

TITLE 145: DEPARTMENT OF PUBLIC LANDS

CHAPTER 145-50 PUBLIC PURPOSE LAND EXCHANGE RULES AND REGULATIONS

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Chapter Authority: 2 CMC § 4146.

Chapter History: Proposed 34 Com. Reg. 32302 (Feb. 29, 2012);** Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995);* Adopted 10 Com. Reg. 5418 (Jan. 18, 1988); Proposed 9 Com. Reg. 5256 (Oct. 15, 1987).

*The text of the proposed regulations was not published with the March 1995 notice of proposed regulations.

**On February 27, 2012, the Department of Public Lands published proposed Land Exchange Rules and Regulations pursuant to the authority of PL 15-2. See 32 Com. Reg. 32300 (Feb. 29, 2012). A notice of adoption was never published. This subchapter is reserved for future rules and regulations governing the Land Exchange Rules and Regulations.

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-4115, established the Marianas Public Land Corporation (MPLC), responsible for the management and disposition of public lands. See 2 CMC §§ 4113 and 4114.

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PL 5-33 (effective June 1, 1987), the “Public Purpose Land Exchange Authorization Act of 1987,” is codified as amended at 2 CMC §§ 4141-4149. The act, as amended by PL 13-17 § 8 (effective July 23, 2002), PL 13-23 (effective Sept. 9, 2002) and PL 14-44 (effective Dec. 2, 2004), authorizes MPLC or its successor to enter into certain land exchange agreements with private landowners. PL 5-33 § 6 empowers MPLC to promulgate rules and regulations to carry out the purposes of the act. See 2 CMC § 4146.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 §§ 104 and 306(a):

Section 104. Department of Lands and Natural Resources.

The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

...

Section 306. Department of Lands and Natural Resources

(a) Marianas Public Land Corporation. Pursuant to [N.M.I. Const. art. XI, §4(f)], the Marianas Public Land Corporation is dissolved and its functions transferred to a Division of Public Lands in the Department of Lands and Natural Resources, which shall have at its head a Director of Public Lands.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

In 1997, the Legislature passed the “Public Lands and Natural Resources Administration Act of 1997,” PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651, et seq. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the commission comment thereto. 1 CMC § 2654 authorizes the Department of Lands and Natural Resources to adopt rules and regulations in furtherance of its duties and responsibilities.

PL 10-57 § 4 vacated Executive Order 94-3 § 306. PL 10-57 § 3 created a Division of Public Lands within DLNR “headed by a Director serving under the supervision and control of the Secretary and the Board of Public Lands.” 1 CMC § 2671(a). 1 CMC § 2671(b) provided that the Division of Public Lands is the successor to the Marianas Public Lands Corporation pursuant to N.M.I. Const. art. XI, §4(f), and assigned all statutory powers and duties of the MPLC to the Division of Public Lands.

PL 12-33 (effective Dec. 5, 2000), the “Board of Public Lands Act of 2000,” and PL 12-71 (effective Nov. 13, 2001) transferred the authority to manage, use, and dispose of surface and submerged public land to a new Marianas Public Lands Authority, under the direction of a Board of Public Lands Management. The Marianas Public Lands Authority became the successor agency to the Marianas Public Lands Corporation.

Public Law 15-2 (effective February 22, 2006), codified at 1 CMC §§ 2801-2809, replaced the Marianas Public Lands Authority with the Department of Public Lands within the executive branch. PL 15-2 repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands.

PL 15-2 changed all references in the Commonwealth Code from the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Lands to the “Department of Public Lands.” PL 15-2 § 4 [Commission comment to 1 CMC § 2801]. Public Law 15-64, effective May 30, 2007, changed all references in the Commonwealth Code from Board of Public Lands to “Secretary of Public Lands.” PL 15-64 § 4. For a complete history of the authority over public lands in the Commonwealth see the general comment to chapter 10 of this title.

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The MPLC issued Land Exchanged Rules and Regulations in 1988, pursuant to PL 5-33 § 6, 2 CMC § 4146. See 10 Com. Reg. 5418 (Jan. 18, 1988); 9 Com. Reg. 5256 (Oct. 15, 1987). The DLNR Division of Public Lands promulgated the 1995 Public Purpose Land Exchange Regulations codified in this chapter pursuant to the authority of Executive Order 94-3 § 306 and PL 5-33.

