

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN MARIANA ISLANDS

VOLUME 18 NUMBER 12



DECEMBER 15, 1996

***COMMONWEALTH***

***REGISTER***

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**COMMONWEALTH REGISTER**  
**VOLUME 18 NUMBER 12**  
**DECEMBER 15, 1996**

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# NORTHERN MARIANAS HOUSING CORPORATION

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Froilan C. Tenorio  
Governor

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Lieutenant Governor

MaryLou Ada Sirok  
Corporate Director

## BOARD OF DIRECTORS

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Director

## NOTICE OF PROPOSED REGULATION

The Board of Directors of the Northern Marianas Housing Corporation (NMHC) hereby notifies the general public that it has adopted the proposed NMHC/MPLT HOME LOAN REGULATION promulgating policies and procedures for the administration of the loan program pursuant to the authority provided under Executive Order 94-3, Section 407 of Re-organization Plan No. 2 of 1994, Directive No. 138, and the Administrative Procedures Act, 1 CMC 9101, et. Seq. of the Commonwealth Code.

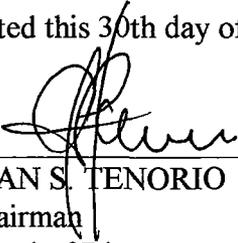
This procedure will generally govern the operation of the NMHC/MPLT Home Loan Program consistent with NMHC's mandated objectives.

Copies of the proposed procedure area available at NMHC's Central Office, Garapan, Saipan and its field offices on Tinian and Rota.

NMHC urges the public to submit written comments and recommendations regarding the proposed procedure within 30 days after the first publication in the Commonwealth Register to the following address:

Northern Marianas Housing Corporation  
P.O. Box 514  
Saipan, MP 96950-0514

Dated this 30th day of October, 1996.

  
\_\_\_\_\_  
JUAN S. TENORIO  
Chairman  
Board of Directors

  
\_\_\_\_\_  
MARYLOU ADA SIROK  
Corporate Director



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## NUTISIA PUT I MAPROPOPONI NA REGULASION

I Board of Directors i Northern Marianas Housing Corporation (NMHC), ginen este ha infotma i pupbliku henerat na esta ha adapta i NMHC/MPLT Home Loan na Regulasion para u na'guaha areklamento yan dinirihí gi programan loan na administrasion sigun aturidat ginen Executive Order 94-3, Seksiona 407 gi Re-organization Plan No.2 1994 na sakkan, Directive Order No. 138, yan i Administrative Procedures Act, i CMC 9101, et. Seq. gi halom Commonwealth Code.

Este na dinirihí para u gubetna i operasion NMHC/MPLT Home Loan Program yan u akonfotma yan i matago' NMHC para che'cho'-ña.

Guaha kopian i mapropoponi na kinalamten guatu gi NMHC's Central Office giya Garapan, Saipan yan Ofisinan housing siha gi islan Luta yan Tinian.

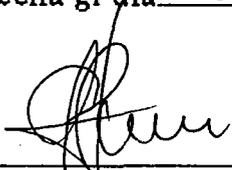
I NMHC ha sosohyu i pupbliku para ufana'halom osino satmiti gi tinige' hafa komentun-niha yan rekomendasion put i mapropoponi na regulasion, halom trenta (30) dias despues di mapublika gi halom Rehistran Commonwealth yan u manahanao guatu gi sigienti na address:

Northern Marianas Housing Corporation

P.O. Bo 514

Saipan, MP 96950-0514

Ma fecha gi dia 30th, Oktubre, 1996

  
\_\_\_\_\_  
JUAN S. TENORIO  
Chairman  
Board of Directors

  
\_\_\_\_\_  
MARYLOU A SIROK  
Corporate Director



# NORTHERN MARIANAS HOUSING CORPORATION

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## ARONGORONG REEL POMOL AWEWE

Board of Directors mereel Northern Marianas Housing Coporation(NMHC) sangi mereer nge rekke arongaar aramas toulap bwe ra adopt-taay pomol aweewe mereel NMHC/MPLT Home Loan Regulation iye ekke akkatéw aweewe me Afalafalal mellól administration-nul progróomal tingórol salaapi sáangi mereel aileewal me bwángil ila elo llól Executive Order 94-3, peigh 407 mereel Re-organization Plan no.2 sáangi llól 1994,Directive no.138, me Administrative Procedures Act, 1 CMC 9101, et. seq. mereel Commonwealth Code.

Aweewe kkaal nge ebwe lemeli mwóghútóghútól llól NMHC/MPLT Home Loan Program me ghol fengál me meeta re akkuléew ngáli NMHC.

Eyoor Kopiyaal pomol aweewe mellól Bwulasiyool NMHC, Arabwal, Seipél me ikka elo wóól falúw kka Tchúlúyól me Luuta

NMHC nge ekke tingór ngáliir towlap bwe rebwe ischiitiw meeta tipeer me mángemángiir reel pomol aweewe kkaal nge rebwe atotoolong llól eliigh (30) rál sáangi igha e toowow arongorong yeel mellól Commonwealth Register nge rebwe afanga ngáli address ye faal:

Northern Marianas Housing Corporation  
P.O. Box 314  
Saipan, MP 96950-0514

Wóól rál ye eliigh (30th) maramal Sarobwel (October), 1996

  
\_\_\_\_\_  
JUAN S. TENORIO  
Chairman  
Board of Directors

  
\_\_\_\_\_  
MARYLOU A. SIROK  
Corporate Director

**NORTHERN MARIANAS HOUSING CORPORATION  
MPLT-FUNDED FAMILY HOME LOAN POLICY AND PROCEDURE**

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**NORTHERN MARIANAS HOUSING CORPORATION  
MPLT-FUNDED FAMILY HOME LOAN POLICY AND PROCEDURE**

**PART 1. SCOPE AND AUTHORITY**

**1.1 Scope.** These regulations shall govern the administration of the Northern Marianas Housing Corporation (NMHC) Marianas Public Land Trust (MPLT) Funded Home Loan Program, as established and adopted herein, by the Board of Directors of the NMHC. These regulations shall apply to all loans made with funds provided and/or secured by MPLT and shall supersede all previously issued policies, which are inconsistent with this policy. NMHC may also utilize these regulations, at its sole discretion, in making loans of its own funds rather than MPLT secured funds.

**1.2 Authority.** Under and by virtue of the authority provided under 2 CMC 4431 et seq. and the Administrative Procedures Act, 1 CMC 9101, et. eq., the Board of Directors promulgates these regulations. NMHC in coordination with MPLT, will oversee and manage the disbursement of funds to qualified applicants, pursuant to Public Law 10-29 and agreements entered thereunder.

**PART 2. PURPOSE AND PROGRAMS**

**2.1 General Purpose.** It is the policy of NMHC to assist qualified applicants to acquire and occupy a home. 2 CMC Division 4. The purpose of the MPLT Funded Family Home Loan Program is to encourage and create better living standards for the people of the CNMI, a healthier environment for family life, and an attractive

community by providing modest, safe and sanitary dwellings. This policy will also enhance the economic activity of the Commonwealth through increased building construction, which will increase demands for jobs, building materials, home furnishing, and related products.

**2.2 Programs.** Pursuant to Public Law 10-29, these programs are created by these regulations: (a) The Standard Home Loan Program to finance home purchase and construction; (b) The Low Income Home Loan Program to finance home purchase and construction at reduced finance rates for certain qualified applicants; and (c) The Home Improvement Loan Program to finance home additions and repairs. Each program is subject to these regulations. The particular loan limits, interest rates and special requirements of the individual programs are set out in Appendixes A, B and C hereto, and are incorporated by reference herein.

### **PART 3. DEFINITIONS.**

#### **3.1 As used in these regulations:**

- a. "Applicant" means any individual intending homeowner signing the note or mortgage, or both, and occupying or intending to occupy, the subject property, including any guarantor, endorser, or co-signer that occupies the property.
- b. "Appraised value" means the value assigned to or placed upon a property and improvements thereon, offered as collateral when securing or obtaining a loan under these regulations. The appraised

value includes the value of the improved property plus the added value of any improvements to be constructed with the loan proceeds approved under these regulations.

- c. "Board" or "Board of Directors" means the Board of Directors of the Northern Marianas Housing Corporation, as defined in 2 CMC 4421 et seq.
- d. "Borrower" means the person who signs the note evidencing the loan and the mortgage securing it.
- e. "Contractor" means a Commonwealth licensed construction business that by contract agrees to build a single family home for the Applicant.
- f. "Family" or "Household" refers to husband and wife and their children who live in one house and under one head. A child who has attained the age of majority of 18 years old should not be counted as part of that family, unless he/she is a full-time student under the age of 22 years.
- g. "Finance loan closing costs" means loan closing costs which may be financed such as loan origination fee, engineering fee, preliminary title report fee, title insurance, appraisal report fee, inspector's fee, mortgage or life insurance.
- h. "Guarantors", "endorsers", or "co-signers" means the persons signing the note or mortgage, or both, but who may or may not be occupying the subject property.
- i. "Improved real property" means real property upon which are situated or shall be constructed permanent buildings suitable for residence.

- j. "Lender" or "Participant Lender" means a financial institution which may by law make loans secured by First or Second Mortgages on real estate and which participates in the Home Loan Programs under an agreement with NMHC. Lender or Participating Lender may include NMHC.
- k. "Loan" or "Home Loan" means a loan made under the MPLT Funded Home Loan Program, administered by NMHC, with funds provided by and/or secured by MPLT, or funds provided by and/or through NMHC and made available through these regulations.
- l. "Mortgage" includes a Deed of Trust for security.
- m. "MPLT" means the Marianas Public Land Trust.
- n. "NMHC" means the Northern Marianas Housing Corporation.
- o. "Principal residence" means the house to be constructed, purchased, refinanced or improved must be occupied and used by the applicant as their principal place of residence.
- p. "Unimproved real property" means real property upon which no structures or permanent buildings are situated; or upon which temporary structures or buildings are situated but are not suitable for residence.

#### **PART 4. OPERATION OF THE PROGRAMS**

**4.1 General Provisions.** The following generally describes the operation of the programs as they are administered by NMHC.

- a. Individuals desiring a Home Loan shall file an application with NMHC for such a loan.

- b. Financial institutions or agencies desiring to participate as Lenders in the Home Loan Program shall file an application with NMHC, and upon approval and certification as a participant, such institution or agency shall execute a Loan Purchase Agreement with NMHC and thereafter become a "Participating Lender."
- c. The Participating Lender shall, in accordance with the terms of the Loan Purchase Agreement:
  - (1) Assist NMHC in obtaining complete applications from Borrowers, and assist NMHC in its operations under these regulations;
  - (2) Purchase loans made by NMHC under these regulations.
- d. The Loan Purchase Agreement to be executed by a Participating Lender is attached to these regulations as Appendix "D" and incorporated by reference herein.

**4.2 Purpose of Loan.** There shall be no outright cash disbursements or cash take out to the applicant or borrower under the Home Loan Programs. Home Loans shall be made for the following purposes only, all of which shall be verified before and during the term of the loan:

- a. Home Purchasing - the financing of the purchase or long-term lease of existing homes.
- b. Home Construction - the construction of a home on improved land to

be subject to take out and long-term home purchase financing.

- c. Home Improvement - the construction of a room additions or general improvements such as changing a tin roof to a cement roof, for the improvement of an existing home.
- d. Home Loan Refinancing - the refinancing of an existing home loan, if the original mortgage was taken out for the purpose of:
  - (1) Making home improvements; or
  - (2) Purchase or construction of a principal residence.

**4.3 Priority:** Priority among applicants will be given to first time home owners and applicants of Northern Marianas Islands descent as that term is construed under Article XII of the Commonwealth Constitution. Applicants from Rota, Tinian, and Saipan will all be treated equally.

Home Loans shall be provided in the following order of priority:

- a. First Priority: Acquisition or construction of a Principal Residence for first time homeowners.
- b. Second Priority: The construction of room additions or the eligible improvements to existing structures.
- c. Third Priority: The refinancing or conversion of a construction loan to a permanent Home Loan for a principal residence.
- d. Fourth Priority: The construction of second home where the Applicant(s) intends to use the new home as Principal Residence upon completion.

**4.4 Persons Eligible for Home Loans:** To be eligible for a Home Loan, the applicant shall be a resident of the Commonwealth, shall be a person of Northern Mariana Islands descent as is defined by Article XII of the Commonwealth Constitution, and shall meet all applicable criteria for the particular program they are applying for as set forth in Appendixes A, B and C. Said lending criteria may be revised from time to time by the Board, and shall be effective after publication in the Commonwealth Register.

To be eligible for a Home Loan, the applicant shall be:

- a. A citizen of the United States and a resident of the CNMI,
- b. At least 18 years of age,
- c. A person who has not purchased nor built a dwelling unit under the Farmers Home, NMHC (formerly MIHA), SBA, or Northern Mariana Islands Retirement Fund home loan program,
- d. A person who demonstrates a stable employment history,
- e. A person who is credit worthy,
- f. A person who is earning an amount within the outline income boundaries and has a gross income sufficient to make the monthly installment, and
- g. A person who has paid all CNMI taxes due.

The applicant shall also meet all applicable criteria set by the Borrower and the Participating Lender, in addition to the criteria required below. Said lending criteria established by the NMHC and the Participating Lender shall be published in the

Commonwealth Register as regulations and may be revised from time to time by the Board. The qualifying criteria and subsequent revisions shall only be effective after publication in the Commonwealth Register and lapse of the comment period. The qualifying criteria set forth in this Home Loan Program for applicants are minimum standards and cannot be reduced by the Board or the Participating Lender.

**4.5 Eligible Improvements.** The following improvements are eligible for home loans: (i) structural alterations and reconstruction such as additions to the structure, repair of termite damage and the treatment of termite infestation; (ii) changes for improved functions and modernization such as remodeling of kitchens and bathrooms; (iii) changes for aesthetic appeal and elimination of obsolescence such as new exterior siding; (iv) reconditioning or replacement of plumbing, air conditioning and electrical systems; (v) roofing, exterior siding, gutters and downspouts; (vi) flooring and tiling; (vii) energy conservation improvements such as new pane windows, solar domestic hot water systems; and (viii) improvements for accessibility to the disabled.

Luxury items and improvements which do not become a permanent part of the real property are not eligible, including, but not limited to the following: barbecue pits, bathhouses, exterior hot tubs, saunas, whirlpool baths, swimming pools, television antennas, satellite dishes, and tennis courts.

Any additions or alterations to provide for commercial uses are not considered eligible improvements.

**PART 5. SPECIAL CONFLICT OF INTEREST PROVISION**

**5.1 Participation by Executives Prohibited.** No Northern Marianas Housing Corporation (NMHC) or Marianas Public Land Trust (MPLT) Board Member, Corporate Director, Executive Director, spouse, or member of his or her household may apply for loan funding, or be an "Applicant" under the terms of this agreement or program. No corporation, company, association, partnership or other legal entity in which any NMHC or MPLT Board Member, Corporate Director, Executive Director, spouse or member of their household has any interest, directly or indirectly, may apply for loan funding, or be an "Applicant" under the terms of this agreement or program.

**5.2 Conflict of Interest Regarding Family Members.** No NMHC or MPLT Board Member, Corporate Director, Executive Director, officer, counsel, agent, or employee shall in any manner, directly or indirectly, participate in the deliberation or upon the determination of any question affecting the personal interest or the interests of any enterprise in which his parent, child, grandchild, sibling, parents in-law, siblings in-law, or any member of his or her household is directly or indirectly interested.

**5.3 NMHC and MPLT Employee Participation.** Officers, counsel, agents, and employees of NMHC and MPLT are eligible to apply, be an "Applicant" under the terms of this agreement and program under the following terms and condition:

- a. No officer, counsel, agent, or employee of NMHC or MPLT may directly or indirectly participate in the deliberation or determination of

any question affecting their eligibility, priority, participation, acceptance, or other question affecting their personal interest or the interests, directly or indirectly, of their parents, parents in-law, children, grandchildren, siblings, siblings in-law, or any member of their household, or any enterprise with which any of the parties described above have any interest.

- b. All applications for program participation from any party described in subsection (a), above shall be immediately separated from all other applications, clearly identified as an "employee or family" application, and processed in accordance with subsection (c), below.
- c. All applications identified as an "employee or family" application shall be fully processed by NMHC employees who have no familial relation to any of the applicant as identified in subsection (a), and reviewed by the NMHC Board.
- d. All employees, agents, counsel, Directors, and Board Members described in this section have an affirmative duty to disclose any relationship described in subsection (a), above. A willful failure to disclose a relation described in subsection (a), above, or other conflict of interest as defined in this section shall be deemed a breach of fiduciary duty and cause for immediate disciplinary action including removal by the appointing authority.

**PART 6. QUALIFYING SECURITY**

**6.1 Property Qualifying Under the Programs**

- a. To qualify for a Home Loan, the property securing the loan shall be "improved real property" located in the Commonwealth of the Northern Mariana Islands. This includes homestead property, as such property is defined by the Department of Natural Resources, Division of Land Registration and Survey. The applicant shall own or propose to own the property in fee simple; or lease or propose to lease the property for a term in excess of at least twice the term of the loan. The property to be acquired, or constructed upon may include:
- (1) A one-family home, dwelling unit or structure which may be attached or detached; or
  - (2) A one-family dwelling unit in a planned development. The applicant shall occupy or agree to continuously occupy the dwelling unit as the applicant's principal home during the term of the loan. Any appraisal of the property shall include the value of all improvements, but the value of the dwelling unit or units not occupied by the applicant shall be deducted in computing the loan-to value ratio.
- b. Unless the Board finds a compelling justification otherwise on a case by case review, NMHC shall not make a loan secured by property which is not served by any utilities, lacks or has difficult access to or

from a public road, or does not conform to all applicable zoning and land use restrictions or building code regulations, is located on a substandard lot, is a lodging unit, or has any other unusual characteristic that NMHC determines to adversely affect its value. The Board may establish a minimum lot size.

- c. NMHC shall not make any Home Loan for the construction of a principal dwelling, room addition, or home improvement, unless the construction will be:
  - (1) performed by a duly licensed contractor in the Commonwealth from a pre-qualified list maintained by the Board;
  - (2) in accord with such building and zoning code regulations as the CNMI Legislature, or in the absence thereof, the Board, may from time to time adopt; and
  - (3) in accord with specifications and plans certified by a duly licensed architect, civil and structural engineers in the Commonwealth from a pre-qualified list maintained by the Board.
  
- d. A home purchase, home construction or home improvement loan shall not be made if NMHC determines that the owner or an affiliated business is the contractor unless prior to loan approval and in addition to other requirements provided in these regulations, the following applies:

- (1) The Borrower must submit:
  - i. At least three (3) quotations from three (3) different NMHC approved contractors;
  - ii. Certified or stamped plans and specifications by a duly licensed and registered architect, civil or structural engineer in the Commonwealth of the proposed construction; and,
  - iii. A Contractor's Cost Breakdown for each quotation.
- (2) NMHC, in its discretion, may request a review of the documents by the Department of Public Works or an independent architectural or engineering firm for compliance and reasonableness of cost estimates claimed.
- (3) The performance bond, payment bond, workers' compensation, and builder's risk all required under Part 6 Section 6.5 of this Home Loan Regulations must include a provision that in the event the contractor defaults on the contract and the applicant neglects or refuses to enforce the terms of the bond, NMHC and the Bank are both authorized to act on behalf of the applicant and to enforce the bond.
- (4) Receipts showing actual expenditures must accompany all payment requests.
- (5) A full one year Builder's Warranty be provided to NMHC, with

a clause stipulating that if the applicant refuses to enforce the provisions stated therein, NMHC and the Bank shall have the right to enforce any provision, without the applicant's consent.

## **PART 7. ADMINISTRATION AND ELIGIBILITY**

### **7.1 Administration**

- a. Applicants for single family residential housing will apply with the NMHC. Applicants approved by the NMHC and the Bank in compliance with banking standards recognized in the United States will then be authorized to borrow from the NMHC an amount no more than is necessary for the purchase, lease, refinance, construction or improvement of the residence.
- b. NMHC shall establish an account with the Bank funded with the proceeds of this Loan (the "Collateral Account"). NMHC may establish Collateral Accounts with more than one bank and will endeavor to secure the best interest rates and terms for the applicants in selecting banks with which to establish Collateral Accounts.
- c. The Bank shall disburse the Program Loan upon the request from NMHC. The Bank will transfer the funds from the Line of Credit facility into the checking account of NMHC. NMHC shall take a Deed of Trust on the property. The funds for the Program Loan will be

secured by the Collateral Account. The Collateral Account shall be primarily liable to the Bank should there be a default on the Program Loan. The mortgage and the Deed of Trust taken shall be in favor of the NMHC, and provide that the Lender shall have priority to satisfy any deficiency.

- d. In the event the applicant defaults on the Program Loan, the NMHC will foreclose on the mortgage and Deed of Trust. Upon completion of the foreclosure, the Bank may offset its loss against the Collateral Account, MPLT may offset the loss to the Collateral Account and its lost interest from its payments to the General Fund, NMHC shall sell the foreclosed property. The proceeds from the foreclosure sale shall be transferred to the General Fund, minus NMHC's costs of collection.

## **7.2 Applicant's Eligibility.**

- a. Before a final determination to favorably grant a loan is made, NMHC shall obtain the agreement of sale, construction contract, plans and specifications, and/or title insurance.
- b. The terms and conditions of a Home Loan shall be in accordance with these regulations including amendments thereto in effect on the date the applicant's eligibility is certified.

