

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



Law Revision

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VOLUME 28
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NUMBER 02
February 28, 2006

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

Declaration of State of Emergency: 2006-02
Commonwealth Utilities Corporation
Lack of Power February 2006

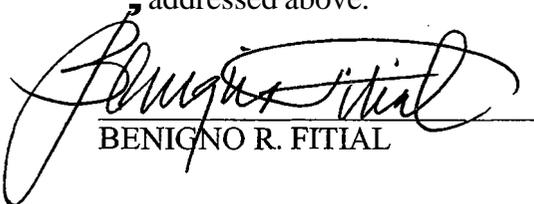
I, Benigno R. Fitial, by the authority vested in me as the Governor of the Commonwealth of the Northern Mariana Islands, and being fully advised in the premises, hereby declare a state of disaster emergency for the Commonwealth of the Northern Mariana Islands, with respect to Commonwealth Utilities Corporation ("CUC") and its inability to provide service, pursuant to the CNMI Constitution, N.M.I. Const. art. III, §10, and the CNMI Local Disaster Relief Act, 3 CMC §5101, et seq..

I find that CUC is currently purchasing fuel in a three-day supply and, thus, has no reserve in the event of non-delivery or other emergency. It must make payment for fuel by January 31, 2006 and will run out of its current fuel supply that same day. I further find that a fuel tanker is due in the Commonwealth on January 31, 2006 and that CUC is planning to purchase fuel to last through February 15, 2006. I find that after February 15, 2006, CUC will be unable to pay for its fuel oil supplies; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail. These conditions present an extreme, immediate and imminent emergency.

I find that this Declaration is necessary to insure the continued provision of power to critical CNMI public health and public safety facilities, the continued provision of electricity to our schools, homes, and work places, and the continued operation of our water and wastewater systems. This Declaration is to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

Therefore, I hereby invoke my Constitutional authority to take all necessary measures, including but not limited to:

1. Assume full control of the Commonwealth Utilities Corporation;
2. Suspend all regulatory statute provisions and regulations applicable to the CUC, including procurement regulations;
3. Suspend the CUC Board of Directors' power, authority and/or responsibility during the period of this emergency, except as specifically stated in writing by me; and
4. Reprogram all necessary money to provide CUC the funds to address the conditions addressed above.


BENIGNO R. FITIAL

Dated this 27th day of January, 2006.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

RECEIVED
DATE: 1/28/06

Benigno R. Fitial
Governor.

Timothy P. Villagomez
Lieutenant Governor

EXECUTIVE ORDER NO. 2006-1

SUBJECT: Reorganization Plan No. 1 of 2006

AUTHORITY: constitution, Article III, Section 15

WHEREAS, Section 15 of Article III of the Constitution requires that Executive Branch offices, agencies, and instrumentalities of the Commonwealth Government be allocated among and within not more than fifteen principal departments, grouped as far as practicable according to major purposes; and

WHEREAS, pursuant to such section, regulatory, quasi-judicial, and temporary agencies may be so allocated, but need not be; and

WHEREAS, the Governor may made changes in the allocation of offices, agencies, and instrumentalities, and in their functions and duties, as necessary for efficient administration; and

WHEREAS, such changes may affect existing law; and

WHEREAS, the existence of a multitude of offices, agencies, and instrumentalities outside of the principal departments has resulted in duplication of functions, overlaps of responsibility, lack of coordination, and other forms of inefficient administration; and

WHEREAS, the power of the Governor to reorganize the Executive Branch, has been affirmed and upheld by the Superior Court of the Commonwealth of the Northern Mariana Islands in its Decision and Judgment dated June 23, 1994, in the case of *Marianas Visitors Bureau v. Commonwealth*, Civ. No. 94-0516 (Memorandum Decision and Judgment) June 23, 1994;

NOW, THEREFORE, to comply with the mandate of the Constitution and to promote efficient administration, it is hereby

ORDERED:

That the following provisions shall constitute Re-organization Plan No. 1 of 2006:

Section 101 Commonwealth Utilities, Corporation

The Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination as a major component of the department equivalent to a division and shall have at its head a Chief Executive Officer who shall have the rank of a division director. The Board of Directors of the Commonwealth Utilities Corporation is abolished and its functions transferred to the Department of Public Works.

