years. The applicant must present a certificate of eligibility for a long-term business entry permit issued by the Department of Commerce.

A holder of this class of entry permit may engage in any lawful business or commercial activity in the Commonwealth as permitted by the Department of Commerce.

A holder of this class of entry permit may not work or be employed in the Commonwealth except to be employed in the business for which the Department of Commerce approved the entry permit.

§5-40.3-240(o) Retiree Investor Entry Permit

An alien who is at least 55 years of age on the date of arrival in the Commonwealth, who presents a certificate of foreign retiree investment issued by the Department of Commerce, and who meets the other applicable immigration requirements in these regulations, may be issued a Retiree Investor Entry Permit.

The holder of a Retiree Investor Entry Permit may be employed for less than 20 hours a week in the Commonwealth.

§5-40.3-240(p) Temporary Work Permit

At the discretion of the Attorney General, an alien who is a victim or witness in a civil or criminal proceeding or party in a civil or criminal matter pending before a Commonwealth court or agency, or a person who has applied for refugee protection pursuant to §5-40.4-100 of these regulations, may be issued a Temporary Work Permit for up to two years while the relevant matter is pending. This work permit is temporary and does not extend beyond the time required for the relevant matter and reasonable arrangements thereafter as determined by the Attorney General unless the holder of the permit becomes employed as approved by the Director of Labor

This class of entry permit may be modified or revoked after the relevant matter is no longer pending.

A holder of this class of entry permit may be employed in the Commonwealth.

§ 5-40.3-250 Revocation of entry permit.

The Director may revoke any entry permit issued pursuant to these regulations upon a finding that the alien to whom the permit was issued no longer satisfies the criteria for the permit

category; the permit was obtained by fraud, deceit, material misrepresentation, or in violation of CNMI law; or the sponsor of the alien has become ineligible under or has failed to satisfy the requirements of § 5-40.3-220.

§5-40.3-261 Change of class of permit.

The holder of a valid entry permit in one entry permit class for nonimmigrant aliens under Section 5-40.3-240 more than thirty (30) days from expiration may apply for an entry permit in another entry permit class for nonimmigrant aliens without leaving the Commonwealth. Aliens holding entry permits that are expired or have less than thirty (30) days of remaining validity and aliens holding tourist entry permits must exit the Commonwealth before applying for an entry permit in another entry permit class. The Director may waive the exit requirement in the interests of the Commonwealth.

§5-40.3-265(b) <u>Possession of Cards</u>. Except for persons entering under subsections 240 (c), (f), (g), (l) or (m), all aliens shall maintain their entry permit in their personal possession during working hours and when entering or exiting the Commonwealth.

§5-40.3-270

The following fees apply to entry classes 240(d) (immediate relative of a citizen or permanent resident), 240(e) (immediate relative of an alien), 240(l) (minister of religion), 240(m) (missionary). (All other classes either have no fees or the fees are payable to the Commonwealth commerce and labor authorities.)

Annual registration with the Division	\$25.00
Renewal with the Division	\$100.00

§5-40.3-301(b) Entry may be allowed, at the discretion of the Director, if a sponsor in the Commonwealth posts sufficient cash with the Division to ensure the alien's support and repatriation costs for the duration of the entry permit. The full amount of cash deposited with the Division shall be kept in a trust account until the departure of the alien.

§5-40.3-310(d) Persons with a documented history of violence or destructive behavior regardless of whether convicted of a crime may be excluded at the port of entry. Documentation may include medical, law enforcement, employment, or other records acceptable to the Director.

§5-40.4-201 Memorandum of Agreement. The Commonwealth shall administer its nonrefoulement protection program according to the terms and procedures set forth in the Memorandum of Agreement entered into between the Commonwealth and the Office of Insular Affairs dated September 12, 2003, provided however that if funding for the program has not been made available to the Commonwealth in the full amount necessary for all aspects of the program as covered by the Memorandum of Agreement, then the Department of Homeland Security shall perform all functions assigned to the Commonwealth thereunder.

§5-40.4-205. Federal authority. Public Law 13-61, which authorizes participation in the nonrefoulement protection program is based on the Commonwealth's immigration authority. When any aspect of the Commonwealth's immigration authority is preempted by federal law, the entire nonrefoulement protection program becomes the responsibility of the appropriate federal agency and the Commonwealth is no longer involved in this program.

§5-40.4-210 Repeal. Prior Parts 5-40.4-200, 300, 400, and 500 are repealed.

PART 5 **Subchapter 40.5 Transition**

Transition for Department of Commerce PART 5-40.5-100

PART 5-40.2-200 Effective date