## **7.3 Disbursements of Loan Proceeds - Construction Loans.**

- a. If the loan approved is for new construction, NMHC, the Bank, and

the contractor to whom the applicant has contracted to build or construct a principal home, shall set a schedule for the disbursement of funds, in writing, in accordance with the construction phases set by the contract and as agreed to by NMHC and the participating Lender, provided that the initial disbursement shall be no more than ten (10%) percent of the total amount of the loan.

- b. All disbursements will be made directly from the NMHC to the Contractor, Borrower and to the Insurance Company jointly. No disbursements shall be made directly to the Program Participant alone. The first disbursement will not be made until all the required building permits have been issued to the contractor.
- c. Borrower shall hire duly Licensed and Registered to Practice in the Commonwealth, Architects and Civil and Structural Engineers at their own cost to inspect the progress of the project and to ensure that the building is constructed according to the Plans and Specifications.
- d. All progress payments to the Contractor shall be made only after the contractor, and the applicant and their construction inspector have certified to the NMHC that the work so far has been properly performed in accordance with the contract, and that the applicant accepts the work. All progress payments will be made in accordance with all construction costs to the date of contractor's invoice, less 10% retainage to be disbursed when all work is completed according to the

Plans and Specifications and the satisfactory completion of the contract. The 10% retainage funds will not be released until the contractor has submitted to the NMHC all Lien Waivers, Builder's Warranty, for at least one year. The applicant jointly with their construction inspector, should provide an Acceptance and Completion letter indicating that all the work is satisfactorily complete.

- e. Prior to the Release of the 10% retainage, the applicant shall submit the Certificate of Occupancy issued by the Building Safety Office of the Department of Public Works.
- f. The signatures of the applicant and their construction inspector indicating that all the work is satisfactorily complete is required for the release of the 10% retainage from the NMHC to the Contractor. In the event that the applicant unreasonably refuses to accept the work, NMHC may authorize payment of the final 10% provided that the Architect and Engineer agree that the work is in conformance with the contract documents and is acceptable.
- g. Any change order, regardless of the amount, must be approved by NMHC and Bank prior to beginning the work.
- h. The NMHC Board and the Bank may waive the 10% initial disbursement requirement set forth in subparagraph (a) of this section for good cause, and if to do so is appropriate under the circumstances.

**7.4 Construction Insurance or Performance and Payment Bond.** The NMHC and the Bank shall require that the contractor secure insurance coverage in an amount equal to the total construction loan to protect against Builder's risk, Performance and Payment Bond, and Workmen's Compensation during the entire term of the construction period. The effective date of the policies will commence on the date the Notice to Proceed is issued by the NMHC and the Bank. The contractor shall name the NMHC and the Bank as the Primary Loss Payee up to the amount of funds already disbursed, plus any applicable interest. Any proceeds recovered under the policies secured pursuant to this Section in excess of the amount to be paid to the NMHC or the Bank, shall be paid to the contractor.

**7.5 Disbursement of Loan Proceeds - Purchase of Existing Home.**

If the loan is for a purchase or long term lease of an existing home, NMHC and/or the Bank shall establish an escrow as follows:

- a. The escrow shall require that before any payments are distributed, the escrow agent must receive:
  - (1) The deed or long term lease conveying the property to the applicant;
  - (2) Commitment to insure title;
  - (3) Proof of clear title, if there are no mortgages, or liens on the property;
  - (4) All required insurance;
  - (5) All required inspection reports; and

(6) An appraisal of the property acceptable to the Bank and NMHC.

b. Upon receipt of all of the documentation set forth above, and any other requirements specified in the escrow instructions, the escrow agent shall simultaneously:

(1) Record the deed or lease for a long term interest in the property;

(2) Record the mortgage;

(3) Pay out of escrow the purchase or lease price to the seller/lessor;

(4) Pay any insurance premiums and fees as may be called for in the escrow instructions; and

(5) Complete all steps necessary to the closing of escrow including delivery to all parties of copies of all recorded documents and proof of insurance.

#### **7.6 Disbursement of Loan Proceeds - Home Addition and Improvement**

**Loan.** Disbursement of loans for simple improvements may be made directly to Suppliers where the Supplier is installing the fixture. Disbursements shall be made only after the materials have been delivered to the job site and contemporaneous with the execution of a release by the Supplier of all claims for the materials delivered. Otherwise, all disbursements for Home Improvement Loans shall be administered as are Home Construction Loans.

**7.7 Purchase of Materials by Applicants.** When the loans are written, they shall be for the completed work, including the purchase by the Contractor of all supplies. Applicants may reduce their total costs by purchasing materials themselves directly if NMHC is advised in advance and concurs to the applicant buying materials directly. Loan proceeds may not be disbursed to the applicants to reimburse them for their purchases, but the applicants shall be given credit on the loan balance for their direct purchases, and the total loan amount reduced accordingly, provided:

- a. The Contractor certifies that the materials the applicant claims were purchased were actually purchased and used in the work;
- b. The Contractor agrees in a written amendment to the contract that the total contract price be reduced in an amount equal to the amount of the reduction in the loan sought by the applicant;
- c. Detailed receipts of all materials purchased are provided to the Bank and NMHC;
- d. The materials purchased by the applicant were called for in the approved plans;
- e. The suppliers were paid in full, any period for the filing of mechanics' liens by the Suppliers has passed with no mechanic' liens showing or all mechanics' liens for the materials have been released; and
- f. The loan proposal itemized with particularity the materials needed so that it can clearly be determined how much credit to give the applicant for the direct purchases of materials.

**7.8 Co-ownership or Estate Ownership of Mortgaged Property.** If the applicant is not the sole owner of the property to be mortgaged, it shall be surveyed prior to loan closing. The survey must determine the exact location, size and shape of the property to be mortgaged. The survey map must be approved by the Division of Lands and Survey and recorded at the Commonwealth Recorder's Office. The applicant is wholly responsible for the cost of the survey. If the applicant is married, the applicant's spouse must execute the mortgage and agree to subject his/her marital estate to the security interest. If the Property is owned, in whole or in part, by a decedent, the estate of the decedent shall first be subject to a Probate action and a Final Probate Decree must be issued by the Court, prior to loan closing.

**7.9 Surveys.** The NMHC and the Bank, in its discretion, may require a survey of the property upon which a principal residence will be constructed, purchased, improved or refinanced, if the last survey was performed more than two (2) years prior to the date of application for the Program Loan. The survey must determine the exact location, size and shape of the property to be mortgaged. The survey work must be done by a Registered Surveyor, duly licensed in the Commonwealth. The survey map must be approved by the Division of Lands and Survey and recorded at the Commonwealth's Recorder's Office, prior to loan closing. The applicant is wholly responsible for the cost of the survey.

**7.10 Appraisals.** Any appraisal required under these regulations is subject to review by, and the approval of, the NMHC and the Bank. The NMHC and the Bank may require that an appraisal be obtained from an approved list of Registered

Appraisers, duly licensed in the Commonwealth, maintained by the NMHC and the Bank. Such a list may include the appraisers approved for listing by Federal Housing Administration.

**7.11 Criteria for Surveyors, Appraisers, Contractors and Architects.** In order to develop a qualified list of surveyors, appraisers, contractors and architects, the Board of Directors may solicit a Statement of Interest from the general public, and shall require these individuals or firms to:

- a. Be duly licensed to do business in the Commonwealth;
- b. Have been in business for the last three (3) years immediately prior to being selected for a project under a Home Loan; except that for contractors whose principal place of business is on the island of Rota or Tinian, such contractors must have been in business for at least one (1) year immediately prior to being selected for a project under these regulations; or have at least three (3) years of experience as an appraiser, surveyor, architect or contractor.
- c. In the case of contractors, have constructed a minimum of six (6) residences within the last ten (10) years, one of which was worth at least Eight Thousand (\$80,000.00) dollars;
- d. Be able to provide a list of projects completed and a short client list;
- e. Be insured against legal liability; and,
- f. All contractors must secure a performance bond as required under Part 12, Section 12.5 of these Home Loan Regulations; and

- g. Any surveyor, appraiser or architect who performs services under these regulations must be certified and licensed as required by Commonwealth law or as provided by the CNMI Board of Professional Licensing.

**PART 8. CREDIT REVIEW**

**8.1 Credit and Payment Ability**

- a. Creditworthiness. NMHC and the Bank shall each be responsible for determining the creditworthiness of each applicant who applies to for a program loan. In making that determination, NMHC and the Bank shall separately and independently take into consideration:

- (1) The applicant's monthly debt payment to income ratio;
- (2) The applicant's credit reputation; and,
- (3) Any other factor considered by a prudent lender.

- b. Underwriting Guidelines: Monthly Mortgage Payment to Income Ratio.

As a general rule:

- (1) NMHC and the Bank shall require that the applicant's monthly mortgage payment does not exceed twenty-five (25%) percent of the applicant's stable monthly income less any monthly debt payments.
- (2) As used in this section, the term "Monthly mortgage payments" shall include, as applicable, the first mortgage payment,

mortgage or life insurance payments, hazard and flood insurance payments, lease rents, property taxes, and monthly dues for common element/property charges and maintenance, but excluding dwelling unit utility charges for condominiums and property with similar dues and charges.

- (3) As used in this section, the term "Monthly debt payment" shall include all monthly payments on installment debts having a remaining term of one year or more. Secondary financing for the subject property, mortgage loan payment for other properties, alimony, child support, and separate maintenance payments shall be considered installment debts, unless the obligations terminate within one year.
- (4) As used in this section, the term "Stable monthly income" is the applicant's gross monthly income from the applicant's primary employment based earnings, which may include SSI, Social Security, Retirement Pension plus recognizable secondary income averaged for the past 12 months. Secondary income of the applicant, such as rental income, overtime or part time employment may be included in stable monthly income only if those items of secondary income are substantiated by written evidence of the applicant's previous year's earnings and that the continuation thereof is highly

probable. Interest and dividends may be considered if substantiated by written evidence and averaged for the past two years. Rental income for the subject property may be considered if substantiated by written evidence.

(5) If the applicant chooses to disclose income from alimony, child support, or maintenance payments, NMHC and the Bank may consider these payments as income to the extent that they are likely to be consistently made. Factors which the lender may consider in making that determination include, but shall not be limited to:

- (i) Whether the payments are received pursuant to written agreement or court decree;
- (ii) The length of time the payments have been received;
- (iii) The regularity of payments;
- (iv) The availability of procedures to compel payment;
- (v) Whether full or partial payments have been made;
- (vi) The age of any child; and,
- (vii) The creditworthiness of the payor, including the credit history of the payor where available to the lender under the Fair Credit Reporting Act (15 USC §§1681-1681(t)) or other applicable laws. The lender shall submit to NMHC and the Bank evidence to support their determination.

- (6) Factors such as expected pay increases under mandatory contract terms, education, training, technical skills, occupation, potential or expected pay increases, past employment history, and future employment expectations may be taken into account on a case-by-case basis in determining stable monthly income.
- (7) Income necessary to qualify the borrower from sources not substantiated in the credit report shall be verified in writing from a reliable source.
- (8) When the borrower is self-employed, the minimum acceptable documentation to verify income shall be the:
  - (i) Profit and loss statements for the prior two (2) years, which should include the last statement covering the year before the applicant's date of application; and/or,
  - (ii) Tax returns for the previous two (2) years.
- (9) If the applicant does not qualify for the loan under the above credit underwriting guidelines described in this Part, and upon recommendation by the participating Lender, NMHC may consider making on a case-by-case basis, a loan with no more than two (2) personal guarantors, endorsers or other co-signers. The guarantee, endorsement, or agreement shall not be qualified or limited in any manner. All credit underwriting

standards shall apply to the credit evaluation of a guarantor, endorser, or co-signer. The monthly mortgage payment shall not exceed fifty (50%) percent of the combined stable monthly income of the applicant, the guarantor, endorser or co-signer less any monthly debt payments. In addition, the applicant's monthly mortgage payment shall not exceed thirty (30%) percent of the applicant's stable monthly income less any monthly debt payments.

(10) If an applicant has guaranteed, endorsed or co-signed for an existing Home Loan, and is applying for his own Home Loan, the mortgage loan payment for both loans shall not exceed thirty (30%) percent of the applicants stable monthly income less any monthly debt payments.

c. Determination of Creditworthiness. Should either NMHC or the Bank determine that the applicant does not qualify to borrow the amount that the applicant has sought, the loan shall not be approved. The applicant may, however, apply for a lesser amount or address deficiencies noted in the application, and reseek approval.

**8.2 Program Loan Amounts.** No program loan secured by this Loan Agreement shall exceed the lesser of:

- (1) \$200,000.00 in principal, or a lesser amount set by NMHC; or
- (2) Ninety (90%) percent of the lesser of the purchase price or the

appraised value of the real estate and improvements mortgaged to secure it, up to a maximum of \$200,000 in principal; or

- (3) Eighty (80%) percent of the appraised value of the unimproved real property plus the total construction costs, for either a Construction Loan or Home Improvement Loan, up to a maximum amount of \$200,000 in principal.

All loans shall be further secured by a life or mortgage protection insurance policy naming NMHC as the primary beneficiary to the extent of the Borrower's current balance remaining unpaid. The life or mortgage insurance protection shall be obtained from an insurer acceptable to the NMHC and the Bank and shall insure or guarantee against the Borrower default or loss sufficient, in case of death of the Borrower, to cover the balance of the loan at the time of the Borrower's death. The life or mortgage protection insurance coverage shall remain in force until the loan is paid off. Proof of acceptable insurance must be submitted to NMHC prior to the closing of the home loan. The Borrower shall pay for the premiums for the insurance. A copy of proof of payment of the insurance policy required under this section shall be submitted to NMHC after approval of the Program Loan and prior to the release of the loan proceeds.

Borrower shall maintain, at its expense mortgage protection or life insurance coverage for the total outstanding loan until the loan is paid in full. Should Borrower fail to maintain such an insurance, then the NMHC and the Bank may do so on behalf of and as agent of Borrower, but the NMHC and the Bank are not obligated to do so. Any and all amounts expended by the NMHC and the Bank to

procure and maintain such insurance shall be added onto the Principal balance with interest accruing thereon at the same rate of interest applicable to the loan. NMHC shall be named as the loss payee.

## **PART 9. SECONDARY FINANCING**

**9.1 Secondary Financing.** The Borrower may not engage in secondary financing of the home subject to the Home Loan, except with the prior written consent of NMHC and the Bank. The Borrower may not execute or permit any further lien on the mortgaged real property. NMHC shall ensure that all Home Loans are subject to this restriction.

## **PART 10. SECURITY FOR PROGRAM LOANS**

**10.1 Title Insurance Required.** Each Home Loan shall be covered by a title insurance policy on the current standard American Land Title Association (ALTA) form issued by a title insurer licensed to do business in the Commonwealth of the Northern Mariana Islands prior to loan closing.

**10.2 Amount of Coverage.** The amount of title insurance coverage shall be at least equal to or higher than the amount of the loan, and the primary beneficiary shall be NMHC to the extent of the balance of the loan. The policy shall insure against any mechanics' and materialmen's liens.

**10.3 Other Insurance Coverage.** The mortgaged property shall be covered for fire, typhoon and extended coverage insurance equal to the full replacement costs of the improvements on the mortgaged property without deduction for depreciation. NMHC shall be named as the primary loss payee on these policies.

**10.4 Collateral Required.**

- a. All Program Loans shall be secured by a first mortgage on unencumbered improved real property owned in fee simple or leased for a term in excess of two (2) times the loan term.
- b. All Program Loans shall be subject to a Deed of Trust, conveying the mortgaged interest (fee simple or leasehold) to NMHC.
- c. For purposes of this section, "improved real property" is unencumbered notwithstanding the existence of:
  - (1) Instruments reserving mineral, oil, timber, or similar rights, rights of way, sewer rights, rights in walls, and other easement rights;
  - (2) Any liens for taxes or assessments not yet due;
  - (3) Liens not delinquent for community recreation facilities or for the maintenance of community facilities;
  - (4) Building restrictions or other restrictive covenants common to the community in which the property is located; and
  - (5) Liens for service and maintenance of water rights where not delinquent.

**10.5 Construction Insurance or Performance and Payment Bond.** T h e NMHC and the Bank shall require that the contractor secure insurance coverage in an amount equal to the total construction loan to protect against Builder's risk, Performance and Payment Bond, and Workmen's Compensation during the entire term of the construction period. The effective date of the policies will commence on the date the Notice to Proceed is issued by the Borrower. The contractor shall name the NMHC and the Bank as the Primary Loss Payee up to the amount of funds already disbursed, plus any applicable interest. Any proceeds recovered under the policies secured pursuant to this section in excess of the amount to be paid to the NMHC or the Bank, shall be paid to the contractor.

**PART 11. LIMITATION ON USE AND ENFORCEMENT**

**11.1 Only Home Loans Permitted.** The proceeds of this Loan shall be used solely to secure home loans. In no event shall the funds be used to pay off or retire any indebtedness of NMHC, including without limitation all loans and advances made to NMHC and all of the obligations and liabilities of NMHC, whether now existing or hereafter incurred or created, whether voluntary or involuntary, whether due or not due, whether absolute or contingent, or whether incurred directly or acquired by NMHC by assignment or otherwise. Any deviation from the limited purpose for which this loan is made will constitute a material breach of the Loan Agreement, entitling MPLT to the return of the Collateral Account, all interest accrued, and to all proceeds or profits received by NMHC or any one else arising

out of the improper use of the funds provided for under this Agreement, plus all other rights and remedies that MPLT might have at equity and in law. Interest earned on the Home Loans above the interest due to Lender may be used by NMHC to meet the administrative costs of the programs.

## **PART 12 . LOAN CHARGES AND FEES**

### **12.1 Interest Rate:**

- a. The Board shall set the interest rate for Home Loan mortgages. The minimum interest rate for The Standard Loan Program and for the Home Improvement Loan Program shall be eight (8%) percent. The interest rate for the Low Income Home Loan Program shall be a maximum of six (6%) percent.

### **12.2 Allowable Loan Charges: Prepayment Penalties:**

- a. The NMHC may require the borrower to pay all reasonable fees and charges ordinarily charged to and paid by a borrower for a loan, except:
  - (1) For the loan origination fee, the lender may charge 0.5% of the loan amount for the very low income level; 1% of the loan amount for the low income level; and, 2% of the loan amount for the moderate income level.
  - (2) At loan closing, the Borrower will have to pay loan closing costs. The loan closing costs may be financed if the Borrower demonstrates a need or a lack of funds thereof.

- b. The NMHC and the Lender may charge an application fee not to exceed \$50.00 when the application is made. The application fee shall be credited towards the closing costs if the loan is made. If the loan fails approval, or the Borrower cancels the loan application prior to approval, the deposit fee will not be returned to the applicant.
- c. The lender may charge the Borrower for services rendered as follows:

- (1) Credit Report Fee : Actual cost
- (2) Title Insurance Fee : Actual cost
- (3) Appraisal Report Fee : Actual cost
- (4) Recordation Fee : Actual cost
- (5) Late Payment Fee : Three (3%)

A late payment charge shall be assessed in the event an installment payment is not made within fifteen (15) days after the due date of the installment at the rate of three (3%) percent of the amount of the installment due.

- (6) Returned check processing Fee: \$25.00  
per occurrence.

**PART 13. TERM OF LOANS**

**13.1 Repayment Period.** The term of any Home Loan shall not exceed thirty (30) years or any lesser period the Board may in its sole discretion determine to be appropriate upon consideration of the character and economic life of the property securing the loan. There shall be no minimum repayment period requirement.

**13.2 Interest Payment.** Monthly interest installments based upon the disbursed amount(s) shall be due and payable on the first (1st) day of the month following the date of the Execution of the Note and on the first (1st) day of each month thereafter.

**13.3 Payment of Principal and Interest.** The first monthly installments of the principal and interest will begin and be payable thirty (30) days after all construction work is satisfactorily completed. Payments made will first be applied against accrued interest and then against the principal amount. If the Borrower demonstrates a need or a lack of funds thereof, the loan closing costs may be financed and must be satisfied before any payments will be applied against accrued interest and then against the principal amount.

#### **PART 14. LOAN CLOSING**

**14.1 Expiration of Commitment Letter.** An approved client has thirty (30) days from the date of their acknowledgment of the approval letter to close the loan.

**14.2 Pre-Construction Conference.** Before the commencement of the construction, an approved client with their construction inspector and their contractor, including NMHC, will hold a Pre-Construction Conference to discuss the scope of work, payment schedule and the terms and conditions of the Construction Contract.

**14.3 Homeowner Counseling.** Counseling can help families maintain ownership of their homes over the long term. A staff from NMHC will hold a Home Owner Counseling session with a newly-approved client to discuss the terms and conditions of their approved loan and to educate homeowners about their ongoing responsibilities of home ownership.

#### **PART 15. ASSIGNMENT AND TRANSFER OF MORTGAGED PROPERTY**

##### **15.1 Sale or Transfer of Mortgaged Property.**

- a. Every mortgage shall contain a due-on-sale clause giving NMHC the right to require the Borrower to make immediate payment in full of the

entire indebtedness secured by the mortgage if the Borrower sells, transfers, leases, subleases, or assigns all or part of the interest in real property securing a Home Loan, including any equitable or beneficial interest, without first obtaining NMHC's prior written consent.

- b. The due-on-sale clause shall be fully effective as to any sale, lease, transfer or assignment of interest in the mortgaged trust property by any trustee, or the sale, lease, transfer or assignment of the Borrower's equitable or beneficial interest in the property, without the prior written consent of NMHC.