Part 001 - General Provisions

§ 145-50-001 Authority

The regulations in this chapter are promulgated by the Division of Public Lands of the Department of Lands and Natural Resources pursuant to § 6 of the Public Purpose Land Exchange Authorization Act of 1987, as amended [2 CMC § 4146].

Modified, 1 CMC § 3806(d).

History: Proposed 34 Com. Reg. 32302 (Feb. 29, 2012); Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: On February 27, 2012, the Department of Public Lands published proposed Land Exchange Rules and Regulations pursuant to the authority of PL 15-2. See 32 Com. Reg. 32300 (Feb. 29, 2012). A notice of adoption has never been published to date.

§ 145-50-005 Purpose

The regulations in this chapter are promulgated to repeal and replace in their entirety, the rules and regulations promulgated by the Marianas Public Land Corporation pursuant to the Public Purpose Land Exchange Authorization Act of 1987, published in the Commonwealth Register on January 18, 1988 at pages 5418-5428.

Modified, 1 CMC § 3806(d), (f).

History: Proposed 34 Com. Reg. 32302 (Feb. 29, 2012); Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: On February 27, 2012, the Department of Public Lands published proposed Land Exchange Rules and Regulations pursuant to the authority of PL 15-2. See 32 Com. Reg. 32300 (Feb. 29, 2012). A notice of adoption has never been published to date.

§ 145-50-010 Definitions

(a) “Division” means the Division of Public Lands of the Department of Lands and Natural Resources.

(b) “Government” means, for purposes of the regulations in this chapter, the agencies involved in the land exchange process, other than the Division of Public Lands.

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(c) “Owner” means the person, persons, entity, or entities qualified to receive a land exchange under the Public Purpose Land Exchange Authorization Act of 1987, as amended [2 CMC §§ 4141-4149].

Modified, 1 CMC § 3806(d), (f).

History: Proposed 34 Com. Reg. 32302 (Feb. 29, 2012); Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: On February 27, 2012, the Department of Public Lands published proposed Land Exchange Rules and Regulations pursuant to the authority of PL 15-2. See 32 Com. Reg. 32300 (Feb. 29, 2012). A notice of adoption has never been published to date.

Part 100 - Basic Acquisition Policies

Commission Comment: On February 27, 2012, the Department of Public Lands published proposed Land Exchange Rules and Regulations pursuant to the authority of PL 15-2. See 32 Com. Reg. 32300 (Feb. 29, 2012). A notice of adoption has never been published to date.

§ 145-50-101 Exchanges Based on Fair Market Value

All land exchanges must be based on a “fair market value” ratio as determined and established by an independent appraisal study.

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: The Commission created the section titles in part 100.

§ 145-50-105 Fair Market Value; Basis

The government’s and the Division’s appraisal of fair market value shall be based upon nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value under the “eminent domain law” of the CNMI; and, in the case of land being acquired for highway purposes, consistent with federal requirements applicable to valuation of land being acquired for highway purposes.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-110 Uneconomic Remnants

If the acquisition of a certain portion of private land will leave an owner with an uneconomic remnant, the government shall also propose to acquire the uneconomic remnant along with that portion of the property needed for the project. An uneconomic remnant is that parcel of an

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owner's real property that would otherwise remain in title to the owner but have no utility or economic value to the owner after the government's acquisition of the owner's adjoining real property.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-115 Permission for Appraisal

Before entering into the negotiation for a land exchange, the government shall obtain written permission from the owner to enter upon and appraise his/her land.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-120 Solicitation and Selection of Appraisers

The government shall solicit and select independent appraisers in accordance with the CNMI Procurement Regulations [NMIAC, title 70, subchapter 30.3] promulgated by the Department of Finance pursuant to article X, section 8 of the CNMI Constitution, 1 CMC § 2553(j) and 1 CMC § 2557.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-125 Appraisers; Conflict of Interest

No appraiser shall have any interest, direct or indirect, in the real property which he/she appraises for the government or the Division that would in any way conflict with his/her performance of the appraisal. No appraiser shall act as a negotiator for the government, the Division, or the owner in the acquisition of real property which he/she has appraised in connection with the project. Compensation for an appraisal shall not be based on the amount of valuation.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-130 Review of Appraiser Reports