Part II General Provisions

Section 201. Legal and Regulatory References. All references in law or regulation to any agency of official re-designated by this plan shall be deemed to be a reference to such agency of official as so re-designated. In addition, references to an agency and to the head of such agency are used interchangeably in this plan as regards the authority or a function thereof.

Section 202. Authority Transferred. Except as otherwise provided in this plan, the functions of the head of any department or other agency (including those of a collective head, such as a board or commission) relating to the administration of any agency or function transferred pursuant to this plan are hereby transferred to, and shall be exercised by the head of the department or other agency to which such transferred agency or function is transferred by this plan.

Section 203. Transfer of Records, Property and Personnel.

(a) All records and property (including office equipment) of the various agencies, and all records and property used primarily in the administration of any function, transferred by this plan and, except as otherwise provided, all the personnel used in the administration of such agencies and functions (including employees whose chief duties relate to such administration) are hereby transferred to the respective departments or other agencies concerned for use in the administration of the agencies and functions transferred by this plan.

(b) The Special Assistant for Management and Budget, the Special Assistant for Administration, and the Director of Personnel shall consult with each other regarding appropriate procedures for the integration of the personnel of any abolished agency, the functions of which are transferred to another agency, into the employment of the gaining agency. The three officials shall, within 30 days after the effective date of this plan, make recommendations to the Civil Service commission, which shall, within 30 days thereafter, promulgate regulations for such integration. If such regulations provide for the appointment of such personnel to positions in the classified Civil Service or the Excepted Service, the individuals involved must be qualified to perform the duties of such positions.

(c) Pending the integration of personnel provided for in subsection (b) of this section, their terms of employment with the abolished agency shall continue to apply to the extent permitted by law.

(d) As used in this section, the term "gaining agency" means any agency to which an agency or any of its functions is transferred.

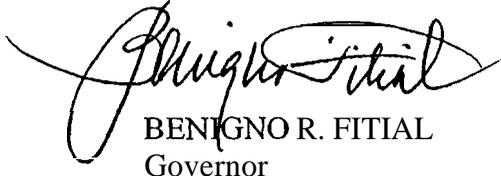
Section 204. Transfer of Funds. So much of the unexpended balances of appropriations, allocations, allotments, or other funds available for the use of any agency in the exercise of any function transferred by this plan, or for the use of the head of any department or other agency in the exercise of any function so transferred, as the Special Assistant for Management and Budget with the approval of the Governor shall determine, shall be transferred to the department or other agency concerned for use in connection with the exercise of the function so transferred. In the transfer of such funds, an amount may be included for the liquidation of obligations incurred prior to the transfer. Any portion of such balances not so transferred may be reprogrammed by the Governor.

Section 205. Administration and Coordination. When an agency is allocated by this plan to another agency "for purposes of administration and coordination", the allocated agency shall be integrated into the other agency. The individual or collective head of the allocated agency shall report to or serve under the direction of the head of the other agency. The annual budget for an allocated agency shall be set forth in the Governor's Budget as a separate entry under the general heading of the agency to which it is allocated.

Section 206. Codification of Changes. The Law Revision Commission shall codify the designations, allocations, and changes in existing law affected by this plan.

Section 207. Effective Date. In accordance with the Constitution, this plan shall become effective sixty days after submission to the Legislature, unless specifically modified or disapproved by a majority of the members of each house of the Legislature, provided, that in case it shall appear to the Governor that the interests of economy or management require that any transfer, consolidation, or abolishment be delayed beyond the date this plan becomes effective, the Governor may, in his discretion, fix a later date therefore, and he may for like cause further defer such date from time to time.

Done this 27th day of January, 2006


BENIGNO R. FITIAL
Governor



Commonwealth of the Northern Mariana Islands
Saipan Zoning Board

Henry Hofschneider, Chair
Caller Box 10007, Capitol Hill, Saipan, MP 96950
(Coastal Resources Management Office, 2nd Floor Morgen Building, San Jose, Saipan)
tel: 670. 664.8300 fax: 670.664.8315

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REGULATIONS OF
the Saipan Zoning Board**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS
Volume 27, Number 10, pp 025256-71, of Nov. 25,2005

Regulations of the Saipan Zoning Board: Parts 100 - 1000

Please take notice that the Saipan Zoning Board hereby adopts as permanent the referenced Proposed Regulations. I also certify by signature below that the referenced Proposed Regulations are being adopted without modification or amendment. I further request and direct that this Notice be published in the Commonwealth Register.