**15.2 Consent by NMHC.**

- a. NMHC's consent shall be subject to the Home Loan Program Policy in effect on the date a request for consent is received by NMHC.
- b. NMHC's right to require the Borrower or the trustee to make payment in full with respect to the sale, lease, transfer or assignment shall be subject to any applicable laws which restrict or prohibit NMHC from its exercise of this right.
- c. NMHC shall not unreasonably withhold its consent to the Borrower's sale, lease, transfer or assignment of the mortgaged property by agreement of sale, provided:
  - (1) NMHC's mortgage priority is not in any way affected by the sale, lease, transfer or assignment;

- (2) the Borrower has not been and is not in default of the loan or has not broken any promises made in obtaining the loan;
- (3) has notified NMHC within a reasonable time of the proposed transaction;
- (4) the Borrower agrees to pay or reimburse the lender, participating services, or NMHC, as the case may be, for all costs or expenses, including reasonable attorney's fees and consent fees incurred to review the proposed transaction and draft documents;
- (5) the Borrower agrees to acknowledge that NMHC shall not consent to any assumption of the loan or to any further sale, lease, transfer or assignment of the mortgaged property;
- (6) the Borrower agrees to acknowledge that as a condition for NMHC's consent, the buyer or lessee shall sign a certification of occupancy in which the lessee or buyer represents and agrees to occupy and use the mortgaged property as a principal home for the entire term of the loan;
- (7) the Borrower agrees to sign the documents as may be necessary, including a loan modification agreement;
- (8) the Borrower agrees to give assurances as the participating lender or services may require to protect NMHC's lien priority in the mortgaged property;

- (9) the Borrower agrees to pay a higher rate of interest to be set by the Board, in its sole discretion, should NMHC's risk of loss increase as a result of the transfer.
- d. If any of the conditions described in subsection (c) of this section require the Borrower to pay an interest rate or finance charge which would exceed the highest rate permitted by law, then the Borrower's obligation to pay interest or finance charge shall be limited to the highest rate permitted by law, so that the borrower is not obligated to pay any interest or finance charge which would result in the payment of interest or finance charge in excess of the limit so permitted.

## **PART 16. ASSUMPTION AND EARLY PAY OFF OF LOAN**

**16.1 Assumption of Loan: Prohibition.** No assumption shall be allowed of any loan without the prior pre-approval of the Board, and conditioned on the qualification of the party seeking to assume the loan to have qualified as a new applicant.

**16.2 Early Pay Off.** There shall be no prohibition, fee, charge or penalty for the early pay off of the Home Loan.

**16.3 Death of Borrower.** Upon the death of the Borrower, the entire unpaid balance of the loan shall be immediately due and payable. The Board may allow assumption of the loan by the heirs of the Borrower if a final decree in

the probate of the Borrower identifies the heirs and approves distribution to them of the improved property and the loan, and if the heirs themselves would qualify as a new applicant for the loan.

## **PART 17. SANCTIONS AND FORECLOSURE**

### **17.1 Sanctions.**

- a. The applicant shall sign the application for a mortgage loan. By doing so, the applicant shall be considered to have verified the truth of all statements made in the application.
- b. If the applicant or Borrower makes any false or untrue statement, intentionally or otherwise, for a mortgage loan, NMHC may, after providing the opportunity for a hearing in accordance with the Administrative Procedures Act, 1 CMC §9108, et. seq., determine that:
  - (1) the applicant or Borrower shall not be eligible for a Home Loan for a period up to ten (10) years after the date NMHC actually learns or discovers the false or untrue statement.
  - (2) If NMHC has already made the mortgage loan to the applicant or Borrower, such applicant or Borrower shall not be eligible for another mortgage loan for ten (10) years, and the loan already made by NMHC shall immediately become due and payable in full, for which NMHC shall demand full payment thereof.

- c. The Borrower shall be required to make immediate payment in full of all sums secured by the mortgage if the Borrower fails to fulfill any promise for a mortgage or with respect to a mortgage loan or makes or has made false statement(s) to qualify or be eligible for a mortgage loan or with respect to a mortgage loan under the Home Loan Program.

**17.2 Foreclosure.** NMHC shall comply with such foreclosure restrictions as are established by applicable law.

**17.3 Foreclosure of Home Loans.** NMHC shall comply with the following:

- a. When an account is three (3) or more payments delinquent or has otherwise become a service problem, the Bank will provide a formal notice to NMHC. Upon being notified, NMHC has the option to pay the account to current and work directly with the applicant(s) in an effort to resolve the problem. In doing so, the applicant(s) will be advised, if applicable, of the possibility of moratorium, and provisions of work out agreement. If such counseling fails, NMHC will, with the continuing assistance of the Bank, work toward resolving the problems by such other means as assisting the applicant(s) to enter into agreements with the Bank to sell or transfer the property to another eligible Home Loan Applicant, or to transfer the property under eligible terms.

- b. If a satisfactory resolution is not reached, the account will be accelerated and after all appeals have been exhausted and completed with the Bank, NMHC will be notified by a Formal Demand Letter of the action taken. The Formal Demand Letter must be hand delivered and acknowledged by the NMHC main office located in Garapan, Saipan. Within 90 days of receipt of the Formal Demand Letter, the debt will be paid in full by NMHC. The Bank will then assign the Promissory Note and the Deed of Trust to NMHC for Foreclosure Action.
- c. The NMHC shall comply with such Foreclosure restrictions as are established by applicable law.

## **PART 18. MINIMUM STANDARDS FOR PROFESSIONALS**

**18.1 Pre-Qualified List.** All professionals who seek to be paid out of proceeds from Program Loans, or provide their services in connection with the loan approval process, including without limitation, Accountants, Architects, Attorneys, Appraisers, Contractors, Engineers, Insurers, Lenders and Surveyors, must meet certain minimum requirements of qualification before payment for their services, or reliance on their opinions will be permitted. The Borrower shall cause to be published a request for proposals from professionals, setting forth the minimum requirements, and from the responses, create a pre-qualified list. At any time, professionals may submit their qualifications and request inclusion on the list.

**18.2 Universal Minimum Standards.** All professionals must meet the following minimum requirements, plus what ever additional requirements the Borrower may impose, before they may submit themselves for inclusion on the pre-qualified list:

- a. Commonwealth business license having been issued at least two (2) years in advance of the request for inclusion on the pre-qualified list;
- b. Professional licensing from the relevant professional society, issued at least two (2) years in advance of submission to be included in the pre-qualified list;
- c. A client list of customers from the Commonwealth who can attest to the quality of the professional's work; and
- d. Other proof of the ability of the professional to perform.

**18.3 Special Requirement for Construction.** In addition to the universal minimum requirements, plus additional requirements that may be imposed by the Borrower, all general contractors who seek to perform work on residences that will be paid for from the proceeds of Program Loans must:

- a. Have constructed at least six (6) residences within the last ten (10) years;
- b. Have constructed a residence worth at least \$80,000.00;
- c. Have bonding for at least three (3) months salary for all contract workers, as well as proof of workers compensation insurance, and bonding that would satisfy the requirements of PART 7, Section 7.5 of this Home Loan Regulations;

- d. Be able to provide a list of projects completed and a client list;
- e. The NMHC Board and the Bank may waive the requirements set forth in subparagraphs (a), (b) and (d) of this section for good cause, and if to do so is appropriate under the circumstances; and
- f. All contractors must secure a Performance and Payment Bond, Builder's Risk and Workmen's Compensation.

## **PART 19. PROOF OF OCCUPANCY**

**19.1 Affidavit of Occupancy.** Consistent with the purpose and objectives of the Home Loan Program, every applicant who will reside on the Mortgaged property applying for a Home Loan shall file with NMHC an affidavit or declaration under penalty of perjury stating that:

- a. The applicant will occupy the mortgaged property as the applicant's principal place of abode within forty-five (45) days after the date of closing of the loan where an existing structure of residence is acquired, or within forty-five (45) days after notice from the Contractor that the residence is ready for occupancy;
- b. The applicant will occupy the residence as a principal place of abode continuously for the entire loan term. In the event the applicant sells, leases, rents, assigns or conveys any interest to the property for any period exceeding one year, including

options and rights of renewal, then all indebtedness owing by and chargeable to the applicant shall become immediately due and payable in accordance with the terms of these regulations, unless the Board agrees to allow assumption of the loan by the new owner, or transfer of the loan security to the Borrower's new residence. In no event will assumption or transfer be allowed unless the assuming party or the new security would have qualified itself in the first instance for a loan under the applicable program;

- c. If the applicant fails to comply with this section, any and all indebtedness owing by and chargeable to the applicant by way of a mortgage loan made on the basis of the application filed in connection with the loan shall become immediately due and payable in full, unless for good cause shown, the period to initially occupy the premises is extended by NMHC in writing, or the failure of the applicant to remain on the premises for the required minimum number of years is waived.

## **PART 20. RECONSIDERATION OF LOAN APPLICATION**

### **20.1 Request for Review of NMHC Rejection**

- a. If an application for a loan is not approved by NMHC, the applicant may request the Board, in writing, to review and reconsider any

decision or determination relating to the application.

- b. A Borrower under an existing Home Loan may request the Board to review or reconsider any decision or determination relating to the loan.
- c. The request for review and reconsideration shall be in writing, and shall be filed with NMHC within thirty (30) days after receipt of the notice of disapproval, and shall contain a statement of the facts and include copies of all documents upon which the applicant or Borrower relies in support of the request for review. The Board may appoint a hearing officer from among its members to conduct such a review.
- d. The Board may request the submission of additional information or documents and may request the applicant or Borrower to appear at a specified place, date and time to submit oral testimony in support of the request for review.
- c. All requests for review shall be governed by the Administration Procedures Act (APA).

**20.2 Request for Review of Lender Rejection.** Where the applicant is rejected by the participating Lender and not NMHC, no review of the rejection shall be available to the applicant. However, NMHC may submit the application to another participating Lender at the applicant's request, and if the other participating Lender approves the application, the loan may still be made.

## **PART 21. GENERAL PROVISIONS**

**21.1 Headings.** Headings or titles of sections contained herein are for convenience and shall not be used in construction or application of any section contained herein.

**21.2 Severability.** If any part or section of these regulations are found to be invalid by a court of competent jurisdiction, all valid portions that are severable shall remain in effect. If a part or section hereof is invalid in one or more of its applications, that part remains in effect in all valid applications that are severable from its invalid applications.

**21.3 Effective Date.** The effective date of these regulations shall be pursuant to 1 CMC §9105(b).

**APPENDIX A**  
**STANDARD HOME LOAN PROGRAM**

- A. Maximum Loan Amount - \_\_\_\_\_  
(\$ \_\_\_\_\_).
- B. Applicable Interest Rate - \_\_\_\_\_  
percent (\_\_\_\_\_ %).
- C. Applicable Uses:
1. Home purchase.
  2. Home construction
  3. Existing home loan refinance.
- D. Qualifying Criteria:
1. CNMI Resident of Northern Mariana Islands descent.
  2. Creditworthiness (loan payments may not exceed \_\_\_\_\_ percent  
(\_\_\_\_\_ %) of disposable income).
    - a. Ownership in fee simple; or
    - b. Proposed ownership in fee simple of the property.
- E. Equity Required:

1. Home Purchase-payment by the Borrower equivalent to at least \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the total purchase price.
2. Home Construction:
  - a. Equity in the unimproved land of at least \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the total land value (except where Homestead property is used); and
  - b. Payment by the Borrower toward the construction costs so that the total equity upon completion of the home is equal to \_\_\_\_\_ percent ( \_\_\_\_\_ %).

F. Special Restriction:           None

1. Married with children.
2. Single Parent with children.

## APPENDIX B

### LOW INCOME HOME LOAN PROGRAM

- A. Maximum Loan Amount - \_\_\_\_\_  
(\$\_\_\_\_\_).
- B. Applicable Interest Rate - Six percent (6%).
- C. Applicable Uses:
1. Home purchase.
  2. Home construction
  3. Existing home loan refinance.
- D. Qualifying Criteria:
1. CNMI Resident of Northern Mariana Islands descent.
  2. Creditworthiness (loan payments may not exceed \_\_\_\_\_ percent  
(\_\_\_\_\_) of disposable income)
  3. (a) Ownership in fee simple; or  
(b) Proposed ownership in fee simple of the property.
- E. Equity Required:

1. Home Purchase - payment by the Borrower equivalent to at least \_\_\_\_\_ percent (\_\_\_\_%) of the total purchase price.
2. Home Construction:
  - a. Equity in the unimproved land of at least \_\_\_\_\_ percent (\_\_\_\_%) of the total land value (except where homestead property is used); and
  - b. Payment by the Borrower toward the construction costs so that the total equity upon completion of the home is equal to \_\_\_\_\_ percent (\_\_\_\_%).

F. Special Restrictions:

1. Combined family income not in excess of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per year.
2. Married with children.
3. Single Parent with children.

## APPENDIX C

### HOME IMPROVEMENT LOAN PROGRAM

- A. Maximum Loan Amount - \_\_\_\_\_  
(\$ \_\_\_\_\_).
- B. Applicable Interest Rate - \_\_\_\_\_  
percent ( \_\_\_\_\_ %).
- C. Applicable Uses:
1. Room additions.
  2. Replacement of tin roof
- D. Qualifying Criteria:
1. CNMI Resident of the Northern Mariana Islands descent.
  2. Creditworthiness (loan payments may not exceed \_\_\_\_\_ percent ( \_\_\_\_\_ %) of disposable income).
  3. (a) Ownership in fee simple; or  
(b) Proposed ownership in fee simple of the property.
- E. Equity Required:
1. Property including home must be at least \_\_\_\_\_ percent ( \_\_\_\_\_ %) paid for.
  2. Value of improvement to be financed must not exceed \_\_\_\_\_ percent ( \_\_\_\_\_ %) of total value of existing improved property.
- F. Special Restrictions:       None

## Appendix D

### HOUSEHOLD INCOME SCHEDULE

<b>FAMILY SIZE</b>	<b>VERY LOW-</b>	<b>LOW-INCOME</b>	<b>MODERATE</b>
01-person	19,100	29,100	41,850
02-person	21,800	33,300	47,850
03-person	24,500	37,450	53,800
04-person	27,200	41,600	59,800
05-person	29,400	44,950	64,600
06-person	31,600	48,250	69,350
07-person	33,800	51,600	74,150
08-person	36,000	54,900	78,950
09-person	41,050	62,600	90,000
10-person	47,100	71,850	103,300
11-person	54,450	83,050	119,350
12-person	63,300	96,500	138,700
13-person	74,050	112,900	162,300
14-person	87,250	133,000	191,150
15-person	103,500	157,750	226,800



DEPARTMENT OF FINANCE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**PUBLIC NOTICE**

DEPARTMENT OF FINANCE  
PROPOSED CUSTOMS SERVICE REGULATIONS  
NO. 4300

Governor Froilan C. Tenorio and Lt. Governor Jesus C. Borja through the Secretary of the Department of Finance hereby provides public notice of the Proposed Customs Service Regulations No. 4300. The purpose of these regulations is to implement, interpret, prescribe and clarify the policies and procedures required to implement, enforce, and administer the provisions of law administered and enforced by the CNMI Division of Customs Service. Furthermore, these regulations are necessary in light of the amendments made by Public Law No. 9-57, Public Law No. 9-58, Public Law No. 9-59, Public Law No. 10-22 and Public Law No. 10-36. These regulations are promulgated by virtue of the authority and directions given to the Secretary of Finance as set forth in the Commonwealth Code including, but not limited to, 1 CMC §2553, 1 CMC §2557, 4 CMC §1104, 4 CMC §1402 (d), 4 CMC §1425, 4 CMC §1818, and the Commonwealth Administrative Procedures Act, 1 CMC §9101 et seq and pursuant to all other authority and directions set forth in the Commonwealth Code.

The proposed regulations are published in the Commonwealth Register. Copies of the proposed regulations may be obtained from the Office of the Secretary of Finance, Capitol Hill, P.O. Box 5234, CHRB, Saipan, MP 96950.

Anyone interested in commenting on these regulations may do so in writing addressed to the Secretary of Finance, Commonwealth of the Northern Mariana Islands, at the above-referenced address not later than thirty (30) days from the date of its publication in the Commonwealth Register.

Issued by:  12-12-96  
GABRIEL DLC. CAMACHO Date  
Secretary of Finance (Acting)

Received by:  12/13/96  
DONNA J. CRUZ Date

Filed and Recorded by:  12/13/96  
SOLEDAD B. SASAMOTO Date  
Registrar of Corporations



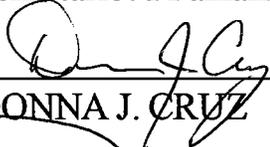
**DEPARTMENT OF FINANCE**  
**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**  
**NUTISIAN PUBLIKU**

**DEPARTAMENTON FAINANSIAT**  
**I MAPRUPONI SIHA NA REGULASION I SETBISION CUSTOMS**  
**NUMERU 4300**

Si magalahi as Froilan C. Tenorio yan i segundo magalahi as Jesus C. Borja ginen i Sekretarian i Depattamenton i Fainansiat ha na guahahayi nutisian publiko pot i mapruponi an Regulasion i Setbision Customs Numeru 4300. I propositum este siha na regulasion pot para uma implementa, intetpeti, preskribi yan mana klaru huyong areklamento yan direksion nu debi u guaha para uma implementa, enfuetsa, yan administra probision lai siha nu i ma administra nu i Dibision Setbision Customs gi halom i CNMI. Pot mas, este siha na regulasion man nesesario sa pot i amendasion siha ni manma fatinas nu i lai Publiko Numero 9-57, Publiko Numero 9-58, Publiko Numero 9-59, Publiko Numero 10-22 yan Publiko Numero 10-36. Este siha na regulasion manma fatinas segun i aturidat yan diriksion mana'e i Sekretarian i Fainansiat komo gaige gi Commonwealth Code kun tod, lao ti ayuha'i, 1CMC §2553, 1 CMC §2557, 4 CMC §1104, 4 CMC §1402(d), 4CMC §1425, 4 CMC §1818, yan i Commonwealth Administrative Procedures Act, 1 CMC §9101 yan segenti siha.

I mapruponi na regulasion manma publika huyong gi Rehistran i Commonwealth, yan hayi interesao na petsona sina manule kopia ginen i Ofisinan i Sekretarian i Fainansiat, Capitol Hill, P.O. Box 5234, CHRB, Saipan, MP 96950.

Hayi interesao mamatinas komentu pot i mapruponi siha na regulasion sina ha hatugi papa ya una halom guato gi Sekretarian i Fainansiat gi address na a anuk gi sanhilo, ti u mas di trenta (30) dias despues di malaknos este na nutrisia gi halom i Rehistran i Commonwealth.

Linaknos:	 <hr/> <b>GABRIEL DLC. CAMACHO</b> Sekretariot I Fainansiat (Acting)	<u>12-12-96</u> Fecha
Kinenfotma as::	 <hr/> <b>DONNA J. CRUZ</b>	<u>12/13/96</u> Fecha
Ma File yan Marisibe as:	 <hr/> <b>SOLEDAD B. SASMOTO</b> Registrar of Corporation	<u>12/13/96</u> Fecha



**DEPARTMENT OF FINANCE**  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**CERTIFICATION**

DEPARTMENT OF FINANCE

PROPOSED CUSTOMS SERVICE REGULATIONS

NO. 4300

I, Gabriel DLC. Camacho, Acting Secretary of the Department of Finance who is publishing these Proposed Customs Service Regulations No. 4300, by signature below hereby certifies that the Proposed Customs Service Regulations is a true, correct, and complete copy of the regulations proposed by the Department of Finance. I further request and direct that this certification and the Proposed Customs Service Regulations No. 4300 be published in the Commonwealth Register.

I declare under penalties of perjury that the foregoing is true and correct and that this declaration was executed on the 12<sup>th</sup> day of December, 1996, at Saipan, Commonwealth of the Northern Mariana Islands.

GABRIEL DLC. CAMACHO  
Secretary of Finance (Acting)

**DEPARTMENT OF FINANCE  
CUSTOMS SERVICE REGULATIONS**

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## **Part I**

### **Section 4300 - General Provisions**

#### **Section 4300.1.      Authority.**

The authority for the promulgation and issuance of Customs Service Regulations No. 4300 is by virtue of the authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §2553, 1 CMC §2557, 4 CMC §1104, 4 CMC §1402(d), 4 CMC §1425 and 4 CMC §1818.

#### **Section 4300.2.      Purpose.**

The purpose of the Customs Service Regulations No. 4300 is to establish policy and procedures to implement and provide uniform enforcement of the laws of the Commonwealth of the Northern Mariana Islands administered by the Division of Customs Service; to require complete customs service to control imports of all articles, wares, or merchandise for the assessment and collection of taxes; and for the interception of harmful elements and other contraband.

#### **Section 4300.3.      Regulations Superseded.**

Except for §1302.33(e)(1) of Customs Service Regulations No. 1300, Customs Service Regulations No. 4300 supersedes all rules and regulations issued by the CNMI Department of Finance and/or the CNMI Customs Service Division which were published prior to the adoption of Customs Service Regulations No. 4300 which pertain to taxes, fees, and all other laws administered by the Customs Service Division including those rules and regulations issued under Customs Service Regulations No. 1300, Customs Service Regulations No. 9101, Customs Service Regulations No. 3300 and all amendments thereto.

**Section 4300.4. Customs Service.**

(a) Administration and Enforcement. The Customs Service Division of the Commonwealth of the Northern Mariana Islands shall consist of trained men and women under the supervision of the Director of Customs Service Division. Almost all of the men and women under the supervision of the Director of Customs Service Division have been trained or are in the process of being trained at the Northern Marianas College Police Academy or have received equivalent training in the military, in college or police type academy. Men and women of the Customs Service are law enforcement officers who are engaged in the enforcement of the excise tax laws, the Commonwealth Controlled Substances Act, the Weapons Control Act, the Anti-Drug Abuse Act of 1991, and other local and federal laws enforced at the ports of entry; and in the interception of other contraband, such as items quarantined by law.