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- (a) The government or the Division at its option may require its review appraiser or an independent review appraiser to review all appraisal reports for:
- (1) Adequacy of the appraiser's supporting data and documentation.
 - (2) Soundness of the appraiser's reasoning in conformance with recognized appraisal practices.
 - (3) Soundness of the appraiser's opinion of the fair market value of the property.
- (b) If the government or the Division decides to have an appraisal report reviewed, the review appraiser may request the appraiser to make any necessary changes in the appraisal report. After all necessary changes are made, the reviewer shall recommend whether the appraisal report should be accepted. If the appraiser refuses to change the appraisal report pursuant to the recommendations of the review appraiser then the government or the Division shall request the appraiser to explain his/her reasons for not doing so, in writing. The government and the Division may reject any appraisal report which it or they determine is unsatisfactory under the requirements of the regulations in this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 145-50-135 Proposal to Owner Not to Exceed Estimate

The fair market value to be stated in the written proposal to the owner (§ 145-50-220 of this chapter) shall not be more than the fair market value estimate set forth in the approved appraisal report, if any.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-140 Exchange Based on Fair Market Value

Public land to be used in the acquisition must be appraised and the fair market value shall be the basis for the ratio of exchange. The size of public land to be used as compensation may be more or less than the private land to be acquired depending on the comparison of the fair market values of the two parcels; provided, that the exchange is equitable.

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-145 Supplemental Monetary Compensation

Notwithstanding § 145-50-140, in a land exchange the Division shall use its best efforts to exchange public land which is equal in size and value to the private land which has been taken or is to be acquired. Provided, however, that if the private land which has been taken or is to be acquired is equal in size to, but greater in value than, the public land to be exchanged, the government may offer the owner monetary compensation in addition to a land exchange for the purpose of meeting the value for value requirement of the law.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-150 Publication of Proposed Land Exchanges

All proposed land exchanges shall be published in a newspaper of general circulation and broadcast on the local radio and/or television in the CNMI, both in English and the vernacular, once each week for at least four consecutive weeks. Requests from concerned persons for the land exchange for a public hearing which are received within the time frame allocated for the public notice shall be heard as requested.

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-155 Size and Value Limitations

Private land which has a fair market value of less than \$5,000 or an area of less than 700 square meters shall not be acquired through a land exchange.

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-160 Prioritization of Land Acquisition

In considering whether to use land exchange as the method of acquisition of private land, the Division shall take into consideration the many demands on the public lands, the decreasing amount of public land available for land exchange, and the following priorities:

- (a) First priority includes all current use of private land by the public where no alternative sites are readily available on public land. First priority also includes all land exchanges pending prior to the publication of the rules and regulations in this chapter.
- (b) Second priority includes private land required to accomplish a public project where public land is not readily available for such project.

(c) Third priority includes sites certified to be of historical significance and shoreline and beachfront properties.

(d) Fourth priority includes all wetlands.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-165 Validity of Past Land Exchanges

Any land exchange agreement entered into by the Division (or its predecessor) prior to the effective date of Public Law 5-33, June 1, 1987 (2 CMC §§ 4141, et seq.) which accomplished a public purpose as defined in that Act, is hereby deemed to be a lawful and binding agreement in the same manner and to the same extent as if entered into after the effective date of that Act. Provided, however, this section shall not affect pending agreements to exchange all future claims, pursuant to Public Law 5-5, or exchanges related to 1944 land actions, until such claims have been completed.

Modified, 1 CMC § 3806(d).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-170 Settlement of Lawsuits

Any land exchange agreement entered into by the Division for the purpose of settling a lawsuit which has actually been filed shall be exempt from the requirements set forth in the rules and regulations in this chapter, provided that the agreement is approved by the court.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Part 200 - Acquisition and Land Exchange Procedure

Commission Comment: On February 27, 2012, the Department of Public Lands published proposed Land Exchange Rules and Regulations pursuant to the authority of PL 15-2. See 32 Com. Reg. 32300 (Feb. 29, 2012). A notice of adoption has never been published to date.

§ 145-50-201 Determination to Acquire; Governor's Certification or Legislature's Declaration or Determination

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The acquisition of private real property for a public purpose as defined in Public Law 5-33, as amended, [2 CMC §§ 4141-4149] shall originate at the Office of the Governor and must include the following:

- (a) Except as provided in § 145-50-170, a certification by the Governor of the public use(s) or purpose(s) for which the government is acquiring the land parcel(s), as provided in 2 CMC § 4143(e)(2); or a declaration or determination by the Legislature of the public use(s) or purpose(s) for which the government is acquiring the land parcel(s), as provided in 2 CMC § 4143(e)(1);
- (b) Boundary survey(s) and/or legal description(s);
- (c) Identification of encumbrances and disputes, if any.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-205 Evidence of Title

