

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CIVIC CENTER, SAIPAN, MARIANA ISLANDS

Volume 5 Number 6

Page 2168 to Page 2239

Date of Publication: June 30, 1983



Commonwealth

Register

Published monthly by the Registrar of Corporation
Office of the Attorney General
Saipan, Mariana Islands 96950

TABLE OF CONTENTS

NOTICE OF INTENT TO PROMULGATE REGULATIONS:

Proposed Earthmoving and Erosion Control
Regulations for Public Law 3-23 for the
Department of Public Health and Environmental
Services Page 2168

Proposed Rules and Regulations for the
Northern Mariana Islands Retirement Fund Page 2182

Proposed Revision of General Education
Development (GED) Testing Program
Regulations Page 2191

Proposed Off-Shore Banking Rules and
Regulations for the Department of Commerce
and Labor Page 2196

Proposed Commonwealth Health Planning
and Development Agency Regulations for
Certificate of Need Page 2208



Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands
Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services
Division of Environmental Quality
Saipan, Mariana Islands 96950



Cable Address:
Gov. NMJ Saipan
Tel. 6984/6114

PUBLIC NOTICE

PROPOSED EARTHMOVING AND EROSION CONTROL REGULATIONS
FOR PUBLIC LAW 3-23
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

The Director of the Department of Public Health and Environmental Services of the Commonwealth of the Northern Mariana Islands is proposing to promulgate new regulations for the protection of the environment through the control of erosion caused by earthmoving activities. These regulations will be used under the authority of CNMI Public Law 3-23.

The purpose of these regulations and technical provisions is to establish certain minimum standards and requirements as determined by the Department to be necessary for control of nonpoint source runoff from man related activities for the protection of water quality, beneficial uses, and natural resources, in the marine and fresh water environment as set forth by Commonwealth law and regulation.

The proposed regulations include the following subject areas:

1. The authority and purpose of the regulations.
2. Compliance and permit surrender provisions.
3. The permit system, procedure, and application.
4. Required investigations, reports, and plans.
5. Inspections.
6. Standards of grading, filling, and clearing.
7. Objects of antiquity.
8. Variances.
9. Violation and enforcement.

Copies of the proposed regulations may be obtained from the Department of Public Health and Environmental Services, Division of Environmental Quality, Dr. Torres Hospital, Saipan, CM 96950.

Anyone interested in commenting on the proposed Earthmoving and Erosion Control Regulations may do so by submitting comments in writing to the Director, Department of Public Health and Environmental Services, Dr. Torres Hospital, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

6/28/83
Date

DR. JOSE T. VILLASOMEZ, Director
Public Health & Environmental Services

May 19 83.



Commonwealth of the Northern Mariana Islands

Office of Registrar of Corporations

Department of Public Health & Environmental Services

Division of Environmental Quality

Saipan, Mariana Islands 96950

NOTISIAN PUBLIKO

Cable Address:
Gov. NMJ Saipan
Tel. 6984/6114

MAPROPOSA NA REGULASION MAGUADDOK ODDA' YAN PARA U MASUETA
FINA'GASSEN ODDA' GINEN I ICHAN PAT MANGLO' PARA I LAI PUBLIKO 3-23
GINEN I DEPARTAMENTON HINEMLO' PUBLIKO YAN SETBISION ENVIRONMENTAL

I Direktot i Depattamenton Hinemlo' Publiko yan Setbision Environmental gi Commonwealth i Sankatan na Islas Marianas ha proposa na umanaguaha un nuevo na regulasion pot para umanaguaha yan umaprotehe i maguaddok odda' yan para u masueta fina'gassen odda' ginen i ichan pat manglo' gi Commonwealth. Este na regulasion para umausa komo patte gi Lai Publiko 3-23.

I propositon este na regulasion teknikat yan espisifikasion pot para uma establese i minimum standards ni mana'sisita sigun i madetetmina nu i Depattamento komo presiso para proteksion i fina'gassen odda' ginen i ichan pat manglo' ni finacho'cho taotao para proteksion kualidat hanom, usu para probecho, yan naturat na guinahan tano' yan tasi ni mana' guahahayi ni lai yan regulasion gi Commonwealth.

I mapropoposa na regulasion ha inklulusu i sigente siha na asunto:

1. I atoridat yan propositon regulasion siha.
2. Hu ma kompli yan u mana'i direchu i mana'in lisensia para otro siha na ahensia.
3. I sisteman lisensia, areklamenton lisensia yan aplikasion.
4. Madimanda inbestigasion, repot, yan planu siha.
5. Rikonosimento.
6. Ginagagao para u masupiyu, matatni yan mana'gasgas.
7. Kosas antigu na tiempo.
8. I otro siha na manera yan i manasuha i areklamento para ayo siha na sistema ni ti sina madalalake i mas propio yan kantida na asunto maguaddok odda' yan fina'gassen odda' ginen i ichan pat manglo'.
9. Kontradiksion yan areklamenton regulasion siha.

Kopian i mapropoposa na regulasion siha sina machule' ginen i Depattamenton Hinemlo' Publiko yan Setbision Environmental, Dibision i Kualidat Environmental, Dr. Torres Hospital, Saipan, CM 96950.

Kuatkiet petsona na malago' u espresa i opinion-na pot mapropoposa na regulasion maguaddok odda' yan fina'gassen odda' ginen i ichan pat manglo', makombibida na u tuge' i opinion-na ya u satmiti guatu gi Direktot i Depattamenton Hinemlo' yan Setbision Environmental, Dr. Torres Hospital, Saipan, CM 96950, gi halom trenta (30) dias ginen ayu na fecha anai mapublika este na notisia gi Commonwealth Register.

6/25/83
Fecha

DR. JOSE T. VILLAGOMEZ, Direktot
i Depattamenton Hinemlo' yan
Setbision Environmental

EARTHMOVING AND EROSION CONTROL
REGULATIONS

PART 1 AUTHORITY

These regulations have been promulgated by the Department in accordance with the Commonwealth of the Northern Mariana Islands Public Law 3-23. These regulations and technical provisions shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

The purpose of these regulations and technical provisions is to establish certain minimum standards and requirements as determined by the Department to be necessary for control of nonpoint source runoff from man related activities for the protection of water quality, beneficial uses, and natural resources, in the marine and fresh water environment as set forth by Commonwealth law and regulation.

PART 2 GENERAL PROVISIONS

2.1 Compliance

Construction and maintenance of any landfills, excavations and cuts and clearing of vegetation and the revegetation of cleared areas, and all other earthmoving activities, shall be in compliance with the terms of this regulation. Permits shall be required as provided in this regulation and such permits shall be granted or denied in conformity with the provisions of this regulation.

2.2 Interpretation and Severability

The provisions of this regulation shall be literally construed to effectuate their purposes. If any section, clause, provision or portion of this regulation is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this regulation shall not be affected thereby.

2.3 Permit Surrender

The DEQ may take administrative action to relieve an applicant of undue procedural requirements by utilizing such devices as permit surrender and consolidated permit applications, upon a finding that such actions will be in the best interest of the Commonwealth and will meet or cause to be met by any applicable law, standard, rule, or regulation in force.

For the purpose of this regulation, certain terms or words used herein shall be interpreted as follows: words in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number; and the word "shall" is mandatory, not permissive. The following terms wherever used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

- (a) "Area of Instability" means an area where there is a risk of rock movement.
- (b) "Chief" means the Chief, Division of Environmental Quality.
- (c) "Clearing of Vegetation" means total or partial removal of naturally occurring vegetation on an area of land.
- (d) "Commonwealth" means the Commonwealth of the Northern Mariana Islands.
- (e) "Department" means the Department of Public Health and Environmental Services.
- (f) "Director" means the Director of the Department of Public Health and Environmental Services.
- (g) "DEQ" means the Division of Environmental Quality.
- (h) "Earthmoving Activity" means any construction or other activity which disturbs or alters the surface of the land, a coral reef, or bottom of a lagoon, or ocean floor, including but not limited to excavations, dredging, embankments, land reclamation in a lagoon, land development, subdivision development, mineral extraction, ocean disposal and the moving, depositing or storing of soil, rock, coral or earth; sand mining, except at sites that are approved and regulated by the Department of Public Works or designated government agency.
- (i) "Fill" means any rock, soil, gravel, sand or other material deposited by man.
- (j) "Geological Terms" means any term used in this regulation which pertains to the science of geology as defined and set forth in the latest edition of the "Glossary of Geology" published by the American Geological Institute, unless such term is otherwise defined herein.