(b) Other Government Agencies. By agreement, the Director of Customs Service Division may utilize the personnel services and facilities of other agencies of the Commonwealth Government of the Northern Mariana Islands or other government agencies including the federal government for proper enforcement of excise tax laws, other laws enforced at the ports of entry, and these and other related regulations.

**Section 4300.5. Function.**

The Customs Service Division of the Commonwealth of the Northern Mariana Islands shall administer and enforce all taxes and fees imposed by Chapter 4, Division 1, of Title 4 of the Commonwealth Code and shall intercept illicit imports of narcotics, nonregistered weapons, and other contraband at the ports of entry. The Customs Service Division is hereby authorized to develop procedures and policies, including procedures and policies for the purpose of conducting searches on individuals, not covered by these Regulations, necessary for the proper functioning of the Customs Service. All monies due pursuant to Chapter 4, Division 1, of Title 4 of the Commonwealth Code shall be collected by the Customs Service Division and be deposited with the Treasurer of the Commonwealth Government.

**Section 4300.6. Uniforms and Identification.**

(a) **Badge.** Unless otherwise directed by the Director, all Customs Service personnel must wear metal badges during working hours, and while on official duty. Badges shall be issued by the Customs Service Division, upon assignment of personnel.

(b) **Uniform.** Unless otherwise directed by the Director, all Customs Service personnel are required to wear the official customs uniform during working hours and while on official duty. The color and design of the uniform shall be prescribed by the Director.

(c) **Plastic Identification Card.** All employees of the Customs Service Division must wear their plastic identification card during working hours, and while on official duty.

(d) **Interim Identification Card.** Upon initial assignment of new personnel or when an identification card is lost, an interim identification card shall be issued to employees. All bearers of the interim identification card are authorized access to all areas of operations in the central office, district offices, airports, and other ports of entry, except areas which are specifically restricted to certain employees.

(e) **Requirements.** Employees of the Customs Service Division are responsible for the safeguarding and proper use of uniform, badges, and plastic identification cards, and for surrendering them upon termination, or upon request of the Secretary or the Director. Any misuse, counterfeiting, alteration, or reproduction is a violation of law and these regulations. All employees must ensure that uniforms and badges are used only in the performance of their duties.

(f) **In Case of Loss.** All employees must promptly report in writing, the circumstances surrounding the loss of either a Customs Service badge or plastic identification card. Any employee losing his/her badge or plastic identification card will be responsible for compensating the Customs Service Division for the replacement cost if the loss was a result of the employee's negligence.

**Section 4300.7. Restrictions.**

No person is authorized to make, duplicate, or alter any patches, badges, identification cards, passes, logos, symbols or emblems employed by the Customs Service Division. Only authorized employees and other authorized individuals may use, possess, or process any

patch, badge, identification card, pass symbol, or emblem employed by the Customs Service Division.

**Section 4300.8.      Rank.**

(a) All personnel assigned to perform Customs Service duties shall be accorded ranking similar to that used in law enforcement or in the military, in their performance as Customs Service officials. Ranking employees assigned to Customs Service shall be in accordance with their supervisory ability, education, training, professionalism in the enforcement of Customs Service duties and responsibilities, satisfactory work performance and dependability. Length of employment shall not be used as a determining factor in the ranking of personnel. Nothing in this section shall be construed as to relate to the employee's official title during his or her employment with the Division of Customs. "Official Title" in this section shall mean title shown in the employee's current personnel action. In performing Customs Service activities, personnel assigned shall have the working title of a duly commissioned Customs Service Officer. "Working Title" means the title and rank given to Customs Service officials.

(b) All temporary or limited term personnel assigned to perform Customs Service must possess at least eighty (80) hours of practical training and one hundred and twenty (120) hours of classroom instructions in Customs Service or other law or tax enforcement. However, the minimum qualifications in this subsection may be raised pursuant to a procedure established by the Division of Customs, and approved by the Secretary. In appointing supervisors, the appointee must meet at least the minimum requirements for supervisors as established by the Division of Customs. All permanent personnel assigned to perform Customs Service must have been trained at a police academy or have received equivalent training in the military, college, law enforcement or Customs Service.

**Section 4300.9.      Records.**

The Customs Service Division of the Commonwealth of the Northern Mariana Islands shall maintain all records and documents associated with the administration and enforcement of laws enforced and administered by the Customs Service Division. Only authorized employees of the Customs Service Division and other persons authorized by CNMI law shall have access to these records and documents. Except as authorized by law, employees of the Customs Service

Division are not authorized to furnish any information to any person regarding another person's records maintained pursuant to law and these and other related regulations.

**Section 4300.10. Rota and Tinian District Offices.**

The Customs Service Division shall have district offices in Rota and Tinian for its activities in these senatorial districts. The functions of the district operations shall be under the supervision of the Secretary of Finance or his or her designee. Personnel supervision of the district offices shall be under each respective Resident Director of Finance.

**Section 4300.11. Definitions.**

- (a) **Agricultural**: The science and art of farming, work of cultivating the soil, producing crops and raising livestock.
- (b) **Aircraft**: Every description of craft or other contrivance used or capable of being used as a means of transportation for flight in the air.
- (c) **Annual**: Unless the context otherwise requires, means a calendar year.
- (d) **Aviation Fuel**: Aviation gas or other aviation material required in the operation of an aircraft or a machine or structure designed to travel through the air, whether heavier or lighter than air.
- (e) **Betelnut**: The fruit of the betelnut palm, chewed together with lime and leaves of the betel pepper as a mild masticatory stimulant. Betelnut is not classified as a foodstuff, for purposes of Section 1402(a)(2) of Chapter 4 of Title 4 of the Commonwealth Code; it has no nutritional value nor is it necessary for the sustenance of life.
- (f) **Bill of Lading or Air Waybill**: Documents prepared by the operator or agent of a carrier or non-vessel operating common carrier (NVOCC) listing and describing the contents of the cargo carried on a vessel or aircraft consigned to a person. "Bill of Lading" shall also mean "Air Waybill".

(g) **Business:** The term "business" shall have the same meaning as a "trade or business" as that term is applied under §162 of the Northern Marianas Territorial Income Tax; thus, "business" normally means any regular and continuous activity carried on by a person for the purpose of earning income or profit. Except as otherwise provided, an employee shall not be considered as operating a business, and a partnership or a corporation shall be considered as operating a business.

(h) **Calendar Month:** The period extending from the date in one month to the same date in the succeeding month.

(i) **Carrier:** Unless the context requires otherwise, means any description of craft or other contrivance used or capable of being used as a means of transportation on the water or in the air, including pleasure vessels, vessels and non-vessel operating common carriers, and private aircraft.

(j) **Cigarette:** A small roll of finely cut tobacco wrapped in thin paper for smoking and usually having a filter tip.

(k) **Cigarette Labeling:** For purposes of 6 CMC §2301(a)(7), the Importation of Contraband which provides that cigarettes, the package of which fails to bear any warning label which may be required by the United States Federal law in relation to cigarettes for the sale or other distribution within the United States, only the following are acceptable labeling under United States Federal law:

**SURGEON GENERAL'S WARNING:** Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

**SURGEON GENERAL'S WARNING:** Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

**SURGEON GENERAL'S WARNING:** Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

**SURGEON GENERAL'S WARNING:** Cigarette Smoke Contains Carbon Monoxide.

(l) **Consignee:** Person to whom items subject to Chapter 4, Division 1, of Title 4 of the Commonwealth Code are shipped for first sale, use, manufacture, lease, or rental.

(m) **Construction Equipment and Machinery:** Goods used primarily in the construction of a building such as cement mixer, cement trucks, and compactors. "Construction equipment and machinery" does not include equipment and machinery not used primarily in the construction of a building such as pick-up trucks, flat-bed trucks, office equipment, or office machinery.

(n) **Consumer:** A person who receives, purchases, uses, conserves, dissipates or squanders goods and services.

(o) **Cosmetics:** Includes all preparations used as applications to the hair or skin, lipsticks, eye shadows, mascara, pomades, powders, makeup and other preparations not

having medicinal properties or hygienic purposes. "Cosmetics" shall also include hair spray, hair gel, hair jellies, body lotion, and body creams.

(p) **Customs Agent**: Customs Supervisor, Customs Officer, Customs Inspector, Customs Captain, Customs Lieutenant, Customs Major, Customs Technician, and any person authorized to perform the duties of a customs agent including persons employed by another government agency.

(q) **Customs Jurisdiction**: All compounds of all official ports of entry listed in subsection (gg) of this section shall be under the jurisdiction of the Customs Service for clearance purposes in international travel. Customs jurisdiction shall also extend to all U.S. Post Offices located within the CNMI pursuant to agreement between the U.S. Postal Service and the Commonwealth.

(r) **Customs Territory**: The islands and territorial waters which lie within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude, and east of 144° east longitude, as extended by the Marine Sovereignty Act.

(s) **Director**: The Director of the Customs Service Division. Any references to the term "Chief" as used within these Regulations or the laws administered by the Division of Customs is deemed to refer to the Director of the Division of Customs.

(t) **Domestic Travel**: Any travel originating from within the Commonwealth and terminating in the Commonwealth, without transiting or traveling by way of any port outside of the Commonwealth.

(u) **Foodstuff**: Any food which has nutritional value, or is necessary for the sustenance of life, and suitable for human consumption including dairy products, bottled drinking water, fruit or vegetable juices, and any ingredient primarily used in the preparation of food. "Foodstuff" shall include animals only if such animals are imported into the CNMI for the primary purpose of human consumption.

(v) **Gross Vehicle Weight**: The value specified by the manufacturer as the loaded weight of single vehicle.

(w) **Hygiene Products**: Any goods, merchandise or products necessary for the personal health, safety, and cleanliness of an individual except for child care products exempted under §1402(b)(5) of Chapter 4 of Title 4 of the Commonwealth Code. "Hygiene products" shall include toothpaste, shower soap, toilet tissue, shampoo, hair conditioner, deodorant, tooth brush, hair brush, dental floss, women's sanitary napkins or tampax, kleenex. "Hygiene products" shall not include hair spray, hair gels and jellies, papers towels, napkins.

having medicinal properties or hygienic purposes. "Cosmetics" shall also include hair spray, hair gel, hair jellies, body lotion, and body creams.

(p) **Customs Agent**: Customs Supervisor, Customs Officer, Customs Inspector, Customs Captain, Customs Lieutenant, Customs Major, Customs Technician, and any person authorized to perform the duties of a customs agent including persons employed by another government agency.

(q) **Customs Jurisdiction**: All compounds of all official ports of entry listed in subsection (gg) of this section shall be under the jurisdiction of the Customs Service for clearance purposes in international travel. Customs jurisdiction shall also extend to all U.S. Post Offices located within the CNMI pursuant to agreement between the U.S. Postal Service and the Commonwealth.

(r) **Customs Territory**: The islands and territorial waters which lie within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude, and east of 144° east longitude, as extended by the Marine Sovereignty Act.

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(t) **Domestic Travel**: Any travel originating from within the Commonwealth and terminating in the Commonwealth, without transiting or traveling by way of any port outside of the Commonwealth.

(u) **Foodstuff**: Any food which has nutritional value, or is necessary for the sustenance of life, and suitable for human consumption including dairy products, bottled drinking water, fruit or vegetable juices, and any ingredient primarily used in the preparation of food. "Foodstuff" shall include animals only if such animals are imported into the CNMI for the primary purpose of human consumption.

(v) **Gross Vehicle Weight**: The value specified by the manufacturer as the loaded weight of single vehicle.

(w) **Hygiene Products**: Any goods, merchandise or products necessary for the personal health, safety, and cleanliness of an individual except for child care products exempted under §1402(b)(5) of Chapter 4 of Title 4 of the Commonwealth Code. "Hygiene products" shall include toothpaste, shower soap, toilet tissue, shampoo, hair conditioner, deodorant, tooth brush, hair brush, dental floss, women's sanitary napkins or tampons, kleenex. "Hygiene products" shall not include hair spray, hair gels and jellies, papers towels, napkins.

(x) **International Travel**: Any travel originating from within the Commonwealth and terminating at any port outside the Commonwealth, or terminating at a port in the Commonwealth by transiting or traveling by way of any port outside the Commonwealth, or any travel originating from outside of the Commonwealth and terminating at any port in the Commonwealth.

(y) **Jewelry**: All articles made of precious metal or precious or semi-precious stones and capable of being worn for personal adornment. "Jewelry" does not include watches capable of being worn for adornment.

(z) **Leather Goods or Related Products**: 1) Materials consisting of animal skin prepared for use by removing the hair and tanning; or 2) Articles made of fur on the hide, pelts, or any animal skin dressed for use or in which such article has a component fur on the hide, pelts, or any animal skin. "Leather goods or related products" shall not include footwear or watches, containing leather bands capable of being worn for adornment.

(aa) **Liquid Fuel**: All liquids ordinarily, practically and commercially usable in internal combustion for the generation of power and shall include all distillates of, and condensates from petroleum, natural gas, coal, coal tar and vegetable or plant ferments, such distillates and condensates being ordinarily designated as gasoline, butane, naphtha, benzol, benzene, kerosene and alcohol so usable but not restricted to such designation.

(bb) **Manifest**: A summary list of passengers or cargo on board a carrier, unless the context requires otherwise.

(cc) **Manufacture**: The art of making raw material into a product suitable for use, sale, lease, or rental, and includes the technique and methods of converting finished merchandise into another product for use, sale, lease, or rental.

(dd) **Merchandise**: Goods, wares, and chattels of every description and includes merchandise the importation of which is prohibited or restricted.

(ee) **Normal Working Hours/Days**: Except as otherwise provided, the term "normal working hours" or "normal working days" means those established hours or days scheduled by the Director or Secretary, up to maximum of eight (8) hours per day and forty (40) hours per week.

(ff) **NVOCC**: Whenever this abbreviation is used in these Regulations, it means Non-Vessel Operating Common Carrier.

(gg) **Official Customs Port of Entry**: All vessels and aircraft on international travel and authorized entry into the Customs Territory of the Commonwealth must enter and obtain customs clearance from any of the following official Customs ports of entry:

(1) **Saipan**. The primary official Customs ports of entry on the island of Saipan are Tanapag Harbor (Charlie Dock) and Isley Field (Saipan International Airport). The secondary official Customs ports of entry on the island of Saipan are Sugar Dock, Baker Dock, Smiling Cove, and Garapan Fishing Complex. Secondary official Customs ports of entry are authorized points of entry provided twenty-four (24) hour advance notice of such use is made to the Customs Division.

(2) **Rota**. The official Customs ports of entry on the island of Rota are the Harbor (West Dock) and Rota International Airport.

(3) **Tinian**. The official Customs ports of entry on the island of Tinian are the Harbor and West Tinian Airport.

A vessel or aircraft in distress may anchor or land at any port in the Commonwealth but shall immediately notify the nearest Customs Service office for immediate Customs clearance.

(hh) **Person**: Means any individual, firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.

(ii) **Personal and Office Computer Equipment**: Includes only computers and related equipment imported for personal or business use by a consumer. "Personal and Office Computer Equipment" shall not include computers and related equipment imported for the primary purpose of resale.

(jj) **Precious Metals, Precious or Semi-Precious Stones or Related Commodities**: Includes any metal, stone, or related commodity valued for its rarity or appearance such as gold, diamonds, emeralds, rubies, or sapphires not attached or mounted to any article. Precious metals, precious or semi-precious stones will be classified as "Jewelry" if they are attached or mounted to any article.

(kk) **Prescription Drug**: A controlled substance, as identified at schedules I through V of 6 CMC Div. §2113 through §2122, that is obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(ll) **Public Utility**: Any person that owns, controls, operates, or manages a business which supplies or furnishes the public with commodities, equipment, or services such

as telephone, telegraph, electricity, airlines, and shipping lines.

(mm) **Raw Material:** An article or merchandise that is changed in form or substance or combined with other article(s) in a manufacturing process to become a part of a finished product or to form a new product which is produced in a factory.

(nn) **Secretary:** The Secretary of the Department of Finance of the Commonwealth Government.

(oo) **Service:** Unless the context otherwise requires, the Customs Service Division of the Commonwealth.

(pp) **Softdrink:** Any and all readily drinkable carbonated or non-carbonated or non-alcoholic beverage. "Softdrink" shall not include drinkable dairy products, fruit or vegetable juices, bottled drinking water, beverage containing tea or tea products, coffee or coffee products, and those items that are not fixed without mixing with other drinkable products such as fruit punch, concentrate or cocktail mixers.

(qq) **Vessel:** The word "vessel" includes every description of craft or other contrivance used, or capable of being used, as a means of transportation on the water.

(rr) **Watches:** A small timepiece designed to be carried in the pocket or worn on the wrist, as a pendant, etc. Watches brought in by arriving individuals into the CNMI, regardless of value, for personal use will not be taxed.

(ss) **Wine:** Means a beverage for human consumption consisting of the product of the normal alcoholic fermentation of the juice of any fruit or any natural produce and not containing more than 24 percent (24%) alcohol by volume but shall not include any beverage which contains distilled alcohol such as liqueurs, cordials, and similar compounds. "Wine" shall include cooking wines to the extent such cooking wines fit within the above definition.

(tt) **Working Days:** The term "working days" includes holiday work, paid annual and sick leave, and administrative leave.

## Part II

### Section 4301 - Excise Taxes

#### **Section 4301.1. Taxing Provision.**

For the privilege of first sale, use, manufacture, lease or rental of goods, commodities, resources, or merchandise in the Commonwealth for business purposes or for personal use exceeding the value specified in 4 CMC §1402(c), there is imposed an excise tax under 4 CMC §1402(a) of Chapter 4, Division 1 of Title 4 of the Commonwealth Code.

#### **Section 4301.2. Rates**

The excise tax rates currently imposed in accordance with §1402(a) of Chapter 4, Division 1 of Title 4 of the Commonwealth Code, as amended by Public Law No. 9-57 on October 6, 1996 are as follows:

<u>Commodities</u>	<u>Tax Rates</u>
Agricultural Commodities .....	1% Ad Valorem
Beer and Malt Beverage .....	1.67 cents per fluid ounces or fractional equivalent
Boats and Yachts in excess of \$500,000.00 .....	5.75% Ad Valorem
Cigarettes .....	50 cents per 20 cigarettes or fractional equivalent
Construction Equipment Materials and Machinery .....	3% Ad Valorem
Cosmetic .....	17.25% Ad Valorem
Distilled Alcoholic Beverages .....	12 cents per fluid ounces or fractional equivalent

Foodstuff	.....	1 % Ad Valorem
Goods derived locally	.....	1 % Ad Valorem
Hygiene & Toiletries	.....	1 % Ad Valorem
Jewelry	.....	5.75 % Ad Valorem
Leather Goods	.....	5.75 % Ad Valorem
Passenger vehicle not exceeding \$30,000 per unit	.....	5 % Ad Valorem
Passenger vehicle in excess of \$30,000 per unit	.....	5.75 % Ad Valorem
Perfumery	.....	23 % Ad Valorem
Precious metals, precious or semi-precious stones	.....	5.75 % Ad Valorem
Prescription drugs or Medicines	.....	1 % Ad Valorem
Soft Drinks	.....	.05 cents per fluid ounces or fractional equivalent
Tobacco/Tobacco Substitute	.....	50 % Ad Valorem
Wine & Sake	.....	.03 cents per fluid ounces or fractional equivalent
Personal Effects [exceeding the fair market value of \$1,000.00]	.....	5 % Ad Valorem
All Others [not otherwise provided by law]	.....	5 % Ad Valorem

**Section 4301.3. Exemptions**

The following items shall not be subject to the excise tax of §1402(a) of 4 CMC:

- (a) Capital equipment and machinery. Capital equipment and machinery used in businesses primarily engaged in manufacturing in the CNMI for export outside the CNMI with a fair market value exceeding \$1,000 per unit and raw materials used in businesses primarily engaged in manufacturing in the CNMI for export. Customs Service will certify a qualifying business annually at the beginning of each calendar year during the months of January and February, upon application by the business through

the issuance of a certificate to the qualifying business, which is engaged in the CNMI for export outside the CNMI. Application is made to the Director of Customs Service on a form provided by Customs Service. A new business not in existence at the beginning of the calendar year may make application at anytime during the year, but must make application to the Director at least thirty (30) days prior to the importation of capital equipment and machinery qualifying for this exemption. Failure to follow the application procedure may result in the disallowance of this exemption.

(b) Churches. Items brought into the CNMI by churches for the purpose of carrying on the religious functions of the church. Items under this exemption shall include items such as sacramental wine for use in religious rites of a religious organization, and chalice, habits, cassocks, vestments, and other items to be used by a religious order.

(c) Computer. "Personal and office computer equipment" as defined by §4300.11(ii) having a value of less than \$5,000, including CPUs, monitors, keyboards, hard drives, printers and software for the initial installment not individual priced, but not including accessories, floppy disks, or other software;

(d) Display and Promotion. Goods, commodities, resources, or merchandise, documents, educational and business seminar materials brought into the Commonwealth temporarily and solely for the purpose of display, demonstration or promotion and not primarily for the purpose of sale. Any goods, commodities, resources, merchandise documents or seminar materials temporarily imported under this subsection must be entered pursuant to a written application as follows:

(1) Any items temporarily imported under this section, in order to be free of tax, must be entered pursuant to and following a written application filed with the Secretary of Finance. The application filed with the Secretary should specify at the minimum, the following:

(A) the type and amount of goods, resources, merchandise, documents and materials to be temporarily imported;

(B) the reason(s) for the temporary importation;

(C) the expected date and method (air, sea, hand carry, etc.) of importation and the expected date and method of re-exportation of the items;

(D) the name and address of the importer as well as that of the local contact person or firm(s); and

(E) the value of the goods, resources, merchandise, documents and materials and the location(s) of the display or

demonstration sites for the items.