There shall be a finding of title to the property to be acquired, which shall consist of valid proof of clear title, unless the Governor waives this requirement in writing. The government or the Division may require the owner to furnish a preliminary title report which verifies that he/she has unencumbered title to the property to be exchanged whenever there is insufficient title evidence as to his/her ownership of the property in question.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-210 Issuance of Preliminary Acquisition Notice

The Office of the Governor shall issue a preliminary acquisition notice to the owner. The notice shall:

- (a) Inform the owner of the government's interest in acquiring his/her real property and the public purpose for which it is needed.
- (b) Inform the owner of Public Law 5-33, as amended, the rules and regulations in this chapter, and the need to appraise the subject property to assess the fair market value.
- (c) Request written permission from the owner to survey his/her land if it is unsurveyed and to inspect his/her land for the appraisal evaluation.

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(d) If the fair market value of the owner's property is determined to be \$5,000 or more and the area is 700 square meters or more, ask the owner if he/she wants the government to acquire his/her property through a land exchange. The owner shall indicate in an accompanying acknowledgment receipt whether he/she wants to enter into a land exchange or does not want to enter into a land exchange.

(e) The preliminary acquisition notice must be sent via return receipt mail or hand delivered and acknowledged that it was delivered and received.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (e).

In subsection (d), the Commission corrected the spelling of "acknowledgment."

§ 145-50-215 Survey and Appraisal of Real Property to Be Acquired

(a) Upon receipt of the owner's authorization, the government shall survey the owner's property, if necessary, and secure an approved plat. Concurrently, the government shall solicit and contract for an independent appraiser to appraise the property to be acquired in accordance with the CNMI Procurement Regulations [NMIAC, title 70, subchapter 30.3] and the basic acquisition policies of the rules and regulations in this chapter.

(b) The government shall give the appraiser reasonable time to complete the appraisal report. The government and the appraiser shall agree on the time for completion and submittal of the appraisal report upon execution of the agreement for appraisal report.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-220 Review of Appraisal Report and Determination of Fair Market Value of Real Property to Be Acquired

(a) Upon completion and submittal of the appraisal report, the government and/or the Division (if the owner has requested a land exchange) shall either accept the report or require a review. If a review is required, the government's or the Division's staff review appraiser or an independent review appraiser retained for such purpose shall have thirty working days to review the appraisal report for any deficiencies. The review appraiser shall be given additional time to review the report if such is warranted by its complexity.

(b) If the review appraiser finds any deficiencies in the appraisal report, the government or the Division (if the owner has requested a land exchange) shall notify the appraiser of such

deficiencies, and give the appraiser reasonable time to make corrections. If the appraiser refuses to make corrections or if the review appraiser finds any deficiencies after re-submittal, the review appraiser shall submit his own recommendation as to the fair market value of the property.

(c) The Governor shall determine what is, in his/her opinion, the reasonable fair market value of the property, based on the appraiser's report and the review appraiser's report, if any.

(d) The Division shall, in the case of a land exchange, be responsible for the custody of the appraisal report and the report, if any, of the review appraiser.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-225 Written Proposal to Owner

(a)(1) Within thirty days after the determination of fair market value, the government shall send or deliver a written proposal to the owner. The written proposal shall include the following:

- (i) A recital of the fair market value of the property.
- (ii) A copy of the approved appraisal report, if any, or copies of the appraiser's and review appraiser's reports.

(2) The written proposal shall be sent by return receipt mail or delivered in person and acknowledged that it was delivered and received.

(b) Within sixty days, the owner must either reject or accept the written proposal. After the expiration of sixty days, the government shall deem that the owner has rejected the written proposal and shall initiate other means of acquisition.

(c) The owner shall be given a reasonable opportunity to present material which he/she believes is relevant to determining the value of his/her property. If the government or the Division determines that the evidence presented by the owner warrants a revision of the fair market value, the government or the Division may modify the determination of fair market value, in consultation with the review appraiser, if any, or with the appraiser.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2).

§ 145-50-230 Owner Does Not Want Land Exchange

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If the owner indicates in his/her acknowledgment receipt that he/she does not want a land exchange, the government shall negotiate for monetary compensation, subject to the Governor's approval, or recommend condemnation proceedings if needed.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: The Commission corrected the spelling of "acknowledgment."