(k) "Grading" means cutting through or otherwise disturbing the layers of the soil mantle so as to change the existing landform.

(l) "Permit Surrender" means the transfer or delegation of one agency's or one level of permit authority to regulate a particular aspect of development to another agency.

(m) "Person" means an individual, partnership, corporation, business association, or group of individuals and any governmental entity.

(n) "Sand Mining" means the taking of any rock, sand, gravel or other material from any site, including all areas from the landward vegetation line to the seaward outer slope of the barrier or fringing reef.

PART 4 PERMIT SYSTEM

4.1 When Required.

Except as set forth in Section 4.11, no person shall commence or continue any grading, excavating, filling or clearing of vegetation without having first obtained a permit in accordance with this regulation.

4.11 Exceptions.

A permit under this regulation shall not be required if the proposed work is limited to any of the following circumstances, though all other applicable provisions of this regulation shall apply to such work:

(a) The excavation does not exceed two (2) meters in vertical depth at its deepest point measured from the original surface, does not exceed three thousand (3,000) square meters in area, and does not create a slope greater than two (2) meters in height and steeper than 1½ horizontal to 1 vertical in unconsolidated material;

(b) The fill does not exceed one (1) meter in vertical depth at its deepest point measured from natural ground surface, and place on natural terrain with a slope flatter than 5 horizontal feet to 1 vertical foot, or does not exceed two (2) meters in vertical depth, and is not intended to support structures, and does not exceed one hundred (100) cubic yards and does not obstruct a drainage course;

(c) The work is an exploratory excavation under the direction of a soil engineer or engineering geologist not to exceed an aggregate area of four hundred (400) square meters;

(d) The work is for field plowing or agricultural purposes;

(e) The work is for the purpose of erecting a one (1) or two (2) family residence;

(f) The work is for refuse disposal sites controlled by other regulations;

(g) The work is the clearing of vegetation for landscape purposes or site inspection which does not exceed five (5) hectares in area and there is sufficient prevention of erosion, and it is not, in the opinion of DEQ, near a shoreline or wetland;

(h) The work is by a public agency in accordance with plans approved by DEQ.

4.2 Permit Procedure.

4.21 General Requirements.

(a) No person shall commence or continue any of the following grading, filling or clearing of vegetation without first obtaining permit from DEQ:

(1) That requiring a variance pursuant to the provisions of Part 10;

(2) For ongoing activities/operations of a continuous nature, such as dredging, quarrying, etc., shall be in compliance with these regulations within six (6) months from the effective date; and

(3) Development and/or construction operations shall comply immediately with this regulation to the extent possible.

(b) Upon receipt of an application the DEQ shall review it, applying the standards and requirements of this regulation and either issue, issue with conditions or deny said permit in accordance with said standards and requirements. The DEQ shall not issue a permit which does not comply with the provisions of this regulation. A processing fee shall be required based on the amount of review time.

(c) If the application is incomplete or insufficient in any manner, the DEQ shall reject it and inform the applicant of the items needed to make it complete. An incomplete or insufficient application shall not be a proposal requiring action by the DEQ within any deadline for action prescribed by this regulation.

(d) An appeal from the determination of DEQ staff may be made by any aggrieved party by lodging with DEQ staff a written notice of appeal within ten (10) days of the date of determination. On appeal, the DEQ may affirm, reverse or modify their determination and such action shall be final.

4.22 Application Form and Required Information for Permits

Applicants for a permit shall submit an application to DEQ upon a form prescribed by DEQ. Applicants for a permit shall furnish to DEQ an information report prepared by individuals qualified by training and experience to have knowledge of the subject. The DEQ shall determine the adequacy of the report and may require the submission of additional information where necessary. The report shall provide the following information except to the extent that the DEQ determine that such information is not applicable to the project.

(a) Erosion and Sediment Control Plan

(1) The plan shall be prepared by a qualified professional engineer;

(2) A map clearly depicting the land capabilities of the property on which the grading is to be performed, including the applicable soil name, soil group, hydrologic group, slope, runoff potential, soil depth, erosion potential, and natural drainage;

(3) A map clearly depicting accurate contours at two (2) foot intervals showing the topography of the ground to be cleared, graded or filled. The map shall extend beyond the site to be developed far enough so that any impact of erosion from the site and its deposition on adjacent properties may be assessed;

(4) A subsurface soil and geological report including subsurface investigations, if such report is required pursuant to Part 5 of this regulation;

(5) An accurate plot plan showing the exterior boundaries of the property on which the grading is to be performed, which plot plan shall include a grading plan prepared in accordance with engineering and planning practices, applicable codes and restrictions imposed by the recommendations of the subsurface soil and geological report;

(6) Elevations and dimensions, including quantity, location and extent of proposed grading;

(7) Location, construction and maintenance of sediment retention structures and equipment.

(i) The site plan shall specify the type, dimensions and location of all sediment retention or stormwater management structures and equipment.

(ii) The plan shall indicate the construction sequence of erosion control structures coordinated with the increment development schedule.

(iii) A maintenance program for the control facilities during the construction phase shall be prepared that includes plans for the removal and disposal of materials from the control facilities on the project area.

(8) A map and report showing existing tree locations size, species, and the proposed extent and manner of tree cutting and vegetation clearing, including a plan for disposing of cut trees and vegetation and protection of vegetation remaining on site;

(9) A description of equipment and methods to be employed in disposing of soil and other material that is removed from the grading site;

(10) A schedule showing when each stage of the project will be completed, and all clearing grading and stabilization operations shall be completed on a specified increment before moving on to the next specified increment.

(b) A Slope Stabilization and Revegetation Plan

(1) The applicant shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation, the vegetation to be removed and its disposal, the vegetation to be planted, erosion control and slope stabilization measures to be installed.

(2) The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality, and fish and wildlife.

PART 5 REQUIRED INVESTIGATIONS, REPORTS AND PLANS

5.1 General Requirements of Subsurface Investigations

If a subsurface soil and geological report is required pursuant to Part 5.2, subsurface investigations shall be performed throughout the area to sufficiently describe the existing conditions.

5.2 Specific Requirements of Subsurface Investigations

Subsurface investigation shall be conducted, and a subsurface soil and geological report prepared, where stability may be lessened by the proposed grading or filling or when such grading or filling will be performed at any of the following locations:

- (a) Zones of trapped water or high water table;
- (b) Where a fill slope is to be placed above a cut slope;
- (c) Where pile driving is to be conducted;
- (d) Proposed or existing fills exceeding twenty (20) feet in height;
- (e) Proposed or existing cuts exceeding twenty (20) feet in height, unless in extremely competent rock; or
- (f) Where side hill fills are to be placed on existing slopes steeper than sixteen percent (16%).

Where any of the particular problem areas listed above or other weaknesses are found, the subsurface investigation shall be of sufficient intensity to describe the problem thoroughly. The person making the report shall submit a written report of findings and recommendations.

5.3 Additional Investigations and Reports

When requested by the DEQ, the applicant shall procure and furnish at his own expense additional engineering, geological and ownership reports, plans or surveys and other material necessary to determine and evaluate site conditions and the effect of the proposed work on abutting properties, public ways and public welfare and safety within the purposes of this regulation.