(2) The Secretary of Finance will review any such written application for temporary importation for the purpose of display, demonstration, and promotion and will issue, if he finds it appropriate, a written permit for such temporary importation, which either shall be free of tax or defer taxes.

(3) The Secretary of Finance may place restrictions on any temporary importation free of tax under this subsection, including a reasonable fee for Customs inspection and supervision of the items. Upon review and approval of the application, the Secretary may defer taxes, waive penalties and interest for purposes of business promotion for a period of two (2) years when it is in the best interest of the Commonwealth. This application may be renewed on one (1) year increments upon resubmission and re-approval of the Secretary for maximum total period of three (3) years. In addition, he may require the posting of a bond to ensure the departure of the goods, impose appropriate security requirements, impose requirements for periodic Customs inspection of the items at the site(s) of display, demonstration or promotion and any other reasonable restrictions to ensure that all relevant items are in fact used only for temporary display, demonstration or promotion and are reexported from the Commonwealth at the close of the display, promotion or demonstration period. The Secretary of Finance may delegate the responsibility for imposition of a bond and implementation procedures to the Director of Customs Service.

(4) If it is later determined that the importation of any goods, commodities, resources or merchandise is taxable, the Department of Finance will impose such taxes at that time. The Secretary of Finance may waive interest and penalty upon imposition of tax.

(5) A copy of any written permit issued by the Secretary of Finance under this subsection shall be filed with the Customs Service upon the entry of the items into the Commonwealth in order to exempt such items from tax.

(6) As a general rule, applications under this subsection will not be approved from persons or firms already licensed to do business in the Commonwealth. The primary use of this subsection is intended for trade shows, business promotions, seminars, conventions, and regional sales meetings, and the like, held in the Commonwealth;

(e) Educational Materials. Books, pamphlets and other educational materials purchased for non-business use by a public or private school or a library open to the public. This exemption includes only books, pamphlets and other educational materials purchased for non-business use directly by a public or private school or a library open

to the public and does not include books and other educational materials imported for the primary purpose of the resale of such items to a public school, private school, library open to the public, or any other person. Educational materials shall not include equipment and furniture such as video cassette recorder/player, audio cassette recorder/player, overhead projector, phonograph, movie projector, slide projector, and other instructional audio, video, and visual aids, chairs, desks, and other furniture;

(f) Filming. Merchandise or other commodities brought in by a filming or advertising company where its sole purpose is to film commercials, video, or other movies in the Commonwealth for a brief period of time;

(g) Films. Rented or leased motion picture films and video tapes brought in by a commercial movie or television company for telecasting or public viewing in a theater. This exemption shall not apply to motion picture films and video tapes which are brought in for sale, lease or rental;

(h) Handicap Items. Merchandise, equipment, devices, and other items, including wheelchairs, hearing aids, braille material, canes, walkers, prosthetic devices, braces, crutches, or prescription lenses and eye glasses brought in by persons to be used by handicapped individuals who are either residing or visiting in the Commonwealth. This exemption shall not apply to merchandise, equipment, devices, and other gear brought in for sale, lease, or rent to the handicapped;

(i) Infant Items. As determined by the Director, merchandise, equipment, devices, hygiene products, cribs, strollers, highchairs, diapers, lotions, creams, powders, baby foods, baby formulas, baby clothing, baby toys, and other products primarily intended for use in the daily and ordinary care of children aged twenty-four (24) months or less.

(j) New or Returning Residents. Personal automobiles, regardless of value, and personal household goods imported into the Commonwealth. This exemption shall apply if these aforementioned items are brought into the Commonwealth by a new resident or a returning resident for the purpose of establishing a household. The new resident or returning resident, as referenced below, must bring in or arrange shipment of the above designated automobile(s) and household goods within six (6) months of first establishing a household in the Commonwealth. For purposes of this exemption, "returning resident" includes only those persons who have resided outside the Commonwealth for at least two (2) years from the time they last resided in the Commonwealth;

(k) Repair and In-flight Supplies. Engines, parts, testing equipment, other navigational tools, equipment, and in-flight supplies brought in by an airline or shipping line, whose commercial operations are not based in the CNMI, to repair, maintain, or supply its own vessel or aircraft are exempt. For purposes of this exemption, "in-flight supplies" shall include only those supplies brought into the CNMI by such airline or

shipping line; This exemption does not apply to airlines or shipping lines which are based in the CNMI.

(l) Repairman Tools. Tools of repairman brought in to repair or maintain equipment sold, leased, or rented to consumers in the Commonwealth. Tools shall only be exempt under this subsection if such tools are exported from the CNMI within a reasonable time after the equipment is repaired or maintained;

(m) Section 1402(c) Non-Business Use Exemptions

Exclusion. Except as otherwise provided, any person may bring for personal use and consumption exempt from the excise tax the items specified in §1402(c) of 4 CMC. If the value or quantity of the non-business item exceeds that specified in §1402(c)(1)-(6), the item will be subject to the excise tax only to the extent that the value or quantity of the items exceeds the value or quantity specified in §1402(c)(1)-(6). For the purposes of §1405(a) and (b), the exemption of §1402(c)(1) of 4 CMC applies.

Example No. 1: John Doe, a resident, not a new or returning resident imports an automobile into the Commonwealth for personal use having a value of \$24,000. Mr. Doe will be subject to the excise tax under 4 CMC §1402(a)(12) as follows:

Ad valorem on vehicle:	\$24,000.00
Exemption of \$1,000.00 per §1402(c)(1)	<u>(1,000.00)</u>
Tax Base	\$23,000.00
Excise Tax at 5%	\$ 1,150.00

Example No. 2: Mahi Fishing imports a boat into the Commonwealth for business purposes having a value of \$54,000. Mahi Fishing will be subject to the excise tax under 4 CMC §1402(a)(21) as follows:

Ad valorem on boat:	\$54,000.00
Tax Base	\$54,000.00
Excise Tax at 5%	\$ 2,700.00

(n) **Solar.** Solar panels and other such devices for the conversion of solar energy into heat or electricity. This exemption shall not include such solar panels and other such devices imported for the primary purpose of the resale of such items to a consumer;

(o) **Tax exempt organizations.** Persons granted tax-exempt status by the CNMI Division of Revenue and Taxation. In order to qualify for this exemption, the person must present to the Customs Division a copy of the letter issued by the CNMI Division of Revenue and Taxation granting the person tax-exempt status. While an application for tax-exempt status is pending with the Division of Revenue and Taxation, the person is not exempt from taxes imposed under Chapter 4, Division 1, of Title 4 of the Commonwealth Code; however, if the person is later determined by the Division of Revenue and Taxation to be exempt from taxation, the person may apply pursuant to the procedures established by the Customs Division for a refund for all taxes imposed under Chapter 4, Division 1, of Title 4 of the Commonwealth Code imposed after (but not before) the person submitted its application to the Division of Revenue and Taxation;

(p) **Visitors.** Items brought into the Commonwealth by visitors if such items are for the visitors' personal use and consumption and are in a reasonable quantity; and

(q) **U.S. and CNMI Government:** Goods, commodities, resources or merchandise of the U.S. Government or CNMI Government, their agencies or instrumentalities. However, this exemption shall not extend to goods, commodities, resources, or merchandise of private parties with whom the U.S. government or CNMI Government does business such as federal or CNMI contractors.

#### **Section 4301.4. Cigarettes and Tobacco Products.**

All individuals importing alcohol and tobacco for sale or use shall be assessed and shall pay the Alcohol and Tobacco Excise Taxes. The exemption specified under 4 CMC §1402(c)(2) as modified by 6 CMC §2301(a)(7), of the Cigarette Labeling and Advertising Act, cigarettes and tobacco items shall only apply to individuals 18 years of age or older. Only ten (10) packs of labeled cigarettes not complying with the Cigarette Labeling and Advertising Act shall be exempt for each person entering the CNMI for personal use and consumption. Cigarette packages not conforming with the Cigarette Labeling and Advertising Act will be confiscated.

**Section 4301.5. Alcoholic Beverages.**

The exemptions specified under 4 CMC §1402(c)(4), (5), and (6) for wine and sake and alcoholic beverages, etc., shall only apply to individuals 21 years of age or older. Exemption under §4301.3(q) applies to this section.

**Section 4301.6. Wine and Sake for Religious Use.**

Wine and sake imported into the Commonwealth for use in a religious rite by a religious organization are not subject to the Alcohol and Tobacco Excise Taxes. The same treatment is accorded to wine and sake purchased in the Commonwealth or received by a religious organization for use in a religious rite. Wine and sake imported, purchased, or received by a religious organization for purpose other than a religious rite are not exempted from the Alcohol and Tobacco Excise Taxes.

**Section 4301.7. Government Sale.**

All articles, goods, wares, or merchandise imported by a government agency for use by the government and later sold to a private person or imported by the government for sale to a private person are required to be assessed excise tax as provided in Chapter 4, Division 1, of Title 4 of the Commonwealth Code and must be paid by the purchaser. The excise tax shall be assessed on the selling price of the article, good, ware, or merchandise. For purposes of this section, selling price excludes overhead charge or other administrative charges imposed by the government agency.

**Section 4301.8. Sale of Unclaimed Merchandise.**

All unclaimed articles, goods, wares, or merchandise not confiscated by the Service pursuant to §4305.9 of these Regulations and sold by the Service pursuant to Section 4306 of these Regulations which the Service allows to be sold by the terminal operator, operator of carrier, or shipping company, are required to be assessed excise tax as provided in Chapter 4, Division 1, of Title 4 of the Commonwealth Code and must be paid by the seller. The excise tax shall be assessed on the selling price of the article, good, ware, or merchandise.

**Section 4301.9.      Damage or Nonreceipt.**

(a)      Nonreceipt of Non-Concealed Damages. Any merchandise subject to tax which is not received by the importer or which is received in damaged condition may be exempt from taxation upon presentation of a certificate of damage or nonreceipt from the carrier or his agent; provided, however, that the carrier or his agent shall either deny the claim or furnish the certificate of damage or nonreceipt within seven (7) days after such damage or nonreceipt is reported by the importer.

(b)      Concealed Damages. Within the time prescribed by 4 CMC §1809(a)(3), importers may apply for a refund of taxes paid to the extent of losses incurred on damaged merchandise, nonreceipt, or manufacture defect where such damage was concealed. However, the damage shall be inspected by the Customs agent, who, depending on his or her findings may recommend a tax refund.

(c)      Limitations Upon Refund. No tax refund shall be authorized under subsections (a) or (b) for the following:

- (1) damage resulting from improper handling, inadequate or improper storage facility, prolonged storage, or other causes due to the importer's failure to provide such security, proper handling, and storage;
- (2) merchandise or commodities wherein the date set by the manufacturer as to date for sale or use has expired or been exceeded; or
- (3) merchandise or commodities which were not used, sold, or distributed due to obsolescence.

(d)      No Duty to Inspect. Terminal operators or the carrier of the imported merchandise shall not be required to open shipments for damage inspection.

**Section 4301.10.      Payment of Taxes - Release of Goods.**

(a)      Customs Clearance. In case of goods, commodities, resources, or merchandise whose first use in the Commonwealth requires Customs inspection and

clearance, payment shall be made within 30 days after entry. Such goods, commodities, resources, or merchandise may be released prior to payment of excise tax as prescribed by 4 CMC §1407(b) and (c) and provided the consignee has no delinquent taxes, fees, or charges due and owing the Commonwealth. Where the actual amount of tax cannot be determined within 7 calendar days after the entry, an estimated tax shall be paid within 30 days after entry; any refund of excess estimated tax paid must be applied for within the time prescribed by 4 CMC §1809(a)(3).

(b) Non-Customs Clearance. **Reserved.**

**Section 4301.11. Procedure - Permanent Deposit.**

A permanent deposit may be authorized to permit the release and delivery of dutiable merchandise prior to making formal entry and paying the actual tax due when required. After ninety (90) days from the date of first use in the Commonwealth of such goods, commodities, resources, or merchandise, any and all unpaid taxes owed to the Service will be considered delinquent and will be sent for collection to the Collection Branch, Division of Revenue & Taxation.

**Section 4301.12. Nonpayment of Excise Taxes When Due.**

In addition to the penalty and interest provisions of Division 1, Title 4 of the Commonwealth Code, in particular §1815, consignees owing the Commonwealth excise taxes which are not paid within thirty (30) calendar days after the entry of the goods, commodities, or merchandise, shall be denied clearance and released on future imports of goods, commodities, or merchandise. The Customs Service shall require the consignee to pay the excise tax on imported goods, commodities, or merchandise prior to the release of such goods, commodities, or merchandise.

**Section 4301.13. Customs Exemption for Domestic Travelers.**

(a) Duty-Free Purchases. Passengers and crew members in domestic travel as defined in §4300.11(t), and passengers and crew members boarding a carrier in international travel in Saipan, Rota, Tinian and other islands in the Commonwealth, or

vice-versa and destined for any port in the Commonwealth may bring with them no more than two fifths of a wine gallon of distilled alcoholic beverages and not more than thirty (30) packages of twenty (20) cigarettes per package in the port of destination in the Commonwealth, if such beverages and cigarettes were purchased from a duty free retail concession at the port of embarkation in the Commonwealth. All but ten (10) packages of twenty (20) cigarettes per package must comply with the Cigarette Labeling and Advertising Act as provided in Section 4300.11(k).

(b) Excise Taxes. Passengers and crew members bringing alcoholic beverages and cigarettes in excess of the amount authorized in this section shall be assessed an excise tax in accordance with Chapter 4, Division 1, of Title 4 of the Commonwealth Code.

**Section 4301.14      Liquid Fuel Tax.**

(a) For the privilege of first selling or distributing liquid fuel in the Commonwealth, there is imposed an excise tax at the rate of fifteen cent (15¢) per gallon.

(b) By written application, the Secretary may waive or reduce the liquid fuel tax imposed under §1403(a), on the sale of diesel fuel for use in a vessel's commercial use for operations that are primarily outside the territorial waters of the Commonwealth.

(c) Purpose of §1403(c) of 4 CMC, Division 1, the liquid fuel tax shall not apply to sales of liquid fuel to the Commonwealth Utilities Corporation for the purpose of power generation provided that Commonwealth Utilities Corporation complies with requirements of 4 CMC §8141(h), as determined by the Public Auditor; in the event that the tax has been included in the liquid fuel sold to Commonwealth Utilities Corporation upon written application the Secretary or his designee may credit the tax in the amount paid to the utility.

**Section 4301.15      Aviation Fuel Tax.**

(a) For the privilege of first selling or distributing aviation gas or other aviation fuel in the Commonwealth, there is imposed an excise tax at the rate of three percent (3%) ad valorem.

(b) By written application, the Secretary may waive or reduce the fuel imposed under §1403(b) where the price of aviation fuel without the aviation fuel tax would be more competitive than the price of aviation fuel elsewhere and the airline would purchase the aviation fuel in the Commonwealth.

**Section 4301.16     Beverage Container Tax.**

(a) A tax of five cents (5¢) per container is imposed on all soft drink beverage containers; the exemption under §1402(c)(1) applies to this tax.

(b) A tax of five cents (5¢) per container is imposed on each alcoholic beverage container; the exemption applies to containers exempt under §1402(c)(4)(5) and (6).

## **Part III**

### **Section 4302 - Customs Entry Procedures - Freight/Cargo**

#### **Section 4302.1. Freight -- Entry and Declaration of Imports**

(a) Entry of Imports - Requirement and Time. Except as otherwise provided, the consignee of imported merchandise shall make entry as provided by subsection (b) of the imported merchandise either in person or by an agent authorized by him at the Division of Customs Service within seven (7) calendar days after the entry of the importing carrier.

(b) Entry Documents.

(1) Entry shall be made upon presentation to a Customs agent of a nonnegotiable copy of the bill of lading or non-vessel operating common carrier's freight bill or bill of lading, and vendor's invoices covering all merchandise arriving on one carrier and consigned to a consignee. If proper documents are not available within seven (7) calendar days after the arrival of the merchandise, the estimated tax shall be paid using the fair retail value in the Commonwealth for such commodities subject to adjustment when the documents arrive, provided that the invoice documents are submitted no later than thirty (30) days from the date of arrival. If the invoice actual documents are not submitted within the thirty (30) from the date of arrival, any tax refund due to late adjustment may be forfeited under 4 CMC §1809(a). However, no release shall be authorized if the consignee has a prior unpaid tax, fee, or charge.

(2) In addition to providing a copy of the nonnegotiable copy of the bill of lading or non-vessel operating common carrier's freight bill or bill of lading, and vendor's invoices, each importer or consignee shall sign an "Entry Certificate" stating under penalties of perjury that the vendor's invoices are true

and correct and that no alterations or changes have been made thereto. The Entry Certificate shall be obtained from a Customs agent and signed at the time of entry.

**Section 4302.2. Freight - Arrival of Cargo By**

(a) In General. Cargo shall be retained at the place of unloading until permission is given by a Customs agent for its release. Any cargo not released shall remain in the physical possession of the terminal operator or the operator of the carrier at the expense of the consignee but under technical Customs custody until entry is made and the tax paid, or otherwise directed by Customs. The appropriate action taken shall be indicated either on the container of the merchandise or on the bill of lading, or NVOCC's freight bill or bill of lading.

<b>HOLD</b>	<b>CONDITIONAL RELEASE</b>	<b>PASS</b>
ORDER OF CUSTOMS COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS		
_____	_____	_____
Agent	Badge No.	Date

(b) Release Procedure.

(1) Pass. If cargo is to be released to the consignee, the inspector shall circle the words "PASS" and put his initials, badge number, and the date.

(2) Hold. If the cargo is to be retained, the word "HOLD" shall be circled and the initials and the badge number of the agent and the date will be indicated.

(3) Conditional Release.

(A) Seaport. At the seaport, items may be conditionally released by a Customs inspector to allow the items to be removed from the

container yard to the consignee's premises; however, such items may not be opened until final clearance by a Customs agent.

(B) Airport. At the airport, items may be conditionally released by a Customs inspector to a consolidator; however, such items may not be released to the consignee until final clearance by a Customs agent.

(C) Partial Release. A partial release of cargo may be authorized by a Customs officer making the following notation on the bill of lading or NVOCC's freight bill and by initialing each line item to be released. Items not initialed shall not be released.

"The merchandise identified by my initials on each line of this bill of lading may be released to the consignee."

\_\_\_\_\_  
Date

\_\_\_\_\_  
Customs Agent

(D) Inspections, clearance, and other services provided by the Division of Custom Services may be made without any charge to the consignee, agent, postal services, or operator of the carrier from 0730 hour to 1630 hour, Monday to Friday, except holidays, or any other time frame set by the Division of Customs. For assessment and payment of taxes and inspection and release of merchandise at any other time, individuals requiring such service must be assessed a Customs Service Charge pursuant to the provisions of §4307.3 or §4307.4, as applicable, of these Regulations or charged by agreement with Customs Services.

**Section 4302.3. Release of Perishable Merchandise.**

The Customs agent is authorized to permit the release and delivery, prior to formal entry thereof, of perishable articles, and other merchandise, the immediate delivery of which is considered

necessary, such as where adequate holding or storage facilities are not available. Such merchandise shall remain under technical Customs custody and no disposition of such merchandise by the consignee is authorized until a formal entry is made, and the tax paid, if required.

**Section 4302.4.      Release of Merchandise Without Customs Clearance.**

No carrier, agent, or terminal operator shall release or turn over to a consignee any merchandise or parcel without the prior approval of Customs. In the event a release was made by the carrier, agent, or terminal operator without prior clearance of Customs and the tax on the merchandise released cannot be paid by the consignee, the tax liability plus the penalty and interest imposed by Division 1 of Title 4 of the Commonwealth Code shall become the liability of the carrier, agent, or terminal operator and shall continue to accumulate such penalty and interest until the tax liability is paid in full. The Service shall notify the carrier, agent, or terminal operator of the consignee's inability to pay and the determination of the Service to transfer such liability from the consignee to the carrier, agent, or terminal operator.

## **Part IV**

### **Section 4303 - Customs Entry Procedures - Masters**

#### **Section 4303.1. Master's Responsibilities - Arrivals.**

(a) **In General.**

(1) **Document Delivery.** Immediately upon arrival, the master of a vessel or aircraft shall deliver to the Customs agent one (1) copy of the following:

(A) passenger and cargo manifests;

(B) bills of lading or NVOCC's freight bills or bills of lading and general declaration;

(C) a true and correct copy of any correction of such manifests, bills of lading, and/or NVOCC's freight bills; and

(D) a general declaration filed on entry of his vessel or aircraft.

If the master is aware of any error in the manifests, bills of lading, NVOCC's freight bills, or general declaration and does not make correction, he shall be guilty of perjury and shall also be subject to the penalty of (7) of this subsection. All fines and penalties assessed under this Part IV are to be paid in U.S. Dollars.

(2) The master and his vessel or aircraft, passengers and cargo aboard such vessel or aircraft may be denied Customs clearance, at the discretion of the Customs Service, if the documents referenced in (1) above are not presented to the Service upon arrival. Clearance may be granted provided the penalty of (7) of this subsection is agreed upon by the master of the vessel or aircraft. The penalty is subject to collection when the actual assessment is made by the Service.