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

The prior publication was as stated above. The Board adopted the regulations as final at its meeting of February 23,2006.

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

Attorney General approval: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 23rd day of February, 2006, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Henry Hofschneider,
Chair, Saipan Zoning Board

2/23/06
Date

Filed and
Recorded by:



BERNADITA B. DE LA CRUZ
Commonwealth Register

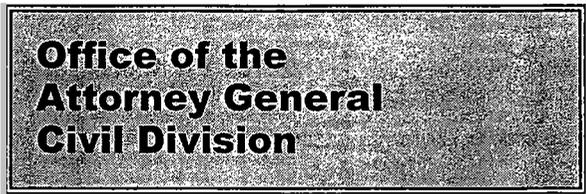
Date
a/27/06

0 Notice of Final Adoption pubd 0602.wpd

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

2ND FLOOR HON. JUAN. A. SABLAN MEMORIAL BLDG., CAPITOL HILL
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MEMORANDUM

ATTORNEY GENERAL OPINION NO. 06-01

To: **Office of Personnel Management**

From: **Matthew Gregory** *MTG*
Acting Attorney General;

Date: **February 6, 2006**

Re: **LIAISON OFFICER'S RESPONSIBILITY
OVER DPH STAFF**

This opinion is in response to the request of the Office of Personnel Management for a legal opinion regarding "the Liaison Officer's responsibility and authority over staff detailed by the Department of Public Health for medical referral function" and "under whose authority, by statute, the medical referral function should fall in Hawaii and Guam."

Issues: What is the Liaison Officer's responsibility and authority, if any, with respect to Department of Public Health staff assigned to the medical referral programs in Hawaii and Guam? Under whose authority, by statute, does the medical referral function fall in Hawaii and Guam?

Department of Public Health

The Department of Public Health is headed by the Secretary of Public Health who is appointed by the Governor with the advice and consent of the Senate. See, 1 C.M.C. § 2602; 1

C.M.C. § 2001 (Department of Public Health and Environmental Services re-designated the Department of Public Health; department director redesignated a secretary).

The Department of Public Health has the power and duty "[t]o administer all government-owned health care facilities, 1 C.M.C. § 2603(f), which "includes the authority to operate the Medical Referral Program." See, Emergency Amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program, Commonwealth Register, Vol. 27 No. 07, p. 024708 (Aug. 22, 2005). See *also*, Rules and Regulations Governing the Administration of the Medical Referral Program, Commonwealth Register, Vol. 18 No. 07, p. 14239 (July 15, 1996) (established the Medical Referral Program within the Department of Public Health).

Thus, it is the Department of Public Health that has established and administers the Medical Referral Program.

Liaison Offices

The Marianas Hawaii Office and the Marianas Guam Office are each "headed by a liaison officer" who is "appointed by the Governor and . . . under the direct supervision and control of the Governor." 1 C.M.C. §2091.

The liaison officer is responsible for maintaining the respective office headquarters and "may employ the secretarial, clerical, technical, and professional assistants deemed necessary by the Governor to fulfill their duties and responsibilities, subject to budgetary appropriation." 1 C.M.C. § 2092.

They shall assist the Governor in faithfully executing the laws of the Commonwealth, including those laws, regulations and policies regarding off-island medical referrals, student assistance, and other matters.

The duties and functions of the liaison offices shall be only such as are related to the functions of the executive branch of the Commonwealth government.

Upon request, the liaison officers may assist other public officials in performing their duties and responsibilities.

1 C.M.C. § 2092 (paragraphing added).

Thus, the liaison officers have no statutory authority over the Medical Referral Program and their duties are limited to “assist[ing] the Governor in faithfully executing the laws of the Commonwealth.” See, 1 C.M.C. § 2902.

Job Descriptions

According to OPM, the DPH medical referral staff positions in question are “hired by the Department of Public Health and paid from their budget.”

However, based on the job descriptions for those staff positions, the Administrative Officer (Hawaii) and the Medical Referral Assistant (Guam) are under the general supervision of the Liaison Officer; the Administrative Assistant (Hawaii) is under the general supervision of the Assistant Liaison Officer; the Medical Referral Utilization Reviewer/Coordinator (Hawaii) assists the Liaison Officer in the overall coordinator of the Medical Referral program; and the Medical Referral Coordinator (Hawaii) is under the general supervision of the Medical Referral Officer.