PART 6 INSPECTION

6.1 Inspections at Reasonable Times

All construction or work for which a permit is required shall be subject to inspections at reasonable times by authorized employees of the DEQ.

6.2 General Inspections

The DEQ may make any inspections of any construction work deemed necessary to ascertain compliance with the provision of this regulation or other regulations of the DEQ.

6.3 Notification

The permittee or his agent shall notify the DEQ at least two (2) working days in advance of the start of the grading, filling or clearing operation.

6.4 Inconsistent Conditions

If the inspector finds the soil or other conditions other than as stated in the application for permit he may revoke the permit and refuse to approve work until approval is obtained for a revised permit which will conform to the existing conditions. In such event, all work shall cease until a revised permit is obtained.

6.5 Inspection of Concealed Work

Whenever any work on which inspections are required by this regulation is covered or concealed by additional work without first having been inspected, the DEQ may require, by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail expense to the DEQ.

PART 7 STANDARDS OF GRADING, FILLING AND CLEARING

7.1 Criteria for Grading, Filling and Clearing Operations

All grading, filling and clearing operations, whether or not requiring a permit under this regulation, shall be designed:

- (a) To preserve, match or blend with the natural contours and undulations of the land;
- (b) To retain trees and other native vegetation, to stabilize hillsides, retain moisture, reduce erosion, siltation and nutrient runoff and preserve the natural scenic beauty;
- (c) To minimize scars from cuts and fills;
- (d) To reduce the amount of cuts and fills and to round off sharp angles at the top, toe and sides of all necessary cut and fill slopes;
- (e) To limit development on steep terrain;
- (f) To take into consideration geologic fragileness and adverse soil conditions and their effect on the future stability of the development;
- (g) To assure that all cleared slopes, cuts and fills and other areas vulnerable to erosion shall be stabilized;
- (h) To assure that construction, clearing of vegetation or disturbance of the soil will be limited to those areas of proven stability;

(i) To assure that the natural geologic erosion of hillsides, slopes, graded areas, cleared areas, filled areas, will not be exceeded; and

(j) To assure that sediment or other material deposited in the marine waters or coastline, or any other public or private lands will not exceed that which would have been deposited if the land had been left in its natural state;

7.2 Discharge Prohibitions

7.21 Direct Discharge

No person shall discharge solid or liquid waste materials including soil, silt, clay, sand, and other organic or earthen materials into the lagoon, ocean, or coastline, surface waters such as wetlands, streams or springs, or other peoples property.

7.22 Indirect Discharge

No material shall be placed near the coastline or ocean water, wetlands, streams, springs or lakes in such a manner that it would be susceptible to erosion and/or deposition into said waters.

7.23 Discharge Control Devices

In order to prevent such discharges from occurring, approved erosion and siltation control devices and measures shall be required for all grading and filling. Control devices and measures which may be required include, but are not limited to, the following:

- (a) Energy absorbing devices to reduce the velocity of runoff waters;
- (b) Sedimentation controls such as desilting basins and catch basins. Any trapped sediment shall be removed to a site approved by the DEQ;
- (c) Dissipation of water runoff from developed areas over large undistributed areas;
- (d) Discharge of water runoff developed areas into drainage fields to dissipate the runoff into the subsoil;
- (e) Multiple discharge points to reduce the volume of runoff over the localized discharge areas; and
- (f) Physical erosion control device.

7.24 Temporary Control

Approved temporary erosion and sedimentation control devices, facilities and measures shall be required during construction.

7.3 Dust Control

Whenever the native ground cover is removed or disturbed or whenever fill material is placed on the site, the exposed surface shall be treated to the extent necessary to eliminate dust arising from the exposed material.

7.4 Prohibition of Grading During Inclement Weather

Grading, filling, clearing of vegetation or other disturbance of the soil are prohibited during inclement weather and for the resulting period of time when the site is in a saturated, muddy or unstable condition. Major earthmoving should wherever practicable be scheduled to coincide with the dry season.

7.5 Schedule of Operations

All grading and filling operations shall proceed according to a work schedule included in the grading plan. The schedule shall be prepared to limit to the shortest possible period of time that soil is exposed unprotected.

7.6 Disposal of Cleared Vegetation

Vegetation removed during clearing operations shall be disposed by stockpiling it on the site for use as mulch or compost, or shall be disposed of in a manner and at a location approved by the DEQ.

7.7 Disposal of Removed Earthen Materials

Earthen material removed during operations hereunder shall be disposed of as follows:

(a) By stock piling all or some of the top soil on the site for use or areas to be revegetated; or

(b) By disposal of the material at a location approved by the DEQ.

7.8 Cuts

7.81 Maximum Slope

The maximum cut slope shall be determined on the basis of the risk of soil instability or soil erodibility as shown by the information report, the subsurface soil and geological report or other available information.

7.82 Slope Material

If the material of the slope is of such composition and character as to be unstable under the maximum moisture content anticipated, the DEQ shall require such measures as are necessary to insure the stability of the slope.

7.83 Mechanical Stabilization

Where mechanical stabilization or containment of the slope by other than the use of native material is employed, the stabilization devices shall be at least partially screened by vegetation.

7.9 Fills

7.91 Maximum Slope

The maximum fill slope shall be determined on the basis of the risk of instability or soil erodibility as shown by the information report, the subsurface soil and geological report or other available information.

7.92 Fill Material

No organic material, such as vegetation or rubbish, or any other material not subject to proper compaction, or otherwise not conducive to stability, shall be permitted in fills.

7.93 Compaction

Each layer of material for fill shall be compacted to relative compaction of not less than ninety percent (90%) ASTM D1557-70 as certified by the applicant to the DEQ.

PART 8 PLANT MATERIAL PROTECTION

8.1 Restriction of Vehicles to Graded Areas

Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicles of any kind shall pass over areas to be left in their natural state according to the approved plans.

The permittee, contractor and subcontractor shall be fully responsible for compliance with the requirements of this regulation, including, any damage caused to existing trees or other vegetation.

PART 9 OBJECT OF ANTIQUITY

9.1 Prohibition of Grading

No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic ruins or monuments or objects of antiquity are present. The grading plan shall indicate all such areas on the site and shall indicate the measures that will be taken to protect such areas.

9.2 Discovery of Antiquities

Whenever during excavation there are uncovered or become apparent any historic ruins or monuments or objects of antiquity not previously accounted for in the grading plan, all work in the immediate area shall cease until the DEQ determines what precautions should be taken to preserve the historic artifacts.

PART 10 VARIANCES

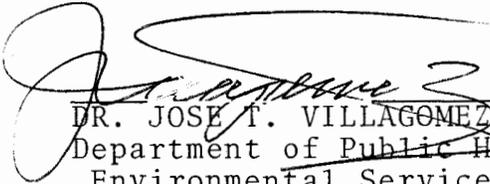
A variance from the provisions of this regulation may be granted in specific instances or circumstances where it is expressly found by the DEQ that: (a) owing to special conditions a literal enforcement will result in unnecessary hardship; (b) the variance will not be contrary to the public interest nor the purpose of this regulation; and (c) the variance will not nullify the objectives of this regulation.

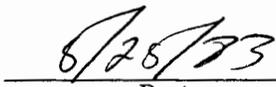
PART 11 VIOLATION

Violation of any provision of this regulation is a misdemeanor. Each day's violation shall constitute a separate offense.

PART 12 CERTIFICATION

The undersigned hereby certifies that these regulations have been officially promulgated and adopted as final regulations pursuant to the authority contained in the Commonwealth of the Northern Mariana Islands Public Law 3-23.