(3) Advance copies of manifests and bills of lading required in (1) above may be submitted to the Service; however, the official manifests and bills of lading shall be presented at the time of arrival. The Service will accept manifests and bills of lading only at the time of arrival of the carrier.

(4) Passenger and Cargo Manifests. Vessels arriving in the Commonwealth from more than one (1) port of departure shall deliver to the Service, immediately upon arrival, separate passenger and cargo manifests for all passengers and cargo boarded at each port of departure, regardless of whether passengers or cargo were boarded at any one particular port in the travel itinerary of the carrier.

(5) Transiting. Passengers and cargo transiting on the same flight or voyage arriving in the Commonwealth must be clearly identified on the manifest by indicating in parenthesis the point of final destination immediately after the passenger's name or the consignee of the cargo.

(6) Terminating. Passengers on a flight or a voyage which terminates in the Commonwealth and are discharged in the Commonwealth for the purposes of immediate connection on another flight or voyage for points outside of the Commonwealth shall be reported to the Customs Service, immediately upon arrival of the carrier, in one of the following methods:

(A) File a separate manifest for each port of final destination of such passengers; or

(B) Identify on the manifest such passengers by enclosing in parenthesis the point of final destination and the connecting flight or voyage number immediately after the names of the passengers.

(7) For each and every violation of (1), (4), (5), or (6) of this subsection, a penalty is imposed in the amount of the greater of Five Hundred Dollars (\$500.00) for each violation or One Hundred Dollars (\$100.00) per hour or a fraction of an hour for each and every violation from the time of arrival until the appropriate documents are presented to the Service.

(8) All cargo, including ship's stores and operator's pouch mail or cargo, or U.S. Mail, carried on the vessel or aircraft entering the Commonwealth

must be included in the manifests and related bills of lading. Willful failure to so include such cargo or mail or the presentation of a willfully falsified manifest shall be deemed to be a violation of these regulations and is subject to the penalty provisions of (7) of this subsection, and/or a penalty of Fifty Dollars (\$50.00) for each line item not so included in the manifest.

(9) All passengers and crew members' baggage must be transported directly from the carrier to the arrival area at the port. All cargo not part of any passengers' or crew members' baggage must be transported directly from the carrier to the warehouse or place designated as the cargo storage area of the carrier.

(10) Upon arrival at the airport, all passenger exit doors, cargo compartment doors, and galley service doors of the aircraft shall remain closed. At the request of the Service, only one passenger exit door may be opened for the purpose of clearing the flight. All other doors may be opened for disembarkation of passengers and cargo only at the approval of the Service.

(11) Upon arrival at the pier, no passenger or crew members may disembark, nor may cargo be unloaded until approval to do so is granted by the Service.

(b) Sealing of Stores. Upon the arrival of a vessel from a port outside of the Commonwealth, or a vessel engaged in the foreign trade from a port within the Commonwealth, sea stores and ship's stores not required for immediate use or for the delivery of goods to be consumed on board while the vessel is in port and articles acquired abroad by officers and members of the crew for which no permit to land has been issued, shall be placed under seal, unless the Customs agent is of the opinion that the circumstances do not require such action. Customs agents in charge of the vessel, from time to time, as in their judgment and necessity requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew.

(c) Boarding of vessels and Aircraft. The Customs agent may board and examine any vessel or aircraft arriving in the Commonwealth when it is necessary to carry out the provisions of applicable laws of the Commonwealth, or any rule or regulation promulgated thereunder and require the master or captain thereof to exhibit for examination by the Customs agent the manifest or any documents or papers, or any trunk, package or cargo on board, or any compartment, storage area, cabin, galley, cockpit, lavatory, or any section of the vessel or aircraft. The master or captain of the

carrier shall ensure the safety of the Customs employees from the time of boarding the vessel or aircraft until such employees disembark.

**Section 4303.2. Master's Responsibilities - Departure.**

(a) Delivery of Documents. Prior to departure, the master of a vessel or aircraft shall deliver to the Customs agent the following documents:

- (1) One (1) copy of the general declaration for the port of destination; and
- (2) One (1) copy of passenger and cargo manifests for the port of destination; and
- (3) If the flight or voyage has intermediate stops before reaching its final destination, one copy of the passenger and cargo manifests for each intermediate port.

(b) Official Customs Clearance Certificate. All vessels and aircraft destined for ports outside of the Commonwealth must obtain an "Official Customs Clearance Certificate" prior to departure. A Customs Clearance Certificate must be requested at least twelve (12) hours prior to expected departure.

(c) Violation. Vessels and aircraft not complying with this subsection may be denied future customs clearance upon arrival in the Commonwealth and may be subject to either one of the following penalties:

- (1) The vessel or aircraft and all passengers, crew members and cargo on board may be returned to the point of origin or other port outside of the Commonwealth; or
- (2) The master, owner or operator of the vessel or aircraft may pay a fine of one thousand dollars (\$1,000) per violation.

(d) Private Aircraft and Pleasure Vessels. The requirements of subsection (a) shall not apply to private aircraft and pleasure vessels.

(e) Domestic. Strictly domestic flights or voyages may be exempted from the requirement of this section.

## Part V

### Section 4304 - Customs Entry Procedures - Passengers and Crew Members

#### **Section 4304.1. Passengers and Crew Members Destination and Disembarkation.**

(a) Terminating Passengers and Crew Members. Upon arrival at the destination and upon approval to disembark, all passengers and terminating crew members must proceed directly from the carrier to the arrival area at the terminal, by way of passage designated for use by arriving passengers and crew members to gain access to the immigration inspection area and to the customs inspection area.

(b) Transit Passengers and Crew Members. Subject to Commonwealth Ports Authority ("CPA") and the Federal Authority Administration ("FAA") regulations, all passengers and crew members transiting in the Commonwealth to points outside of the Commonwealth are permitted to:

- (1) Remain on board.
- (2) Disembark and proceed directly to the designated area at the terminal area for embarking passengers for re-boarding; or
- (3) Disembark and proceed with terminating passengers to the customs inspection area and go through customs formalities which authorize them access to other facilities at the port; or

(c) Transfer of Passengers' and Crew Members' Baggage and Hand Carried Articles. Subject to CPA and FAA regulations, passengers' and crew members' baggage and hand carried articles on international travel arriving in the Commonwealth and requiring immediate connection aboard another carrier to points outside of the Commonwealth may be waived customs inspections provided such baggage and hand carried articles are transferred to the connecting aircraft or vessel by the owner, agent, or operator of the carrier that brought such passengers' and crew members' baggage and

under the supervision of the Customs Service.

(d) Northern Islands Destination. Carriers, crew members, passengers, baggage and cargo on international travel, as defined in these regulations, destined for any islands north of Saipan are required to go through Customs Service inspection and clearance at the authorized and designated ports of entry, before continuing on the journey. After customs clearance in Saipan, the flight or voyage is classified domestic travel.

(e) International Travelers Boarding Domestic Flight or Voyage. All passengers and crew members, including their baggage and hand-carried parcels, in international travel, aboard a carrier destined to another point in the Commonwealth with a stop-over in Saipan, Rota, or Tinian are required to undergo customs inspection and clearance immediately upon arrival at the first port of entry in the Commonwealth in order to board any carrier cruising or flying a domestic itinerary. The first port of entry arrived at in the Commonwealth by passengers and crew members is considered the port of destination for such passengers and crew members.

**Section 4304.2. Passengers and Crew Members - Customs Entry and Declaration.**

(a) Customs Entry Form - Requirement.

(1) All passengers and crew members regardless of citizenship must make a Customs entry and declaration, "Customs Entry and Declaration", Form CS-1350, upon arrival in the Commonwealth.

(2) All articles or merchandise acquired abroad and their value (price actually paid for or, if not purchased, fair retail value in the Commonwealth) must be declared in writing.

(3) Written declarations must be signed and presented to the Customs agent on duty before examination pursuant to the inspection requirements of Part VI of these Regulations.

(4) All information furnished by passengers, whether orally or in writing, shall be testimony provided under oath and subject to all applicable

penalties including §4308.11(a).

(5) No passenger or crew member required by this section to make a Customs Entry and Declaration may be cleared by a Customs agent without completing the required form.

(6) To facilitate inspection, the prescribed form for making customs entry and declaration may be printed in foreign languages in addition to English. However, all prescribed customs entry and declaration forms in foreign languages must be completed by the passengers and crew members in Roman characters only.

(7) Individuals unable to read or write are required to seek the assistance of an agent of the carrier in making a Customs Entry and Declaration. Individuals unable to write may sign the prescribed customs entry and declaration form with an "X" mark, witnessed by a Customs agent.

(b) Children Under 12 -- Accompanied. Children under age of 12 traveling with friends or relatives may be claimed as immediate family members of the relatives or friends. The full name of the children must be written on the customs entry and declaration.

(c) Children Under 12 - Unaccompanied. Unaccompanied children under the age of 12 are required to make a Customs Entry and Declaration. An agent of the carrier shall render necessary assistance to minor children in making a Customs Entry and Declaration.

(d) Domestic Travelers. Passengers boarding international flights or voyages from Tinian or Rota destined for Saipan or vice versa, are not required to make a Customs Entry and Declaration. Such passengers would be required to obtain customs departure clearance at the point of embarkation.

(e) Family Customs Entry and Declaration. A single "Customs Entry and Declaration", Form CS-1350, may be filed with the Customs officer upon arrival for immediate family members if traveling together. For purposes of this section, immediate family members are limited only to husband, wife, sons and daughters. Parents, brothers, sisters, grandparents, grandchildren, nephew, nieces, uncles, aunts, married daughters, married sons, and all other persons are not considered immediate family members for purposes of this subsection and, therefore, must make a separate Customs Entry and Declaration.

(f) In Transit. All passengers and crew members on international travel boarding domestic carriers for continuation of their travel to other points in the Commonwealth must make a Customs Entry and Declaration at the first port of entry in the Commonwealth.

(g) Terminating Crew Members. Terminating crew members who will be in the Commonwealth for the purpose of boarding a subsequent flight or voyage departing the Commonwealth within two (2) hours after their arrival are not required to file a "Customs Entry and Declaration", Form CS-1350, if the crew member does not have in his or her possession at the time of arrival dutiable goods, contraband, or agricultural commodities.

**Section 4304.3. Carriers' Duty to Supply Customs Entry and Declaration**

(a) The "Customs Entry and Declaration Form", a form prescribed by the Division of Customs Service and approved by the Director, shall be furnished to all carriers. The carriers shall print the forms, following the format and specifications established by the Division of Customs Service, and furnish them to their passengers for use upon arrival in the Commonwealth.

(b) It shall be the responsibility of the carriers to publish and maintain an adequate supply of the "Customs Entry and Declaration Forms", without any cost to the passengers or the Commonwealth Government of the Commonwealth.

(c) The logo and other notations of the carrier may be printed on the form provided that such logo and notations comply with the specifications of the Division of Customs.

**Section 4304.4. Prohibited Access.**

Transit passengers and crew members are prohibited access to areas at the port other than those designated for transit passengers and crew members. Transit passengers and crew members are strictly prohibited from leaving the airport or wharf compound for any length of time prior to their departure from the Commonwealth without going through customs formalities.

## **Part VI**

### **Section 4305 - Customs Inspection Procedures**

**Section 4305.1.      Reserved.**

**Section 4305.2.      Inspection of Passenger**

(a)      International Flights. All individuals as well as their baggage and hand carried articles in international travel regardless of their point of embarkation, shall be inspected by the Service prior to leaving or being taken away from the port of entry. Passengers clearing customs and leaving the inspection area without their belongings shall be authorized to make a declaration and obtain customs inspection and clearance only after the processing of international passengers.

(b)      International Transit. Those individuals who may be inspected under subsection (a) include all individuals on domestic travel, as defined, who enter or pass through Customs' jurisdiction at the ports during the process of clearing international travelers, are required to go through all customs formalities except the requirements of filing a Customs Entry and Declaration.

(c)      Violations of Law. The Customs agent may inspect without warrant any person arriving in the Commonwealth to determine whether such person is violating the Controlled Substances Act, the Weapons Control Act, the Anti-drug Abuse Act of 1991 and/or other laws and regulations enforced at the ports of entry. A strip search may be performed if there is real or reasonable suspicion supported by objective and articulable facts that the passenger is concealing evidence of a crime or contraband upon his person. A Customs agent may perform a body cavity search (intrude into a body cavity) if there is a clear indication or plain suggestion that there is contraband concealed within the body of the individual.

(d) Security Area.

(1) Any person who voluntarily enters a security area at the airport or wharf is subject to customs inspection as provided for in this Part VI.

(2) Prospective passengers who enter a security area at the airport or wharf and later decide not to leave are required to go through customs inspection and clearance in the same manner as an arriving passenger on international travel.

(e) Foreign Diplomats. An inspection may be waived of diplomats of any foreign country on official travel with a valid and proper U.S. visa for entering the Commonwealth.

**Section 4305.3. Inspection of Baggage**

A Customs agent may inspect without warrant the baggage and hand carried parcels of persons arriving in the Commonwealth in order to ascertain what articles are contained therein and whether the articles are taxable, prohibited, or restricted.

**Section 4305.4. Inspection of Cargo.**

The Customs agent may inspect without warrant any cargo, package, receptacle, aircraft and vessel arriving in the Commonwealth, and may seize prohibited or restricted articles or merchandise including narcotics and other items of contraband.

**Section 4305.5. Postal Inspection.**

(a) Pursuant to applicable U.S. Postal Service Regulations and/or memorandum agreement between U.S. Postal Service and the Commonwealth, mail and parcels arriving at the post office may be inspected by the Customs Service in order to detect goods, merchandise, or other commodities and to assess excise taxes; and to detect and

intercept contraband; and to enforce other laws and regulations enforced at the ports of entry.

(b) Customs Service will request addressees of mail or their designated representatives to open their mail and parcels for inspection.

**Section 4305.6. Crew Members with Baggage.**

All crew members who have baggage and/or hand carried parcels must go through customs inspections with all their baggage and hand carried parcels.

**Section 4305.7. Penalty**

The master of a carrier, other crew members, operator of the carrier or its agent, and all individuals who willfully aid any other individuals to conceal any item brought on board with the intention to violate any of the laws of the Commonwealth or the United States of America, may be punished by a fine and/or imprisonment equal to the maximum penalty provided by the law which the individual(s) intended to violate.

**Section 4305.8. High Risk Area.**

(a) The Director shall have the authority to classify any place or port in any country or territory as a "high risk" area in order to ensure effective enforcement of Chapter 4, Division 1, of 4 CMC, the Controlled Substance Act, the Weapons Control Act, the Anti-Drug Enforcement Act of 1991, and other laws and regulations enforced at the ports of entry.

(b) Passengers and crew members, including their baggage and hand carried parcels, and all cargo from areas classified "high risk" shall undergo thorough inspections and examinations whenever appropriate.

(c) All cargo from high risk areas shall be inspected and cleared only in the presence of the consignee or his authorized agent.

(d) Perishable commodities from high risk areas may be imported into the Commonwealth if the consignee of such commodities agrees to make entry and claim the cargo immediately upon arrival in the Commonwealth. Perishable commodities from high risk areas which are not claimed immediately upon arrival in the Commonwealth shall not be inspected and/or released until they are claimed. The carrier, its authorized agent, terminal operator, and the Service shall not be liable for spoilage or damage to perishable merchandise resulting from the consignee's failure to make entry and claim the cargo immediately upon arrival.

**Section 4305.9. Confiscation of Merchandise.**

(a) Merchandise - Prohibited. Pursuant to § 1411(c) of 4 CMC and § 2150 of 6 CMC prohibited or restricted merchandise imported into the Commonwealth and found during inspection shall be confiscated by the Service and turned over to an appropriate Commonwealth Government agency within a reasonable time for proper disposition.

(b) Merchandise - Non-payment of Tax. Merchandise on which the tax is not collected shall also be confiscated. Merchandise confiscated by the Service due to nonpayment of tax must be claimed and the tax paid by the owner or consignee within ten (10) days from the date the merchandise was confiscated.

**Section 4305.10. Unclaimed Baggage**

(a) Unclaimed Baggage. Passenger or crew member's baggage not claimed at the customs inspection area shall be retained by the carrier and secured in a safe place within the inspection area at the port. Unclaimed baggage which is required to be stored in another location due to inadequate storage facilities within the inspection area at the port may be transferred by an authorized representative of the carrier liable for the security of the unclaimed baggage; **provided, however,** the representative of the carrier obtains the approval of the Customs Service and the shipper accepts the condition that

spoilage and/or damage to the cargo is the liability of the shipper. Cargo released to the carrier or terminal operator for storage and/or security shall not be opened by the carrier or terminal operator. The Customs Service shall have the right to take into custody any part of or all unclaimed baggage when such officer has probable cause to believe that the baggage contains dutiable, prohibited, or restricted merchandise. The Customs Service may open and inspect such baggage in the presence of a representative of the carrier, even if the passenger or crew member is not present.

(b) Storage Charge.

(1) Unclaimed baggage not properly stored by the carrier liable for the security of the same may be taken into custody, and shall be released to the carrier only upon the carrier's payment to the Service of a storage charge of five dollars (\$5.00) per day or a fraction of a day, for each piece stored. Unclaimed baggage in the custody of the Service may be claimed by the carrier during regular working hours only, from 0730 hours to 1130 hours and from 1230 hours to 1630 hours, Monday through Friday. Passengers or crew members shall not be authorized to claim any unclaimed baggage in the custody of the Service, except as provided in paragraph (2) of this subsection. The Service shall not be liable for damages to the container or damages to and /or loss of the contents.

(2) Unclaimed baggage in the custody of the carrier may be released to the passenger or crew member only after inspection and clearance by the Customs agent.

(3) Unclaimed baggage in the custody of the carrier, or the Service, which is not claimed within ten (10) days, shall be opened and inspected by a Customs agent and released to the carrier for storage at another location, provided the storage charge in paragraph (1) of this subsection is paid.

## **Part VII**

### **Section 4306 - Customs Procedures - Confiscated and Unclaimed Merchandise**

#### **Section 4306.1. Unclaimed Merchandise.**

Merchandise confiscated by the Service due to nonpayment of the tax due may be sold at auction if no claim was made pursuant to §4305.9(b) of these Regulations, provided, however, that:

(a) The Service notified the owner or consignee in writing that the provisions of §4305.9(b) of these Regulations for making a claim expired and the owner or consignee was given an additional ten (10) days to claim the merchandise and pay the tax due plus related penalty and interest;

(b) If the merchandise was not claimed and the tax liability not paid at the end of the period allowed in Subsection (a) of this section, the Service shall send a final written notice to the owner or consignee of the merchandise advising that the merchandise will be sold at auction if not claimed in ten (10) days commencing from the date of the final written notice;

(c) After the expiration of the final notice, if the merchandise is still unclaimed and the tax liability unpaid, the owner or consignee shall not be allowed to claim the merchandise once the merchandise has been processed and advertised for auction.

#### **Section 4306.2. Auction.**

The Service shall advertise to the public in a local newspaper once per week for three (3)

consecutive weeks, that merchandise on which excise taxes remain unpaid will be sold at auction. Proceeds from the sale shall be distributed and applied as follows:

- (a) To reimburse the Service for advertising, storage and other related expenses.
- (b) To pay the excise tax liability.
- (c) To pay applicable penalty and interest charges imposed by law and these regulations.
- (d) To pay part, or all of any other outstanding tax liabilities, fees, penalties, or interest.
- (e) To pay the owner or consignee any amount remaining which is over five dollars (\$5.00). Amounts of five dollars (\$5.00) or less may be paid to the owner or consignee only upon written request by the owner or consignee.

## **Part VIII**

### **Section 4307 - Request for Customs Service and CIQ Overtime Charges**

#### **Section 4307.1. Request Cancellation, Delay and Charges.**

(a) **Request Requirement.** All air and sea carriers and other persons whose operations require the service of Customs agent of the Commonwealth are required to make a request for such service. The request must be made on a form prescribed by the Customs Service.

(b) **Blanket Request.** All carriers and other persons operating on a planned schedule must make a request to the Customs Service at least thirty (30) days before the effective date of their schedule of operation. A single request will be sufficient for the duration of one set of schedules. Any unforeseen changes in a set of schedules require a special request to the Service at least twenty-four (24) hours before the occurrence of such changes. If such change is to occur during weekends and holidays, the request must be made twenty-four (24) hours in advance of the last normal working day. All carriers and other individuals making a permanent change in their schedule are required to submit a new blanket request at least thirty (30) days before the effective date of the new schedule.

(c) **Special Request.** All carriers and other persons operating unscheduled flights or operating a charter, technical stop, or extra flight or voyage are required to make a special request at least twenty-four (24) hours in advance of the last normal working day before arrival. All sea carriers are required to submit a special request for customs clearance.

**Section 4307.2.**

**Failure to Make Request.**

When a carrier, its master, operator, owner, or authorized agent fails to make a request as required by §4307.1, upon arrival of such carrier, one or all of the following shall apply:

(a) During the normal working hours, the Service will arrange for clearance based on the availability of personnel and the number of blanket and special requests for the day. If Customs Service cannot be rendered during normal working hours, clearance will be furnished after regular working hours provided the carrier agrees and pays customs charges as provided for in §4307.3 of these Regulations prior to rendering such service, or by agreement with Customs Service.