§ 145-50-235 Owner Wants Land Exchange

(a) The Division must explain its Land Exchange Rules and Regulations, codified in this chapter, and the basis for establishing the fair market value of the owner's property.

(b) The Division must explain to the owner that certain public land parcels have been designated and reserved for land exchange purposes and inform him/her of the established fair market value of these land parcels based on the latest approved appraisal reports.

(c) The owner shall be given, if requested, copies of the latest approved appraisal reports of the public land parcels and may have them reviewed by an independent review appraiser retained by the owner at the owner's expense.

(d) The Division shall create a file, if it has not already done so, which must contain the following documents:

- (1) The Governor's certification or the Legislature's declaration or determination;
- (2) Valid proof of clear title, or the Governor's written waiver of that requirement;
- (3) Preliminary acquisition notice and receipt;
- (4) Owner's response to acquisition notice;
- (5) Appraisal solicitation;
- (6) Appraisal selection;
- (7) Approved basic and severance maps;
- (8) Approved appraisal report, if any; or the appraiser's report and the review appraiser's report, if any;
- (9) Written notice to owner;
- (10) Owner's acceptance of written proposal.

(e) If the owner agrees to the written proposal or the final proposal made in the course of the negotiations, the Division, through the Governor, and the owner shall enter into a land exchange agreement, which shall be subject to the Governor's approval, and include at least the following:

- (1) The value of the owner's property and the value of the public land that has been agreed upon.
- (2) The legal description of the owner's land to be acquired, and an adequate description of the parcel(s) of public land the owner agrees to accept in exchange for his/her private land.
- (3) An agreement by the owner that he/she will warrant title to the property he/she will convey to the government.

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(4) The signatures of the owner and the Governor.

(f) If the government or Division and an owner who has selected a land exchange do not reach an agreement as provided in subsection (e) of this section, and do not otherwise reach an agreement for monetary compensation for the land to be acquired by the government, the government may proceed to acquire the land by other legal means.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-240 Publication of Proposed Exchange

Upon the signing of the land exchange agreement, the Division shall, within thirty days, publish the proposed exchange pursuant to § 145-50-150.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: The Commission created the section title.

§ 145-50-245 Processing and Execution of Land Exchange

(a) Within seven days of the successful conclusion of the negotiation, subject to the availability of funds, the Division shall:

(1) Solicit and select a surveyor in accordance with the CNMI Procurement Regulations [NMIAC, title 70, subchapter 30.3] to survey the public land parcel(s) to be exchanged.

(2) Prepare a deed of land exchange.

(b) Upon completion of the required surveys and deed of land exchange, the Division shall arrange for the execution of the deed, subject, however, to the final approval of the Governor.

(c) If the owner's property is occupied or being used by the owner upon the execution of the deed, the government shall notify the owner that he/she must vacate the premises. If the owner needs time to relocate, the government shall grant him/her reasonable time to do so.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

§ 145-50-250 Disposition of Acquisition Records, Documents and Reports

TITLE 145: DEPARTMENT OF PUBLIC LANDS

All materials which are part of the file for the particular land exchange must be compiled and safeguarded in proper filing containers. This file must at a minimum contain the following:

- (a) Governor's certification, or the declaration or determination by the Legislature of the public uses or purposes for which the land is being acquired;
- (b) Preliminary acquisition notice;
- (c) Solicitation for appraisal;
- (d) Selection and agreement for appraisal services;
- (e) Approved appraisal report;
- (f) Review appraiser's recommendation (if any);
- (g) Written proposal to owner;
- (h) Written proposal return receipt mail/acknowledgment receipt;
- (i) Rejection/request for negotiations by the owner (if any);
- (j) Final proposal;
- (k) Proof of clear title or the Governor's written waiver of that requirement;
- (l) Survey plat(s);
- (m) Copies of notices published in the newspaper and broadcast on local radio and/or television, with the dates of publications and broadcast;
- (n) Deed of exchange;
- (o) Notification to owner to vacate the property (if any);
- (p) Any correspondence pertaining to the land exchange.

Modified, 1 CMC § 3806(f).

History: Adopted 18 Com. Reg. 14129 (May 15, 1996) (repealing and replacing the 1988 Marianas Public Land Corporation Land Exchange Rules and Regulations); Proposed 17 Com. Reg. 13308 (May 15, 1995); Proposed 17 Com. Reg. 13023 (Mar. 15, 1995).

Commission Comment: In subsection (h), the Commission corrected the spelling of "acknowledgment."