DR. JOSE T. VILLAGOMEZ, Director
Department of Public Health and
Environmental Services


Date

Filed this 17 day of

June 1983.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

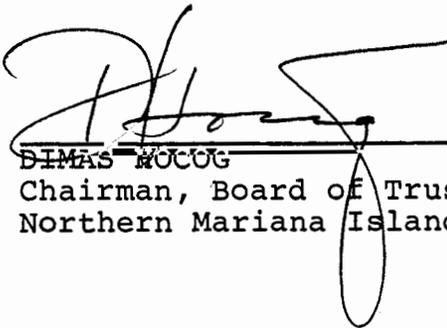
NOTICE OF INTENT TO
PROMULGATE RULES AND REGULATIONS
FOR THE NORTHERN MARIANA ISLANDS RETIREMENT FUND

Pursuant to Public Law 1-43, Section 4(f) and in accord with Title 17 of the Trust Territory Code, The Board of Trustees for the Northern Mariana Islands Retirement Fund hereby gives notice of its intent to promulgate administrative rules and regulations. A copy of the proposed regulations is provided herewith.

Copies of the rules and regulations are available at the offices of the Retirement Fund, located in the Wakin's Building, Saipan, CNMI.

The Northern Mariana Islands Retirement Fund solicits comments and suggestions concerning the proposed rules and regulations. Written comments will be accepted, and should be mailed to Northern Mariana Islands Retirement Fund, P.O. Box 239, CHRB, Saipan, CNMI.

DATED this 17th day of May, 1983.



DIMAS MOCOG
Chairman, Board of Trustees,
Northern Mariana Islands Retirement Fund

~~June 17~~ day of
June 1983.
Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

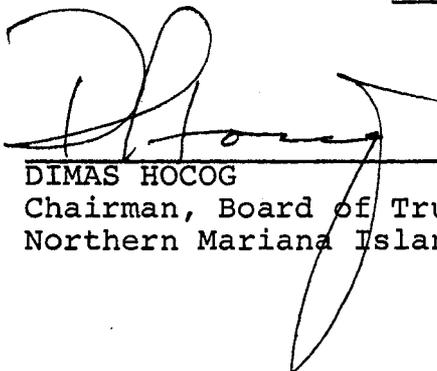
NOTICIA POT INTENCION PARA
UMANA' GUAHAYI AREKLAMENTO PARA I
NORTHERN MARIANA ISLANDS RETIREMENT FUND

SEGUN I GINAGAGAO NU I SECTIONA 4(F) GI LAI PUBLIKU 1-43 YAN
TITULU 17 GI TRUST TERRITORY CODE, I BOARD OF TRUSTEES PARA
I NORTHERN MARIANA ISLANDS RETIREMENT FUND MAN NANAI NOTICIA
POT I INTENCIONA NI PARA UNA GUAHAYI AREKLAMENTO PARA I
ADMINISTRACION I PROGRAMA.

COPIAN ESTE NA AREKLAMENTO GUAHA GI OFICINAN I RETIREMENT
FUND GI WAKINS' BUILDING, GUALO RAI, SAIPAN, CNMI.

I NORTHERN MARIANA ISLANDS RETIREMENT FUND HA SOSOYU COMENTU
YAN REKOMENDACION MIYU POT ESTE NA AREKLAMENTO. NA HANAO
TODO REKOMENDACION MIYU PARA I NORTHERN MARIANA ISLANDS
RETIREMENT FUND, P.O. BOX 239, CHRIB, SAIPAN, CNMI, 96950.

ESTE NA HA'ANE DIA 17 DE Mayo, 1983.



DIMAS HOCOG
Chairman, Board of Trustees,
Northern Mariana Islands Retirement Fund

NOTICE OF PROMULGATION
OF REGULATIONS

The Board of Trustees for the Northern Mariana Islands Retirement Fund hereby publishes these proposed regulations pursuant to 17 Trust Territory Code Section 4(2).

PART 1 - GENERAL PROVISIONS

1.1 Authority: Under and by virtue of the provisions of Public Law 1-43, Section 4(f), the Board of Trustees for the Northern Mariana Islands Retirement Fund hereby promulgates these [proposed] Rules and Regulations.

PART 2 - DEFINITIONS

2.1 Applicability: The following words and terms as used in these rules and regulations, or in interpreting Public Law 1-43, shall have the meanings indicated unless the context clearly indicates otherwise. The definitions herein provided shall supplement those contained in Public Law 1-43.

a. "Annual". The term "annual" shall mean yearly, and refer to the calendar year.

b. "Annual Salary". The term "annual salary" means the amount reported on an Employee's W-2 Form for a year.

c. "Commission". As used in Public 1-43, Section 5(a), the term "commission" shall mean the Board of Trustees for the Northern Mariana Islands Retirement Fund.

d. "Director". As used in Public Law 1-43, Section 5(b), 5(c), and 5(d), the term "director" shall mean "Trustee".

e. "Full Retirement Benefits". The phrase "full retirement benefits", as used herein and in Section 11(c) of Public Law 1-43, shall mean all annuities, benefits, and payments to which members are entitled, including survivor annuities.

f. "Public Law 1-43" includes all amendments to that law.

g. "Regular Interest". The words "regular interest" as used in Public Law 1-43 shall mean interest at the rate of 3.5%, compounded annually, and credited for each complete month.

PART 3 - OPTIONAL FUND MEMBERSHIP

3.1 Optional Membership for Certain Government Officials and Employees:

(A) Elected officials, government officials appointed by the Governor with the advice and consent of the Senate, persons employed in other than Civil Service classified positions, persons employed under personnel services contracts by the Commonwealth of the Northern Mariana Islands, or employees of public corporations of the Government of the Northern Mariana Islands, have the option of becoming Fund members, and may become a member only upon submission of a membership application form to the Board of Trustees requesting such membership.

(B) Persons employed after the effective date hereof, and who may at the said persons' option elect membership in the Retirement Fund, must exercise such option when first eligible to do so, and failure to do so will be deemed a rejection of the option. Such option is exercised by filing with the Board of Trustees a completed membership application form.

(C) The election of any person covered by this section to accept or reject membership is irrevocable and shall apply to such person for the entire term of the employment.

PART 4 - CREDIT FOR SERVICE

4.1 Computation for Full-Time Employees: For full-time employees, service shall be measured in years, and complete calendar months each as one-twelfth (1/12) of a year. Annual leave, paid for in a lump sum, shall be included in measuring service. The number of days employed in the first month of employment (assuming it was not a complete month) shall be added to the number of days in the last month of employment (assuming it was not a complete month). If the total equals or exceeds 45, a member shall be credited with two additional months of service, and if less than 45 but 15 or more the member shall be credited with one additional month of service. If less than 15, no time shall be credited.

4.2 Service Credit for Part-Time, Seasonal or Intermittent Employees: If a part-time, seasonal, intermittent or temporary employee elects to become a member, such person will be credited with one-twelfth (1/12)

of a year of service for every 160 hours for which he is paid in a calendar year after election, but in no case in excess of 12 months credit for any calendar year. If adequate records for years prior to 1980 are not available, the number of hours worked in previous years will be estimated by the Administrator of the Retirement Fund based on available records or such other evidence as the Administrator finds persuasive.

PART 5 - SURVIVOR ANNUITIES

5.1 Annuities for Survivors of Members Who Died Prior to October 1, 1980: If a member died after April 1, 1976 but prior to October 1, 1980, the surviving spouse and children shall be eligible to receive survivor's benefits commencing on October 1, 1980.

5.2 Option for Unmarried Employees:

(a) As used in Section 17(d) of Public Law 1-43, the term "unmarried" is interpreted to mean not having a living spouse on the date of retirement or death. Should any member or employee be unmarried on the date of retirement, and designate an individual as a beneficiary pursuant to Section 17(d) of Public Law 1-43, and then subsequently marry, the said designation will be deemed null and void.

(b) Any individual designated by a member or employee pursuant to Section 17(d) of Public Law 1-43 shall be entitled to an annuity provided, however, that the designated individual need not meet the age requirements of Public Law 1-43 Section 17(a) to be entitled to an

annuity.