(b) All vessels, including pleasure boats, on international travel arriving after regular working hours are prohibited to anchor at the pier until cleared by the Service. They must remain out in the harbor until the next regular working day except for emergencies as determined by the Customs Service. While anchored out in the harbor, crew members, and passengers are prohibited from disembarking. All baggage and Cargo are prohibited from unloading or removal from the vessel until cleared by the Service.

(c) Air carriers arriving after normal working hours may be denied customs clearance unless adequate Customs personnel are readily available and the carriers pay the necessary Customs overtime charge. Passengers and crew members including their baggage and hand carried articles and all cargo on board are prohibited to disembark or to be unloaded until cleared by the Service.

(d) Cancellation and/or Delay of Arrivals. The operator of a carrier or its agent shall notify the Service of all the cancellations and/or delays of arrivals at least four (4) hours before the end of a normal working day concerning the initial schedule of the arrival being canceled or delayed. In the absence or delay of such notification, the charge to be imposed shall be in accordance with §4307.3 or §4307.4, as applicable, of these Regulations, or by agreement with Customs Service.

**Section 4307.3.**

**Reserved.**

**Section 4307.4.**

**Reserved.**

## Part IX

### Section 4308 - Administrative

#### **Section 4308.1. Production of Records of Taxpayers Pursuant to CNMI Tax Laws.**

(a) For the purposes of ascertaining the correctness of any declaration, determining the liability of any person in respect of any tax or fee, or collection of any such liability, the Director or his delegate is authorized to:

(1) Examination of Records. Examine or request any books, papers, records, substantiating documents, and other data with or without the taxpayer's consent from any person which may be relevant or material to such inquiry. The required records shall be made available not later than thirty (30) days beginning with the date when the request is received;

(2) Summons. Summon the person liable for the tax or fee, or the person required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for the tax or the fee, or the person required to perform the act, or any other person the Director or his designee may deem proper to appear before the Director or his delegate at the time and place named in the summons and to produce such books, papers, records, substantiating documents, and other data, and to give such testimony, under oath, as may be relevant or material to such inquiry;

(3) Testimony. Take such testimony of the person concerned under oath, as may be relevant or material to such inquiry.

(b) English Requirement. All invoices accompanying merchandise subject to the provisions of Chapter 4, Division 1, of Title 4 of the Commonwealth Code shall be written in English and prepared prior to arrival in the CNMI and presentation to custom officials.

**Section 4308.2. Record Maintenance.**

All books and records of all business transactions necessary to determine fees and taxes imposed by the Commonwealth Government under Chapter 4, Division 1, of Title 4 of the Commonwealth Code are to be maintained within the Commonwealth at the central office of the business operation and shall be made available for examination not later than thirty (30) days beginning with the date when the request is received. Accurate records of all business transactions necessary to determine taxes and fees must be maintained for a minimum of three (3) years after the date of such transaction.

**Section 4308.3. Time for Performance of Acts Where Last Day Falls on Saturday, Sunday, or Legal Holiday.**

When the last day prescribed under authority of Chapter 4, Division 1, of Title 4 of the Commonwealth Code for performing any act falls on Saturday, Sunday, a legal holiday, or days authorized by the Governor for government offices to be closed, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, a legal holiday, or a day authorized by the Governor for government offices to be closed. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time. The term "legal holiday" means a legal holiday in the Commonwealth.

**Section 4308.4. Oaths.**

The Customs supervisor and all other authorized Customs agents are empowered to administer any oaths required or authorized by these regulations in respect of any matter coming before such officers in the performance of their official duties. No compensation or fee shall be demanded or accepted for administering any oaths under the provisions of this section.

**Section 4308.5. Payments**

All taxes, fees, and charges, except where other provisions of these regulations govern, shall immediately become due and must be paid in cash, or by U.S. Postal Money Order, or check drawn at a bank in the Commonwealth, or a bank in any of the states in the United States of America. Any check returned by the bank due to insufficient funds or any other reason must be replaced by either cash, U.S. Postal Money Order, or certified check. Any tax, fee, or charge paid by a check and returned by the bank due to insufficient funds is construed to have not been paid when due and the owner or consignee shall be assessed penalties and interest, in addition to all charges arising as a result of the check being returned, including those charges authorized pursuant to 7 CMC §2442, and bank services charges for returned checks. The Division of Customs shall have the right to reject any or all personal checks and demand payment in the form of cash, U.S. Postal Money Order, or certified checks.

**Section 4308.6. Spectators.**

Only individuals directly associated with the enforcement of the laws of the Commonwealth or applicable laws of the Federal Government which are administered at the ports of entry in the Commonwealth, and individuals who provide maintenance and service of a carrier, and arriving passengers or arriving crew members shall be permitted entry into any area between the carrier and the customs inspection area including all ramps, aprons, gangplanks, escalators, elevators, stairways, walkways, and all passageways and lavatories accessible and used by arriving passengers and crew members; and all areas accessible and used by the operator of a carrier for transporting cargo from the carrier to the operator's warehouse or storage facility, except to the extent that any area is also shared with enplaning passenger, crew members and other authorized airline personnel. Such enplaning passengers and authorized airline personnel shall not be deemed to be in violation of these regulations in those shared areas. Unauthorized individuals found in any of these areas shall be deemed to be in violation of these regulations and shall be punished accordingly.

**Section 4308.7. Bribery of Customs Officials or Employees.**

If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a Customs agent or any other employee of the Division of Customs with the intent

to control or influence such officer or employee in the performance of his official duties, the matter shall be referred to the Attorney General of the Commonwealth for prosecution as provided by law.

**Section 4308.8. Informer's Name Confidential.**

An informer's name and address shall be kept confidential. No files or information concerning an informer shall be disclosed to unauthorized individuals. No information shall be revealed which might aid the offenders in identifying the informer.

**Section 4308.9. Pass.**

(a) A temporary pass may be issued to a non-passenger to enter the passenger/baggage inspection area at the ports for purposes of meeting official guest(s) of the Commonwealth, a disabled passenger, unaccompanied children under the age of six (6) years, and other government dignitaries. A pass may be issued to employees of private companies if the presence of such employees in the arrival areas is necessary to the operation of the company. A detailed justification for all temporary passes must be submitted to the Division of Customs for review and approval. All temporary passes must be requested and approved by the Director or his delegate at least twelve (12) hours before the arrival of a special passenger. All temporary passes issued must be returned to the Service upon leaving the passenger/baggage inspection area.

(b) A special pass is one that authorizes entry into the sterile area beyond the customs baggage area. Government employees may be issued special passes, only if such employees are required to be in the arrival areas in order to carry out their duties and responsibilities. Special passes are not required for law enforcement personnel whose presence in the sterile area are required to carry out their duties services, provided however that prior notification and approval by the Director or Supervisor in charge is provided. To qualify for a special pass, both the employee and the employer must file together an application to the Division of Customs which satisfies the following requirements:

- (1) The employer must submit a copy of the determination made by

the Service as specified in this section.

(2) The employer must have a valid Commonwealth Airport Authority Security Pass or Port Security Pass and must be authorized to enter the "Aircraft Operation Areas" at the airports or the "Port Security Compound" at the wharf.

(3) A ten dollar (\$10.00) processing fee plus two (2) color pictures, 1-1/8" x 1-1/8", must accompany the application. Polaroid pictures are not acceptable. The processing fee is waived for government employees. However, lamination fee will be charged to the requesting department's operation account.

(4) In addition to all requirements specified in the application form for a special pass, the employer must agree and accept the following conditions:

#### CONDITIONS AND ACCEPTANCE

Special Pass No. \_\_\_\_\_ issued on \_\_\_\_\_ to \_\_\_\_\_  
(recipient on behalf of) \_\_\_\_\_ (employer/applicant) is the property of the Commonwealth Government of the Northern Mariana Islands. The Division of Customs may at any time revise, revoke, and/or cancel the special pass which must be returned upon request. The special pass is to be used only in designated areas approved and indicated on the pass by the person to whom it was issued and only while on duty as an employee of the employer shown above.

In case of loss or theft, a loss charge of fifty dollars (\$50.00) must be paid to the Division of Customs. The employer must report such loss or theft immediately to the Division of Customs, and the employer shall bear the expense of the loss. Failure to report the loss or theft will result in the cancellation of all special passes issued on behalf of the employer. A lost or stolen pass may be replaced provided another application together with ten dollars (\$10.00) application fee plus the charge of fifty dollars (\$50.00) is paid to the Division of Customs.

(c) Unlawful use of any pass issued by the Division of Customs shall be subject to the applicable penalties of these provisions.

**Section 4308.10. Penalties Imposed in Chapter 4, Division 1, 4 CMC.**

(a) **Reasonable Cause Waiver.** The Secretary has the authority to waive the civil penalties imposed under 4 CMC §1407(d), §1411(a), §1423, or these Regulations on the basis of reasonable cause.

(b) **§1411(a) Penalty Calculation.** The penalty imposed under 4 CMC §1411(a) shall be equal to 100% of the value of the goods, commodities, resources, or merchandise but only to the extent of the value of such items which is under declared or undeclared, as applicable.

**Section 4308.11. Additional Penalties.**

(a) Any person who knowingly shall swear to or verify under oath, any false or fraudulent statement with the intent to evade any tax imposed under Chapter 4, Division 1, of Title 4 of the Commonwealth Code shall be guilty of a felony, punishable by a fine of not more than Ten Thousand Dollars (\$10,000) or imprisonment for not more than two (2) years or both.

(b) Any person who willfully intends to evade or otherwise violate these and any other regulations and procedures governing inspection and clearance of crew, passengers, baggage, cargo, or other goods, shall be guilty of a felony, punishable by a fine of not more than ten thousand dollars (\$10,000) or imprisonment for not more than two (2) years or both.

(c) Any person who negligently fails to follow these or any other regulations and procedures governing the inspection and clearance of crew, passenger, baggage, cargo or other goods shall be subject to a civil penalty in an amount not to exceed two thousand dollars (\$2,000) per violation.

## Part X

### Section 4309 - Severability

#### **Section 4309.1. Severability.**

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

Issued by:

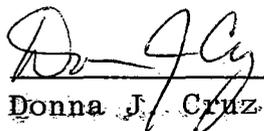


Gabriel DLC. Camacho  
Secretary of Finance (Acting)

12-12-96

Date

Concurred by:

  
Donna J. Cruz

12/13/96

Date

Filed and  
Recorded by:



Soledad B. Sasamoto  
Registrar of Corporations

12/13/96

Date



COMMONWEALTH HEALTH CENTER

OFFICE OF THE SECRETARY

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

PUBLIC NOTICE

PROPOSED RULES AND REGULATIONS ESTABLISHING A LIVING WILL
POLICY WITHIN THE DEPARTMENT OF PUBLIC HEALTH

The Secretary of the Department of Public Health of the
Commonwealth of the Northern Mariana Islands, in accordance with the
authority vested pursuant to 1 CMC §2605, proposes these Rules and
Regulations establishing a Living Will Policy. The establishment of a Living Will
Policy will bring the Department of Public Health into compliance with the
requirements of the Social Security Act, 42 U.S.C. §1395 and 1396, for those
entities participating in the Medicare and Medicaid programs.

It is the intention of the Department of Public Health to comply with
the requirements of the Administrative Procedures Act, specifically 1 CMC
§9104, in proposing these Rules and Regulations. Copies of the proposed
Rules and Regulations may be obtained from the Office of the Secretary of
Public Health located on the ground floor of the Commonwealth Health Center.
Comments on the proposed Rules and Regulations may be sent to the Office of
the Secretary of Public Health, Department of Public Health, P.O. Box 409 CK,
Saipan, MP 96950. All comments must be received within thirty (30) days from
the date this notice is published in the Commonwealth Register.

Certified By: [Signature]
DR. ISAMU J. ABRAHAM
Secretary
Department of Public Health

11-26-96
Date

Filed By: [Signature]
SOLEDAD B. SASAMOTO
Registrar of Corporations

12/11/96
Date

Received by: [Signature]
DONNA J. CRUZ
Governor's Office

12/11/96
Date



# COMMONWEALTH HEALTH CENTER

## OFFICE OF THE SECRETARY

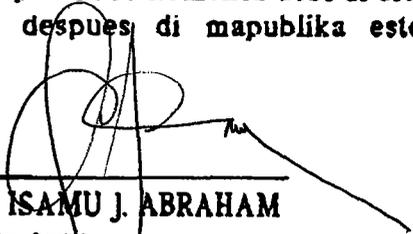
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

### NUTISIAN PUBLIKU

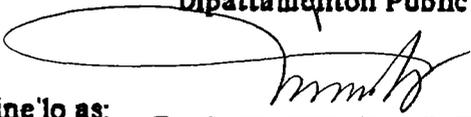
#### I MAPROPOPONI SIHA NA AREKLAMENTO YAN REGULASION PUT MA ESTABELSEN AREKLAMENTON LIVING WILL GI HALOM DIPATTAMENTON PUBLIC HEALTH

I Sekretariun Dipattamenton Public Health i Commonwealth of the Northern Mariana Islands, sigun gi aturidat ginen i 1 CMC §2605, ha propoponi este siha na Areklamento yan Regulasion put ma establesen Areklamenton Living Will. I ma establesen Areklamenton Living Will u yama i Dipattamenton Public Health para u tattiyi i nisisidat Social Security Act, 42 U.S.C. § 1395 yan 1396, para ayu siha na lugat ni man pattisipao gi Programan Medicare yan Medicaid.

Intension i Dipattamenton Public Health para u tattiyi nisisidat Administrative Procedures Act, espisifikatmente i CMC §9104, para u mapropo ni este siha na Areklamento yan Regulasion. I kopian i mapropo ni siha na Areklamento yan Regulasion guaha para hayi interesao na persona guatu gi Ofisinan Sekretariun Public Health gi primet bibenda giya Commonwealth Health Center. Komentu put i mapropo ni siha na Areklamento yan Regulasion siha u sanmatuge yan nahanao guatu gi Ofisinan Sekretariun Public Health, Dipattamenton Public Health, P.O. Bo 409 CK, Saipan, MP 96950. Todu komentu debi di ufanma satmiti guatu gi halom trenta (30) dias despues di mapublika este na nutisia gi Rehistran Commonwealth.

Sinettefika as:   
DR. ISAMU J. ABRAHAM  
Sekretariu  
Dipattamenton Public Health

11-26-96  
Fecha

Pine'lo as:   
SOLEDAD B. SASAMOTO  
Rehistradoran Kotporasion

12/11/96  
Fecha

Rinisibi as:   
DONNA J. CRUZ  
Ofisinan Guberno

12/11/96  
Fecha



**COMMONWEALTH HEALTH CENTER**

**OFFICE OF THE SECRETARY**

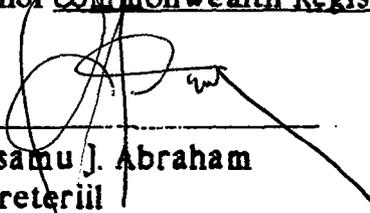
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

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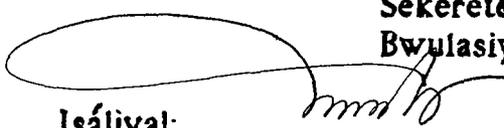
**POMOL FFÉERÚL ALLÉGH IGHA EBWE AYOORATÁ ALLÉGHÚL LIVING WILL  
MELLÓL DIPATAMENTOOL PUBLIC HEALTH**

Samwoolul Dipatamentool Public Health mewóól Commonwealth of the Northern Mariana Islands, nge sáangi ailéewal me bwángil mille 1 CMC §2605, nge ekke pomoli bwe ebwe fféer Allégh iye ebwe ayooráatá Alléghúl Living Will. Reel fféréetáál alléghúl Living Will yeel nge ebwe ngalleey Bwulasiyool Public Health reel ebwe yoor yaal alúghúlúgh reel mwóghútúl mille Social Security Act, 42 U.S.C. § 1395 me 1396, bwuley kka elo faal progróomaal Medicare me Medicaid.

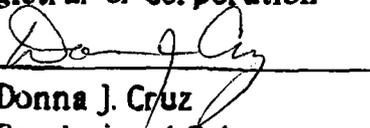
Iyeel tipal Bwulasiyool Public Health reel ebwe tabweey alúghúlúghúl Administrative Procedures Act, efar ghi ghil ngáli 1 CMC § 9104, reel igha rebwe pomoli allégh me aweewe kkaal. Kopyaal allégh me aweewe kkaal nge emmwál ubwe bweibwogh mereel Ofisinaal Samwoolul Public Health iye elo Commonwealth Health Center. Alongal aiyegh me mángemáng reel Allégh me Aweewe nge ebwe akkafangeló reel Ofisinaal Samwoolul Public Health, Bwulasiyool Public Health, P.O. Box: 409 CK, Saipan, MP. 96950. Alongal aiyegh me mángemáng nge ebwe isisilong llól eliigh (30) rál sáangi rál la etoolong arongorong yeel llól Commonwealth Register.

Apilúghúlúgh mereel:   
Dr. Isamu J. Abraham  
Sekereteriil  
Bwulasiyool Public Health

11-26-96  
Rál

Isáliyal:   
Soledad B. Sasamoto  
Registrar of Corporation

12/11/96  
Rál

Bwughiyal:   
Donna J. Cruz  
Bwulasiyool Gobenno

12/11/96  
Rál

## DEPARTMENT OF PUBLIC HEALTH

### LIVING WILL POLICY

#### I. Policy.

These Rules and Regulations shall be referred to as the "Living Will Policy."

#### II. Findings and Declarations.

1. An adult person has the fundamental right to control the decisions about his or her own medical care, including the decision to have life-sustaining treatment started, withheld or withdrawn in instances where the person is afflicted with a terminal condition or is in a permanent unconscious condition.

2. Prolonging the process of dying for a person afflicted with a terminal condition or in a permanent unconscious condition, when continued medical treatment will not improve the prognosis for recovery, may violate patient dignity and cause unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the person. It is therefore the objective of this policy to protect individual autonomy by allowing persons to make decisions about their treatment and their death.

3. In recognition of the dignity and privacy that a person has a right to expect, this policy is aimed at upholding the right of an adult person to make a declaration instructing his or her physician regarding life sustaining treatment, including the right to initiate, maintain, or withdraw such treatment, in the event of a terminal condition or permanent unconscious condition, or in the event that the person is unable to make those decisions for himself or herself.

#### III. Preparing A Living Will

1. A person who is 18 years or older, and who is of sound mind, may state verbally or in writing his or her wishes regarding life sustaining treatment, including the withdrawal or maintenance of such treatment, as provided in this policy. Persons are encouraged to document their decisions in writing.

2. A person's verbal statements regarding life sustaining treatment must be made to a family member or friend, and witnessed by at least one other individual.

3. A form for a written Living Will is attached to this policy as Exhibit A. The Living Will forms can be found throughout the Commonwealth Health Center, including the Hospital Administrator's office.

IV. Operative Effect Of A Living Will.

A Living Will becomes operative when:

a. It is communicated to the attending physician by the patient or the patient's family members or friends to whom the patient has communicated his or her desires; and

b. The patient is diagnosed and certified in writing by the attending physician, and a second physician who has personally examined the patient, and both concur that the patient is:

(i) close to death, and that starting or maintaining life support would postpone death;

(ii) unconscious, and it is very unlikely that the patient will become conscious again; or

(iii) in an advanced state of a progressive illness that will be fatal, and that the patient is consistently and permanently unable to communicate by any means, swallow food and water safely, care for himself or herself, recognize family members or other people close to the patient, and it is very unlikely that the patient's condition will significantly improve;

and, the patient is no longer able to make decisions regarding administration of life-sustaining treatment.

When the Living Will becomes operative, the attending physician and other health care providers must act in accordance with its provisions, or comply with the transfer requirements set forth in Section VIII.

This policy does not affect the responsibility of the attending physician or other health care provider to provide treatment for a patient's comfort care or alleviation of pain.

V. Revocation Of A Living Will.

A person may revoke a Living Will at any time and in any manner, without regard to his or her mental or physical condition. A revocation of the Living Will is effective when the person's intent to revoke is communicated to the attending physician or other health care provider by the person, or by a witness to the person's act of revocation.

The attending physician or other health care provider must indicate the person's revocation of the Living Will in such person's medical record.

VI. Recording The Living Will In The Medical Record.

When a patient's attending physician determines that the patient is in a condition described in Section IV, the attending physician who knows of a Living Will must record the Living Will and the terms of the Living Will in the patient's medical record. The medical record of a patient with a Living Will will contain a sticker on the outside folder indicating that a Living Will is included inside the medical record. A person who has signed a Living Will is encouraged to give a copy of the Living Will to their family members, close friends, or health care provider.

VII. Patient's Right To Self-Determination; Pregnant Patients.

A person who is 18 year or older, and who is of sound mind, may make decisions regarding life-sustaining treatment as long as he or she is able to do so, regardless of whether he or she has signed a Living Will.

If the patient is pregnant and that diagnosis is known to the attending physician, the Living Will shall have no force or effect during the course of the pregnancy, unless the patient has explicitly specified in writing that the Living Will should remain in effect in instances of pregnancy.

VIII. Physician or Health Care Provider Unwilling to Comply With the Living Will Policy; Transfer of Patient.

An attending physician or other health care provider who is unwilling to comply with the Living Will policy shall take all reasonable steps as promptly as practicable to transfer care of the patient to another physician or health care provider who is willing to comply with the terms of the patient's Living Will.

IX. Health Care Provider Acting In Good Faith.

The Department of Public Health will not subject a physician or other health care provider to disciplinary action for unprofessional conduct for acting on the terms of a patient's Living Will when the physician or other health care provider clearly demonstrates that he or she had no knowledge of the revocation of the Living Will.