PART 6 - RETIREMENT, BENEFITS

6.1 Application for Retirement: Written applications to the Board for retirement will be required for retirement pursuant to Public Law 1-43. Application forms shall be available at the Office of the Northern Mariana Islands Retirement Fund.

6.2 Retirement, Time for: All retirement will be deemed to occur on the day following the last day of paid employment, provided, however, that the payment of a lump sum for accumulated unused annual leave and the crediting of service for such leave will cause deferral of retirement.

6.3 Annuities, Time for Payment: All annuity payments will be made in equal installments on the 15th and last day of each month. If the fifteenth (15th) or last day of any month shall fall on a weekend or legal holiday, payment will be made the last working day prior to the weekend or legal holiday.

PART 7 - REEMPLOYMENT AFTER RETIREMENT

7.1 Effect of Reemployment after Retirement: Should any employee or member retire pursuant to Public Law 1-43 and these rules and regulations, and subsequently be reemployed in any position in which membership in the Retirement Fund is either mandatory or optional, the

(a) If the person is reemployed in a position in which Fund membership is mandatory, pursuant to Public Law 1-43 or these rules and regulations, the individual shall thereupon be deemed to have withdrawn from retired status.

(1) Upon such reemployment, contribution to the Fund will be required of both the employee and the employer, pursuant to Public Law 1-43.

(2) Upon termination of such employment, the individual will be entitled to resume retirement status, service for the reemployment shall be credited, and the annuity of the individual recomputed.

(b) If the person is reemployed in a position in which Fund membership is optional, pursuant to these rules and regulations and Public Law 1-43, the person must either exercise the option for membership or reject such option, as provided in Public Law 1-43 and these rules and regulations. Upon such reemployment, the individual shall be deemed to have withdrawn from retired status.

(1) If the individual rejects Fund membership, he shall, upon termination of the reemployment, be entitled to such retirement benefits as he enjoyed prior to reemployment, upon application to the Board of Trustees.

(2) If the individual exercises the option for Fund membership, contribution to the Fund will be required of the individual and his employer, pursuant to Public Law 1-43. Upon termination of such reemployment the individual will be entitled to resume retired status,

and service for the reemployment shall be credited, and the annuity of the individual recomputed.

PART 8 - GENERAL

8.1 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.

8.2 Severability: If a part or section of these rules and regulations are invalid, 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.



Commonwealth of the Northern Mariana Islands

BOARD OF EDUCATION/REGENTS
DEPARTMENT OF EDUCATION
SAIPAN, CM 96950

Phone: 9311/9827/9823/931

Filed this 23rd day of

PUBLIC NOTICE

June 1983.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

CHAIRMAN:
Juan N. Babauta

VICE CHAIRMAN:
Joaquin M. Aguon

MEMBERS - SAIPAN:
Sr. Mary Louise Balzarini, MMB
Elizabeth D. Rechebei
Maximo L. Olopai

MEMBERS - TINIAN:
Isaac P. Palacios
Esteven M. King

MEMBERS - ROTA:
Oscar Quitugua
M. Lee Taitano

- STUDENT REPRESENTATIVE -

PROPOSED REVISION OF GENERAL EDUCATION DEVELOPMENT (GED)
TESTING PROGRAM REGULATIONS

The Board of Education of the Northern Mariana Islands, in accordance with Public Law 3-43, Section 203, is proposing to revise regulations to be used in conjunction with the General Education Development (GED) Testing Program.

The proposed revised regulations include the following subject areas:

- 1) Testing Eligibility
- 2) Issuance of Equivalency Diploma
- 3) Passing Scores
- 4) Re-testing Requirements
- 5) General Rules and Provisions
- 6) Fees

Copies of the proposed regulations may be obtained from Juan N. Babauta, Chairman of the Board of Education, at CHPDA, 5th Floor, Nauru Building, Saipan, CM 96950

The Board of Education is soliciting views, opinions, facts and data for or against the proposed GED Testing Program regulations from the general public.

Anyone interested in commenting on the proposed GED Testing Program regulations may do so by submitting comments in writing to the Chairman of the Board of Education, P. O. Box 570, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

DATE: 6/23/83

Juan N. Babauta
CHAIRMAN, BOARD OF EDUCATION

NUTISIA PARA I PUPBLIKU

I MAPROPOONI NA RIPARASION POT I REGULASION I GENERAL EDUCATION DEVELOPMENT (GED) TESTING PROGRAM

Sigun gi Lain i Pupbliku numiru 3-43, seksiona 203, i Board of Education i San Kattan siha na Islas Mariana, ha propoani rumipasa i regulasion siha ni para u fanma'usa entre osino yan i General Education Development (GED) Testing Program.

I manmaproponi siha na regulasion ni para u fanmaripasa ha ingklulusu i manattate siha na arean suhetu:

- 1) Hayi siha mankualifikao para u machule' i sensura
- 2) I malaknos i Equivalency Diploma
- 3) Mapasan i sensura
- 4) Nisisidat siha pot para u agon machule' i sensura
- 5) Hinerat siha na regulasion yan prubension
- 6) Apas

I kopian i manmaproponi siha na regulasion sina manmachule' ginen as Sinot Juan N. Babauta, Chairman i Board of Education, gi ufisinan i CHPDA, 5th Floor, Nauru Building, Saipan, CM 96950.

I Board of Education lokkue' ha solilisita opinion, fakto yan enfotmasion siha para osino kontra i manmaproponi siha na regulasion i GED Testing Program ginen i pupbliku hinerat.

Todu ayu siha i manenteresao manmanlaknos rekomendasion pot i maproponi na tinilaika gi regulasion i GED Testing Program, sina manmangge' guatu gi Chairman i Board of Education, P.O. Box 570, Saipan, CM 96950, gi halom i trenta (30) dias desdi i fecha ni mapublika este na nutisia gi Commonwealth Register.

Fecha: 6/23/83


CHAIRMAN, BOARD OF EDUCATION

ARONGORONGOL TOWLAP

ALLÉGH LLÓL GED TESTING PROGRAM

Board of Education melliól Northern Mariana Islands, sáangi arongorongol towlap ye 3-43, section 203, e kke pomoli ebwe liwiliiy allégh ye ebwe yááyá fengal me General Education Development (GED) Testing Program.

Pomol allégh kka ebwe lliiwel ebwal loolong milikka faal yeel,

- 1) Schóókka re mmwelil test
- 2) Isiisiwowul Diploma
- 3) Ngáre u liyapeli (Gannááli)
- 4) Milikka u bwe bwughi sefááli reel test
- 5) Ówtol areglóol test
- 6) Óbwoosul

Koopiyaal mwóghutughutul allégh kkaal emwel u bwe ló bweibwogh me reel Juan N. Babauta Chairman-níl Board of Education, me CHPDA, 5th Floor me Nauru Building, Saipan, CM 96950.

Board of Education e tottongór ngáli gháámi mengemeng reel ngáre ów afischi me ów abwuta kkapasal alléghul GED Testing Program ye e toowow reer aramas towlap.

Le e tipeli bwe ebwe isiisilong meta mengemengil reel alléghul GED Testing Program yeel emwel schagh ebwe féerú ngáre e isch ngáli Chairman-níl Board of Education, P.O. Box 570, Saipan, CM 96950 1161 elligh (30) rál sáangi igha re arongaawow arongorongol towlap ye e toowow mellol Commonwealth Register.

Meram, rál, ráágh


Chairman-níl, Board of Education

Policy 312: The General Education Development (GED) Testing Program

Title of Credential: Northern Mariana Islands High School Equivalency Diploma.

Requirements for Testing:

Candidates must be beyond the legal age requirement for school attendance and reside in the Northern Mariana Islands for thirty (30) days immediately prior to making application. Permanent residents of the Northern Mariana Islands who are serving in the U.S. Armed Forces are excepted from the foregoing resident requirements. If the candidate has dropped out of a high school and is under 18 years of age, he/she must provide the Chief Examiner with a letter from the principal of his/her former high school, stating that the applicant has officially withdrawn from the school, and has no chance of being re-admitted.

All applicants must successfully pass a Pre-GED Screening Test of 40 standard score or present proof of successful completion of a program instruction equivalent to the screening test taken at an Adult Education Center before the candidate is eligible to take the GED examination.

For initial testing, all five tests must be taken within a two-month period.

Requirements for Issuance of Equivalency Diploma:

The Commonwealth of the Northern Marianas Official GED Center issues a "High School Equivalency Diploma" to residents who are 18 years or older and applicant must have been out of school for at least six months prior to testing. The candidate for the equivalency diploma must have successfully passed the GED test with a standard score of 40 on each of the five tests or an average standard score of 45 on all five tests.

An equivalency diploma for test results from an out-of-state GED Center will be issued only if the last civilian school attended by the applicant was in the Commonwealth of the Northern Marianas and the applicant meets the minimum test scores requirements.

Exceptions:

1. Candidates for admission to postsecondary school, if the postsecondary school provides a letter requesting the candidate's GED scores.
2. Applicants who are on active duty in the United States Armed Forces, upon a written request by an appropriate official; and
3. Applicants who have been employed for two years immediately preceding the date of application for testing.

Requirements for Re-testing:

1. An applicant who on the first trial, attains scores of 40 or higher on three tests and no failing scores of 35 will be permitted to re-take tests on which he received standard scores less than 40 as early as it is offered.
2. Applicants with scores less than 40 on three or more tests must wait three months from the date of original testing or must present to the GED Examiner a verification from an instructor of an adult education program that he/she has satisfactorily completed a program of adult education instruction in the area or areas to be re-tested.
3. Scores of testing will be combined with previous satisfactory test scores when necessary to reach the minimum standard score of 40 on each of the five tests or an average standard score of 45 for all five tests.
4. Test scores that were obtained from five years or more are invalid and will require re-testing.

Methods of Applying:

For tests, re-tests and diplomas the necessary forms may be acquired at the office of the Commonwealth of the Northern Marianas Official GED Center.

Official Transcripts:

Test scores are accepted as official only when reported directly by:

1. Official GED Center;
2. Transcript Service of the Defense Activity for Non-Traditional Education Support;
3. Veterans Administration Hospitals and Centers; and
4. The GED Testing Service.

Testing Schedule:

1. GED Screening Test costs \$2.00 per battery payable at time of testing.
2. Testing at the Official GED Centers: \$5.00 for complete battery (\$1.00 per single test), payable at time of testing. And \$2.00 per single test for re-testing, payable to the local testing center at time of re-testing.
3. Issuance of Diploma: \$5.00

DATE: 6/23/83


CHAIRMAN, BOARD OF EDUCATION

Filed this 28th day of

June 19 83.

PUBLIC NOTICE Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

RULES AND REGULATIONS

Asamto

DEPARTMENT OF COMMERCE AND LABOR

The following are proposed rules and regulations promulgated by the Director of Commerce and Labor pursuant to authority vested in him under Public Law 1-8 and Public Law 3-11. These proposed rules and regulations are issued for the purposes of establishing procedures and standards for the licensing of Off-Shore Banking Corporation.

The proposed rules and regulations include definition and other criteria for licensing of Off-Shore Banking.

Copies of the proposed rules and regulations may be obtained from the Department of Commerce and Labor's Office on the 4th Floor of the Nauru Building, Susupe, Saipan.

The Department of Commerce and Labor hereby solicits any views, opinion, facts and data for or against the proposed rules and regulations from the general public.

Anyone interested in commenting on the proposed rules and regulations may do so by submitting comments in writing to the Office of the Director of Commerce and Labor within 30 days from the date this notice is published in the Commonwealth Register.

Anyone interested in attending a hearing on this subject should contact the Director of Commerce and Labor and request that a hearing be set within 30 days from the date this notice is published in the Commonwealth Register.

6/28/83
Date

J. Sablan
JESUS R. SABLAN
Director, Commerce and Labor

June 19 *83*.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

Jarama

NOTISIAN PUBLIKU

OTDIN YAN REGULASION

DEPATTAMENTON I COMMERCE YAN LABOR

I man sigiente siha na propositun otdin yan regulasion ni man huyong ginen i Direktot i Commerce yan Labor segun i autoridat ni humuyong ginen guiya gi papa Lai Publiku 1-8 yan Lai Publiku 3-11. Este siha na propositun otdin yan regulasion manafan huyong pot i para ma establesen areklo yan otro siha na manera pot i para umalagnos i Licensian i Off-Shore Banking Corporation.

I ma propopone na otdin yan regulasion humahalom definasion yan otro siha na asunto pot i para hu licensiao i Off-Shore Banking.

Kopian este siha na propositun otdin yan regulasion sina machule gi Depattamenton i Commece yan Labor na Ofisina gi 4th Floor, Nauru Building, Susupe, Saipan.

I Depattamenton i Commerce yan Labor hagagagao maseha hafa na hinaso, opinon, facto yan enfotmasion siha ni hafabot pat hakontra este na propositun otdin pat regulasion ginen i hinerat publiku.

Todos man enteresao para hunahalom hafa na opinon pat hinaso pot este na propositun otdin yan regulasion, sina hachogue lao debe de hutugi ya hunahalom gi Ofisinan i Direktot i Commerce yan Labor gi halom trenta dias despues de i fechan este na notisia gi halom i Commonwealth Register. Lokue, todos man enteresao uma tende este na inekungog pot este na acto debe de unatungo i Direktot i Commerce yan Labor ya urekuesta na uma-ekungog gi halom trenta dias despues de i fechan este na notisia gi Commonwealth Register.

6/28/83

Fecha

J. Sablan

JESUS R. SABLAN

Direktot, Commerce yan Labor

PROPOSED OFF-SHORE BANKING RULES & REGULATIONS

DEPARTMENT OF COMMERCE & LABOR

Section 1. Purpose.

Public Law 3-11, at Section 503(d)(2), provides for issuance of an off-shore banking license by the Director of Commerce and Labor. Licensing authority is also extended to the Department of Commerce and Labor by Section 3(d), Chapter 9 of Public Law 1-8. General comments on business license issuance, renewal and revocation are contained in Section 503 of Public Law 3-11. Off-shore banks are defined in Section 104(p) of Public Law 3-11, which section also contains a prohibition against off-shore banks operating as retail banks in the Commonwealth. These rules and regulations are hereby promulgated for purposes of establishing criteria for qualifications and procedures of issuing, suspending, renewing or revoking off-shore banking licenses by the Director of Commerce and Labor, to corporations intending to operate off-shore banking businesses in the Commonwealth.

Section 2. Definitions.

(a) "Bank" means any corporation operating a banking business whether subject to the laws of the Commonwealth, or the laws of any other jurisdiction. It shall not include the Development Bank of the Government of the Commonwealth.

(b) "Banking Business" means the business of accepting deposits that provide the depositor with a legal right to withdraw, combined with the business of making loans in other than a fiduciary capacity.

(c) "Commonwealth" means the Commonwealth of the Northern Mariana Islands.

(d) "Corporation" means any corporation incorporated under the laws of the Commonwealth, pursuant to Title 37, Trust Territory Code, or any foreign corporation registered to do business in the Commonwealth, pursuant to Title 37, Trust Territory Code.

(e) "Director" means the Director of Commerce and Labor for the Commonwealth Government.

(f) "Off-shore Bank" means a bank operating a banking business, incorporated under the laws of the Commonwealth, or a foreign corporation registered to do business in the Commonwealth, whose purposes and activities are limited to:

(i) negotiating, making and extending loans to borrowers who are not residents or citizens of the Commonwealth; or

(ii) borrowing from lenders, or accepting deposits from depositors, who are not residents or citizens of the Commonwealth; or

(iii) both of the above.