A physician or other health care provider whose action under this policy is in accord with reasonable medical standards will not be subject to disciplinary action for unprofessional conduct, administrative sanction, or other punishment by the Department of Public Health if the physician or health provider believes in good faith that his or her actions were consistent with this policy and the desires of the patient as expressed in the patient's Living Will.

X. Health Care Provider Not Acting In Good Faith.

It is the Department of Public Health's expectation that all employees will comply with this policy. The Department of Public Health will subject any physician or health care provider to disciplinary action who willfully fails to record the terms of a Living Will in a person's medical record. Furthermore, any individual who willfully:

- a. conceals, cancels, or obliterates the Living Will of another individual without that individual's consent; or
- b. falsifies or forges a revocation of the Living Will of another individual,

will be reported to the Office of the Attorney General for prosecution.

XI. Policy Consistent With Other Rights And Laws.

a. This policy does not affect the right of a person to make decisions regarding the use of life-sustaining treatment, as long as the person is able to do so, or impair or supersede a right or responsibility that a person has to effect the withholding or withdrawal of medical care.

b. This policy does not require any physician or other health care provider to take any action contrary to reasonable medical standards.

c. This policy does not condone, authorize, or approve mercy killing or assisted suicide, or permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

XII. Living Will Presumed To Be In Compliance With Policy And Valid.

In the absence of any knowledge to the contrary, a physician or other health care provider may presume that a Living Will complies with this policy and is valid.

XIII. Instruments Executed In Other States.

An instrument governing the withholding or withdrawal of life-sustaining treatment executed in another jurisdiction in compliance with the laws of that jurisdiction is valid for the purposes of this policy.

XIV. Instruments Executed In the CNMI Prior To Adoption Of This Policy.

An instrument governing the withholding or withdrawal of life-sustaining treatment executed in the CNMI prior to the adoption of this policy is valid for the purposes of this policy.

EXHIBIT A

**LIVING WILL**

**HEALTH CARE INSTRUCTIONS:**

I, \_\_\_\_\_, hereby set forth my desires about my health care in the event my doctor and another doctor who has personal knowledge about my care confirm that I am in a medical condition described below:

1. If I am close to death and life support would postpone the moment of my death:

A. Initial One

\_\_\_\_\_ I want to receive artificially administered nutrition and water.

\_\_\_\_\_ I DO NOT want to receive artificially administered nutrition and water.

B. Initial One

\_\_\_\_\_ I want other life support that may apply: \_\_\_\_\_.

\_\_\_\_\_ I want NO life support.

2. If I am unconscious and it is very unlikely that I will ever become conscious again:

A. Initial One

\_\_\_\_\_ I want to receive artificially administered nutrition and water.

\_\_\_\_\_ I DO NOT want to receive artificially administered nutrition and water.

B. Initial One

\_\_\_\_\_ I want other life support that may apply: \_\_\_\_\_.

\_\_\_\_\_ I want NO life support.

3. If I have a progressive illness that will be fatal and is in an advanced state, and I am consistently and permanently unable to communicate by any means, swallow food and water safely, care for myself, and recognize my family and other people, and it is very unlikely that my condition will significantly improve:

A. Initial One

\_\_\_\_\_ I want to receive artificially administered nutrition and water.

\_\_\_\_\_ I DO NOT want to receive artificially administered nutrition and water.

B. Initial One

\_\_\_\_\_ I want other life support that may apply: \_\_\_\_\_.

\_\_\_\_\_ I want NO life support.

(Over)

4. Additional Conditions and Instructions: (Insert description of what you want done.)

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I hereby declare that Living Will was voluntarily prepared by me and that I have independently made the choices specified above on my own after significant thought and consideration.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DECLARATION OF WITNESSES**

We the witnesses to this Living Will hereby declare that the person signing the living will: (a) is personally known to us or has provided proof of identity; (b) signed the Living Will, or instructed another to sign the Living Will on their behalf, in our presence; and c) appears to be of sound mind and not under duress, fraud, or undue influence:

Witnessed By:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Witness

NOTE: Witnesses must not be related to (by blood, marriage, or adoption) the person signing this Living Will, and must not be entitled to any portion of the person's estate upon such person's death.

BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDED REGULATIONS

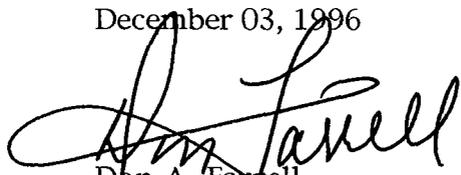
The Board of Education, Commonwealth of the Northern Mariana Islands, hereby notifies the general public of its intention to amend certain Regulations. The proposed amended regulations are promulgated pursuant to the authority provided by article XV of the CNMI constitution, the Education Act of 1988 and the CNMI Administrative Procedures Act.

The proposed amendments involve the following subject areas:

1. Amend. Revision to Classification & Compensation Guidelines  
Code: 2281/2282/2283/2284, Vice-Principals  
Revision to Classification & Compensation Guidelines  
Code: 2264/2265/2266/2267, Principals

The text of the proposed amended regulations are published following this notice. Anyone interested in commenting on the regulations may do so by submitting comments in writing to the Chairman, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 within thirty days of the date of publication of this issue of the Commonwealth Register.

December 03, 1996



Don A. Farrell  
Chairman, Board of Education

Filed by:  12/6/96  
Donna Cruz, Governor's Office

Filed by:   
for: Soledad B. Sasamoto  
Registrar of Corporations

## AKONSEHERON IDUKASION

### NUTISIA PUT I MANMAPRUPOPONI NA AMENDASION GI AREKLAMENTON SIHA

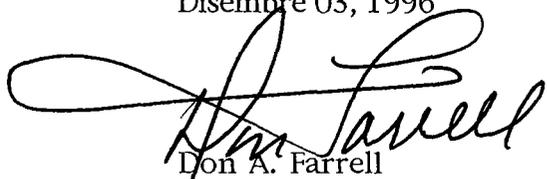
I Akonseheron Idukasion i Notte Marianas, ha emfotma i pupblekon hinirat put i entension-ña para u amenda unas kunatas na areklamento. I mapruponi na areklamento siha ni manma' amenda ufisiatmante mapopblika attekulu XV gi konstitusion i Natte Marianas, i akton Idukasion gi 1998 yan i Akton areklon Administrasion CNMI.

I mapruposi na areklamento ha kukubre i mansigente na patte siha:

1. Areklamento Masibison i klasifikasion yan areklon suetdo  
Kodigu: 2281/2282/2283/2284, Sigundo  
Atmenentra(dot/dora) Eskuela  
Masibison i klasifikasion yan areklon suetdos  
Kodigu: 2264/2265/2266/2267, Atmenestra(dot/dora)  
Eskula

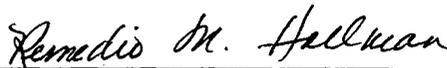
I entension i manmapruponen amendasion na areklamento siempre u fanmapupblika huyong despues di malaknos-ña este na nutisia. Hayi na petsona malago' mama'tinas rikumendasion put este siha na areklamento, siña ha tuge' papa' sinente-ña ya u na'halom gi Ge'hilo', Akonseheron Idukasion, P.O. Box 1370 CK, Saipan, MP 96950 gi halom trenta (30) dihas despues di mapupblika huyong este na nutisia gi Commonwealth Register.

Disembre 03, 1996



Don A. Farrell  
Ge'hilo', Akonseheron Idukasion

Inarekla As:  12/6/96  
Donna Cruz, Governor's Office

Inarekla As:   
Soledad B. Sasamoto  
Registrar of Corporations

BOARD OF EDUCATION

**Arongorong Reel Allégh Kka Ebwe Siiwel**

Schóól Board of Education, mellól Commonwealth of the Northern Mariana Islands, rekke arongaar aramas towlap reel mángemángiir igha rebwe siiweli allégh kka e fféetá. E pwal yoor bwángil allégh kka re bwal féerú sáangi bwángil me ailéewal Education Act of 1988 me Administrative Procedures Act.

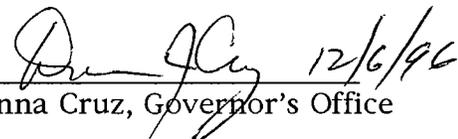
Llól allégh kka e siwel ló nge e toolong aweeweekka faal:

1. Liiwelil Revision to Classification & Compensation Guidelines  
Code: 2281/2282/2283/2284, Vice-Principals  
Revision to Classification & Compensation Guidelines  
Code: 2264/2265/2266/2267, Principals

Owtol allégh yeel nge ebwe toowow mwiril arongorong yeel. Iyo e mwuschel bwe e bwe atotoolong meeta tipal me mángemángil nge ebwe ischiitiw nge aa afanga ngáli Chairman, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950, llól eliigh ráál sáangi igha e toowow arongorong yeel llól Commonwealth Register.

Disembre 03, 1996

  
Don A. Farrell  
Chairman, Board of Education

Iyo E File-li:  12/6/96  
Donna Cruz, Governor's Office

Iyo E File-li:   
fn. Soledad B. Sasamoto  
Registrar of Corporations

## Revision to Classification & Compensation Guidelines

<u>Code</u>	<u>Position Title</u>	<u>P.L.</u>	<u>Min.</u>	<u>Mid.</u>	<u>Max.</u>	<u>Min. Qual. Req.</u>
2281	Vice Principal I	30	\$22,576	\$28,807	\$38,601	BA/BS & 2 yrs teaching experience in a multicultural environment plus progressively responsible administrative or supervisory experience in school administration
2282	Vice Principal II	31	\$23,706	\$30,246	\$40,531	BA/BS & 3 yrs experience at least two of which must be teaching in a multicultural environment and at least two years progressively responsible experience in school administration
2283	Vice Principal III	32	\$24,889	\$31,757	\$42,558	BA/BS & 4 yrs combined teaching in a multicultural environment and progressively responsible school administration
2284	Vice Principal IV	33	\$26,131	\$33,345	\$44,685	BA/BS & 5 yrs experience at least three of which must be teaching in a multicultural environment and at least three years progressively responsible experience in school administration
** Note	The BOE approved the beginning salary for each Vice Principal I-IV to be placed on the mid-point rather than the beginning salary.					
* Note:	The BA/BS degree must be from a U.S. accredited institution of higher learning.					
* Note:	Professional Development Credits are a requirement for renewal of contract.					
* Note:	Vice Principals serving at year/round multi-track schools may be provided with premium pay consisting of a 20% hardship pay differential in accordance with PSS Personnel Rules & Regulations Section 4219 (B) Subsection (6) as currently proposed.					
* Note:	The Commissioner will promulgate additional criteria regarding the degree requirements (i.e. - BA in elementary education, secondary education, education administration, etc.).					

## Revision to Classification & Compensation Guidelines

<u>Code</u>	<u>Position Title</u>	<u>P.L.</u>	<u>Min.</u>	<u>Mid.</u>	<u>Max.</u>	<u>Min. Qual. Req.</u>
2264	Principal I school experience with three years teaching experience in a multicultural environment and three years administrative or supervisory experience.	32	\$24,889	\$31,757	\$42,558	BA/BS & 6 yrs
2265	Principal II school experience at least five of which must be teaching in a multicultural environment and three years progressively responsible experience in school administration.	33	\$26,131	\$33,345	\$44,686	BA/BS & 8 yrs
2266	Principal III school experience combining teaching in a multicultural environment and progressively responsible experience in school administration.	34	\$27,437	\$35,012	\$46,920	MA/MS & 4 yrs
2267	Principal IV school experience at least three of which must be teaching in a multicultural environment and at least five years progressively responsible experience in school administration.	35	\$28,807	\$36,763	\$49,266	MA/MS & 8 yrs

\*\* Note: The BOE approved the beginning salary for each Principal I-IV to be placed on the mid-point rather than the beginning salary

\* Note: Professional Development Credits are a requirement for renewal of contract.

\* Note: Principals serving at year/round multi-track schools may be provided with premium pay consisting of a 20% hardship pay differential in accordance with PSS Personnel Rules & Regulations Section 4219 (B) Subsection (6) as currently proposed.

\* Note: The BA/BS/MA/MS degree must be from a U.S. accredited institution of higher learning

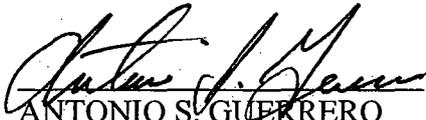
\* Note: The Commissioner will promulgate additional criteria regarding the degree requirements (i.e. - BA in elementary education, secondary education, education administration, etc.)

**NOTICE OF PROPOSED AMENDMENTS  
TO THE  
"REVISED MARIANAS VISITORS BUREAU  
DESIGNATED TOURIST SITE REGULATIONS"**

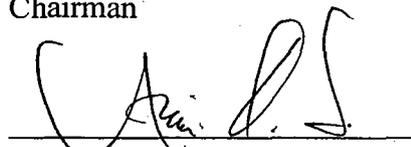
The Board of Directors of the Marianas Visitors Bureau (MVB) find that the public interest and welfare requires the adoption of amendments to the "Revised Marianas Visitors Bureau Designated Tourist Site Regulations", as published in the Commonwealth Register Volume 12, Number 4, on April 15, 1990, commencing at page 6874; adopted in Commonwealth Register Volume 12, Number 6, on June 15, 1990, at page 7146; as amended, with said amendments published in the Commonwealth Register Volume 14, Number 10, on October 15, 1992, commencing at page 9974; adopted in the Commonwealth Register Volume 14, Number 12, on December 15, 1992, commencing at page 10363; and adopted as emergency regulations in the Commonwealth Register Volume 18, Number 6, on June 15, 1996, commencing at page 14147.

The regulations adopt a procedure for the Marianas Visitors Bureau to take bids for Beach Concessionaire Permits, award Beach Concessionaire Permits to selected applicants, and regulate the operation and activities of Beach Concessionaire Permit Holders. The regulations are adopted pursuant to 4 CMC 2106(q) & (r), and in accordance with 1 CMC 9104(b).

ISSUED BY:

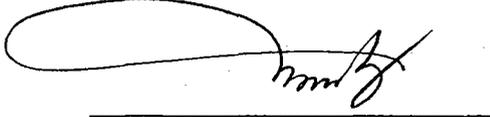
  
ANTONIO S. GUERRERO  
Chairman

Dec. 13, 1996  
DATE

  
ANICIA Q. TOMOKANE  
Managing Director

Dec. 2, 1996  
DATE

RECORDED BY:

  
SOLEDAD SASAMOTO  
Registrar of Corporation

12/13/96  
DATE

C:\0296C021

**AMENDMENTS TO THE REVISED  
MARIANAS VISITORS BUREAU  
DESIGNATED TOURIST SITE REGULATIONS**

A new article, entitled "ARTICLE VII BEACH CONCESSIONAIRE PERMITS," is adopted as follows:

**SECTION 1. Concessionaire Sites.** Concessionaire sites are currently located in buildings controlled and operated by the Marianas Visitors Bureau on the beach front property located between the Saipan Beach Hotel and the Hyatt Regency Saipan. The number of permits that may be issued for this site shall be subject to the Director's sole discretion.

Additional sites may be designated by the Director.

**SECTION 2. Application Forms.** Applications for Beach Concessionaire Permits will be accepted on forms approved by the Marianas Visitors Bureau. The Director is hereby authorized to draft any and all forms it deems necessary for said applications. Said applications may require the submission of any and all documents that the Director deems necessary. Said applications may also require the applicant to pay a nonrefundable fee and submit a deposit, representing a percentage of their bid (See Section 3(b)), to be set by the Director. Unsuccessful applicants shall receive a refund of their deposit, but not of any application fee.

**SECTION 3. Concessionaire Permit Decision.**

(a) At least one month prior to the end of the permit year, the Director shall publish a notice specifying a period of time in which persons may apply for available Beach Concessionaire Permits.

(b) At a time designated in the notice issued pursuant to subsection (a), above, all applications shall be publicly opened. After each application is opened and announced, the Director shall have seven days for review and selection and shall ensure that it is complete and in compliance with these rules and any applicable regulations and statutes. Incomplete applications shall not be considered.

(c) The issuance of Beach Concessionaire Permits shall be based on the bids contained in complete applications. In addition to the bids, the Director shall consider, in its sole discretion, the applicant's experience, resources, and/or background, to ensure that Beach Concessionaire Permits are awarded to those applicants that can best conduct the concession in a safe, healthy, and successful manner. While the award of bids is an important factor as it will generate revenue for the Marianas Visitors Bureau, the Bureau is statutorily charged with promoting the Commonwealth tourist industry and working to increase the overall number of tourists to the Commonwealth, therefore, it is also important that qualified applicants are selected that will complement the goals of MVB. Accordingly, the Director may reject a bid, or select a lower bid if they, in their sole discretion, determine that it would be in the best interest of the Bureau to do so.

(d) Alternative awardees may be selected if the Director so chooses, in order to provide for the event where a successful applicant is not awarded a permit, or in case a Beach Concessionaire Permit is revoked, or a Beach Concessionaire Permit holder ceases operations.

**SECTION 4. Concessionaire Fees.** Successful applicants shall pay a fee in the form of their bid. The remainder of their bid (bid less any required deposit) shall be paid in equal monthly installments. Said monthly installments shall be paid in advance, and shall be due on the first day of each and every month at the Marianas Visitors Bureau's office.

**SECTION 5. Concessionaire Leases.** The Director is authorized to adopt leases, rental agreements and/or any other contracts prescribing the terms and conditions of the Beach Concessionaire Permit holders use of Marianas Visitors Bureau's buildings and/or the operation of the concession. Successful applicants may not be issued a permit, nor may they engage in any concession activities until they have executed said documents and complied with the terms of said documents.

**SECTION 6. Insurance.** A permit shall not be issued, nor shall a successful applicant and/or Beach Concessionaire Permit holder engage in the operation of their concession until and unless they have liability insurance, insuring the concessionaire's patron's, the Marianas Visitors Bureau, its directors, officers, employees, and agents, and any other third parties who may be injured by a concessionaire's operations and for which a concessionaire may be found liable by a court of competent jurisdiction. The terms and amounts of said insurance shall be as prescribed by the Director.

**SECTION 7. COMPLIANCE WITH LAWS AND REGULATIONS.** Prior to the operation of their concession, a successful applicant and/or Beach Concessionaire shall comply with all applicable laws and regulations and obtain any permits and/or licenses that may be required to operate their concessions. As the concession will be operated within the Coastal Resources Management's (CRM) Area of Particular Concern (APC), a CRM permit must be obtained prior to the operation of the concession.

The revocation and/or denial of any permit and/or license that may be required by any agency/instrumentality of the CNMI and/or Federal Government, shall cause an immediate suspension of the concessionaire. Permit, notwithstanding the terms of Section 8, can also be considered a default under Section 8 of these regulations for the purposes of the cancellation of the concessionaire permit.

**SECTION 8. Default.** Should any successful applicant and/or permit holder fail to pay any fees, purchase or maintain insurance, or violate the terms of these regulations or any applicable law, then their application may be revoked, or permit canceled or suspended upon thirty (30) day written notice by the Marianas Visitors Bureau. In the case of suspension, the Director shall have the authority to impose additional requirements on the permit holder as a condition of reinstatement, including a monetary payment up to two hundred (\$200.00) dollars. The Beach Concessionaire Permit holder shall cease operation during any period of suspension. If the Director finds that a public emergency necessitates the suspension of a permit on less than

thirty (30) days notice, the Director is authorized to suspend said permit providing that the Beach Concessionaire Permit holder is provided with an expedited appeal.

**SECTION 9. Appeals.** Appeals of any action taken by the Marianas Visitors Bureau shall be governed by the Administrative Procedures Act.

**SECTION 10. Miscellaneous.** The provisions contained in Articles I and V, to the extent they are not inconsistent, shall apply to Beach Concessionaire Permits. All other provisions shall not be applicable. Specifically, Articles II through IV, and VI.



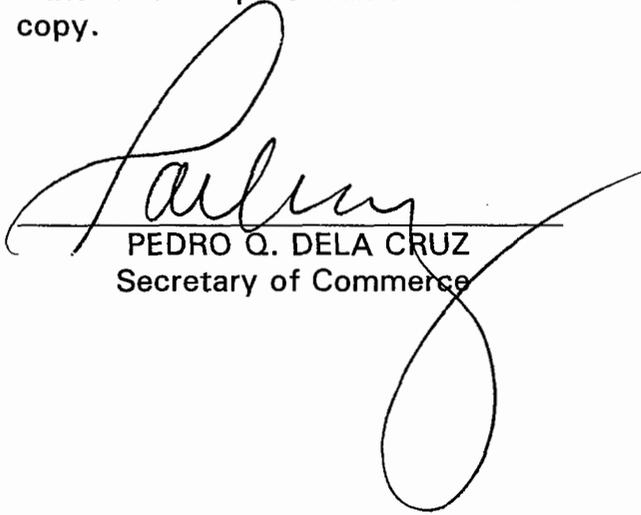
**DEPARTMENT OF COMMERCE**  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
CALLER BOX 10007  
C.K., SAIPAN, MP 96950

TEL. NO. (670) 664-3000/1/2  
FAX NO. (670) 664-3067

**PUBLIC NOTICE**

Governor Froilan C. Tenorio and Lt. Governor Jesus C. Borja, through the Secretary of Commerce, hereby provide public notice that the Banking and Insurance Section of the Department of Commerce has completed the 1995 Annual Report of the Director of Banking and the 1995 Annual Report of the Insurance Commissioner.

Either of the reports can be obtained at the Department of Commerce for \$25.00 per copy.

  
\_\_\_\_\_  
PEDRO Q. DELA CRUZ  
Secretary of Commerce

12/13/96  
DATE