(g) "Off-shore Banking License" means a license issuable, suspendable, renewable or revocable by the Director under these rules and regulations necessary for the operation of an Off-shore Bank in the Commonwealth.

Section 3. Requirement of Off-shore Banking License.

No person shall engage in the operation of an Off-shore Bank in the Commonwealth without first obtaining, and maintaining in a currently valid status, an Off-shore Banking License, pursuant to these rules and regulations.

Section 4. Exceptions.

Section 2 does not apply to credit unions holding a license to do business in the Commonwealth, or the Development Bank of the Commonwealth, as may be established by law.

Section 5. Qualifications for Initial License.

An Off-shore Banking License shall be issued by the Director when an Off-shore Bank has fulfilled the following requirements:

(a) The applicant has filed an application with the Director supplying the information indicating compliance with these qualifications pursuant to Section 8 herein.

(b) The applicant has been duly incorporated under the laws of the Commonwealth, or registered as a foreign corporation to do business in the Commonwealth, and has complied with applicable law relating to domestic or foreign corporations operating in the Commonwealth.

(c) The applicant has submitted proof of payment of its Off-shore Bank license fee pursuant to Section 503(d)(2), Public Law 3-11, as well as proof of payment of its Off-shore Bank application fee pursuant to Section 10 herein, to the Director.

(d) The applicant has submitted proof of establishment of paid-in-capital which shall not be less than:

(i) Capital consisting of common or preferred stock paid-in-cash of not less than \$150,000; and

(ii) Paid-in-surplus amounting to not less than \$100,000.

(e) The applicant has appointed a resident agent in the Commonwealth, which agent has taken an oath that he will diligently and honestly administer the affairs of the corporation and will not knowingly or willfully violate or permit to be violated any of the provisions of law applicable to the Off-shore Bank, which oath shall be subscribed by the agent and placed with the Director at the time of application for Off-shore Banking License.

(f) The Director finds, after a reasonable review of the information provided on personal backgrounds of the principal officers, directors and principal shareholders (defined in Section 8 herein), that these persons associated with the proposed Banking Business are of good moral character.

Section 6. Existing Off-shore Banks.

(a) Any licensed Off-shore Bank doing business in the Commonwealth (or under license without operating as an Off-shore Bank) on the effective date of these rules and regulations shall have no requirements of licensure other than those prescribed herein, and that any provisions of licensure provided in prior rules and regulations are hereby null and void; and

(b) Any licensed Off-shore Bank doing business in the Commonwealth (or under license without operating as an Off-shore Bank) on the effective date of these rules and regulations shall take immediate steps to comply with the criteria and standards of licensed status prescribed herein, and shall, within one hundred and twenty (120) days of the effective date of these rules and regulations, submit proof of compliance with the qualifications contained in Section 5 herein. No fee shall be assessed for purposes of reviewing such proof, but failure to submit such proof within the time specified shall subject the licensee to revocation or suspension proceedings; and

(c) Any licensed Off-shore Bank doing business in the Commonwealth (or planning commencement of business) on the effective date of these rules and regulations, shall take

immediate steps to comply with the Deposit Requirement specified in Section 17 herein, and shall, within one hundred and twenty (120) days of the effective date of these rules and regulations, submit proof of compliance with such Deposit Requirement; provided, that if the existing licensed Off-shore Bank does not currently operate, or plan operation in the Commonwealth on the effective date of these rules and regulations, it need not comply with the Deposit Requirement until such time as the Off-shore Bank commences operation, pursuant to Section 17 herein.

Section 7. Off-shore Banking License Renewal.

(a) Corporations holding current Off-shore Banking Licenses must file renewal applications each year between September 1, and November 1, regardless of operating status, unless they desire their banking licensed status to terminate on December 31 of that year. The Director shall provide forms for purposes of filing renewal applications, which forms shall require information identical to that required in an application for initial Off-shore Banking License.

(b) Decisions by the Director on renewal applications must be rendered within sixty (60) days following receipt of the application, or else the prior existing license shall continue in force and effect until such time as the Director issues a decision on the renewal application.

Section 8. Application Procedure for Initial License.

An application for an initial Off-shore Banking License shall be made to the Director on forms supplied by the Director and shall include, but not limited to, the following:

- (a) The name of the applicant corporation;
- (b) The location of the principal place of business of the corporate applicant;
- (c) The name and address of a corporate agent who is a resident of the Commonwealth, and an oath by the agent pursuant to Section 5(e) herein;
- (d) A copy of the applicant's corporate articles of incorporation, corporate charter, or certificate of registration of foreign corporation, whichever is applicable, and bylaws;

Off-shore Bank Rules and Regulations
page five

(e) Information providing proof of compliance with minimum capitalization requirements established in Section 5(d) herein;

(f) A license fee in an amount specified by law, and an application fee in an amount specified in Section 10 herein;

(g) Information with respect to the character, criminal record, business activities, financial affairs and business associates of the corporate applicant's principal officers, directors and principal shareholders covering a period of at least seven (7) years prior to the date of application. The term "principal officers" includes all officers of the proposed or existing Off-shore Bank associated with its Commonwealth operation, as opposed to officers working in banks operated by the applicant in other jurisdictions. The term "principal shareholders" includes any shareholder which owns a beneficial or legal interest in more than five percent (5%) of any class of outstanding stock of the applicant corporation.

Section 9. Duration of Off-shore Banking License.

(a) Initial Off-shore Banking Licenses may be applied for or issued at any time during the calendar year. If they are issued after November 1 of any calendar year, they will remain in force and effect for the balance of the calendar year, and also through the subsequent calendar year. If they are issued prior to November 1 in any calendar year, they will remain in effect only for the balance of the calendar year in which they were issued. License and application fees for Off-shore Banking Licenses are set by law and these rules and regulations, and they are chargeable in full regardless of the duration of the license period during any particular calendar year.

(b) Off-shore Banking License renewals shall be sought between September 1 and November 1 during any calendar year. After issuance, they are effective during the entire calendar year following the year of application. If an existing licensed bank fails to submit a renewal application within the time period specified herein, it must make application for a new, initial license, the duration of which is established in Section 9(a).

Section 10. License and Application Fees.

(a) License fees for Off-shore Banking Licences, whether for initial or renewed licenses, and whether for a twelve-month period, or for any portion of a calendar year, shall be as provided by law as an annual license fee.

(b) Applicants filing initial or renewal applications, or applications for review of transfer, pursuant to Section 14 herein, shall tender a non-refundable application fee of One Hundred Dollars (\$100.00) payable to the Treasurer of the Commonwealth, in addition to the license fee prescribed in Section 10(a) by law. This additional fee is assessed for purposes of defraying the extensive costs of reviewing applications for Off-shore Banking Licenses pursuant to these rules and regulations.

Section 11. Public Notice of Application.

An applicant for an initial Off-shore Banking License, or a review of transfer under Section 14 herein, shall cause to be published a notice of such application once each week for a period of four (4) weeks, in a newspaper of general distribution in the Commonwealth, immediately subsequent to filing its application with the Director. The notice shall be reviewed and approved by the Director prior to its publication.

Section 12. Application Schedule.

Upon determining that an application for initial or renewal license status includes the materials specified in Sections 7 and 8 herein, the Director shall issue a letter indicating acceptance of filing and receive payment, through the Department of Finance, for license and application fees pursuant to Section 10. The Director shall investigate the information provided in the application and render a decision thereon within sixty (60) days of the date of application. If the Director is unable, despite diligence, to render a decision within sixty (60) days, he shall notify the applicant in writing of the reasons for the delay, and in the case of a renewal application, pursuant to Section 7(b), the prior license shall remain in force and effect until such time as the Director renders a final decision.

Section 13. Required Reports.

(a) Each calendar year upon application for renewal, existing Off-shore Banks shall submit consolidated, written financial statements signed by the applicant's chief financial officer, certified to be true and correct and in accordance with generally accepted accounting principles, and audited by an independent, certified public accountant (certified under the laws of any U.S. state).

(b) In addition to the statements required upon renewal by Section 13(a), the Director may require additional statements, including unconsolidated financial statements limited to the applicant's Commonwealth banking operation, if the Director determines that such information is necessary for further review of the application, or for purposes of statistical analysis of the Commonwealth banking community.

(c) In addition to the statements allowable under Section 13(a) and 13(b), the Director may require, at any time during the period of licensure, examination of particular books or records of any licensee necessary to assure the Director of compliance with these rules and regulations.

(d) Except as otherwise provided herein, the names of the principal shareholders of an off-shore bank, as defined in Section 8(g) shall be public information. Off-shore bank records, including records of transactions between an off-shore banking corporation and its individual customers, reports, or information provided to or obtained by the Director, shall be confidential and shall not be furnished to any third parties, except for purposes of law enforcement pursuant to court order, subpoena, or judicial process or upon prior written consent of the individual to whom the information pertains.

Section 14. Transfer of Ownershi. Interest.

In furtherance of the Director's responsibility to make a finding on the moral character and professional capability of principal officers, directors and principal shareholders under Sections 5 and 8, licensees shall notify the Director in writing during the pendency of licensure of any changes of any principal officers or directors, or any transfers of stock in amounts greater than five (5%) percent of any class of outstanding stock of the corporation. Upon receipt of such notice, the Director may require the licensee to submit additional, under Section 8(g), on the character, criminal record, etc., of any such new individuals. The Director shall review the transfer and issue a letter making a finding of moral character of the new individuals associated with the licensee.

Section 15. Penalties for Operating Without a License.

Any person who knowingly and willfully participates in the operation of an Off-shore Bank banking business in the Commonwealth within the definition provided in Section 2, in violation of Section 3 herein, shall be guilty of a misdemeanor, punishable by a fine not greater than one thousand (\$1,000) dollars or a jail sentence not greater than six (6) months, or both.

Section 16. Revocation of Off-shore Banking License.

(a) The Director, after permitting the licensee (or its authorized representative or agent) to appear before him, in person, and finding, upon a preponderance of the evidence reviewed by the Director that the licensee has violated any of the following standards, shall, depending on the particular circumstances of the case, either take steps to secure correction of insufficiency or non-compliance, or suspend or revoke the licensee's Off-shore Banking License:

(i) pursuant to Section 5(b), licensee has failed to maintain corporate status of the bank under Title 37, Trust Territory Code.

(ii) pursuant to Section 5(d), licensee has failed to maintain minimum capitalization requirements during the pendency of its licensure;

(iii) pursuant to Section 17, licensee has commenced operation as an Off-shore Bank, without first submitting proof of compliance with the Deposit Requirement, or failed to maintain the Deposit Requirement during the pendency of operation as an Off-shore Bank;

(iv) pursuant to Section 6, an existing, licensed Off-shore Bank has failed to comply with Section 5(d) minimum capitalization requirements within one hundred and twenty (120) days following the effective date of these rules and regulations;

(v) pursuant to Section 13, licensee has failed to submit annual or specially requested required reports, either at the time requested in Section 13, or when requested by the Director;

(vi) pursuant to Section 14, licensee has failed to submit transfer of ownership interest information, within a reasonable time after the transfer in ownership occurred;

(vii) pursuant to Section 8, and the application process, licensee has committed fraud or misrepresentation in any material assertion in an application for initial or renewal license, or review of transfer, or any reports required under Section 13;

(viii) licensee has violated any provision of these rules and regulations; or

(ix) licensee has carried on its business in a manner detrimental to the public interest, or to the interests of its depositors or creditors, or conducted its business in a manner violative of Commonwealth or federal laws.

(b) Should the Director determine that serious grounds for license revocation exist, the Director shall cause written notice of any insufficiency or noncompliance to be dispatched to the offending licensee, or its agent in the Commonwealth, requesting a response in writing to the Director's concerns. While the Director may exercise discretion in terms of utilizing corrective steps rather than the more drastic response of revocation, any of the grounds listed in Section 16(a) are sufficient, standing alone, to justify a decision to revoke or suspend an Off-shore Banking License. Any decision revoking or suspending an Off-shore Banking License shall be in writing, including a detailed statement of the reasons therefore, and shall be communicated to the licensee, as well as the Attorney General of the Commonwealth.

Section 17. Deposit Requirement.

Prior to commencing operation of an Off-shore Bank in the Commonwealth, and subsequent to receipt of an Off-shore Banking License pursuant to these rules and regulations, the licensee shall place in an account in a licensed retail bank within the Commonwealth the sum of ten thousand (\$10,000) dollars, and shall maintain this amount throughout the pendency of the Off-shore Banking operation in the Commonwealth. This Deposit Requirement applies to Off-shore Banks operating in the Commonwealth on the effective date of these rules and regulations pursuant to Section 6(c) herein. The agent nominated pursuant to Section 5(e) shall cause the retail bank holding the Deposit Requirement to submit proof of compliance to the Director prior to commencement of operation.

Section 18. Severability.

Should any provision of these rules and regulations or the application of any rules and regulation to any person, corporation or other entity, be held invalid, by a court of competent jurisdiction, the remainder of the rules and regulations, and the application of the other rules and regulations to any other such person, corporation or entity, shall not be affected thereby.

DATE:

6/28/83



JESUS R. SABLAN
Director

Filed this 29th of

June 19 83.

PUBLIC NOTICE Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

Seamless

COMMONWEALTH HEALTH PLANNING
AND DEVELOPMENT AGENCY
PROPOSED REGULATIONS
CERTIFICATE OF NEED

The Executive Director of the Commonwealth Health Planning and Development Agency is proposing to promulgate regulations for the administration of the Certificate of Need Program in accordance with P.L. No. 3-49, Section 3 (g) and P.L. 5-56.

Rule 1

General Provisions

- 1.1 SCOPE
- 1.2 CONSTRUCTION OF RULES
- 1.3 DEFINITIONS
- 1.4 THE AGENCY AND THE COUNCIL
- 1.5 PUBLIC INFORMATION
- 1.6 PROCEEDINGS BEFORE THE AGENCY, COUNCIL AND REVIEW PANEL

Rule 2

Expenditures and Changes Covered

- 2.1 SCOPE
- 2.2 DETERMINATION ON CAPITAL EXPENDITURES
- 2.3 DETERMINATION ON CHANGE OF SERVICE
- 2.4 DETERMINATION ON CHANGE OF BEDS
- 2.5 RULING

Rule 3

Issuing of Certificate of Need

- 3.1 SCOPE
- 3.2 LETTERS OF INTENT
- 3.3 FILING OF APPLICATION
- 3.4 CATEGORIES OF APPLICATIONS

- 3.5 REVIEW PROCESS
- 3.6 TIME OF REVIEW
- 3.7 SUPPORTING DOCUMENTATION
- 3.8 CRITERIA
- 3.9 WRITTEN NOTICES
- 3.10 WRITTEN FINDINGS
- 3.11 REQUIRED FINDINGS
- 3.12 NOTIFICATION OF STATUS
- 3.13 CONDITIONAL CERTIFICATION
- 3.14 EXPLANATION OF DECISION
- 3.15 DENIAL OF APPLICATIONS
- 3.16 REQUEST FOR RECONSIDERATION
- 3.17 EXTENSION OF CON
- 3.18 REVOCATION OF CON
- 3.19 PERIODIC REPORTS
- 3.20 STATE AGENCY REPORTS

Rule 4

Information Required For Planning

- 4.1 SCOPE
- 4.2 INPATIENT HEALTH FACILITIES
- 4.3 OUTPATIENT FACILITIES

Rule 5

Adoption, Amendments or Repeal of Rules

- 5.1 SCOPE
- 5.2 AGENCY INITIATION
- 5.3 CONDUCT OF HEARING ON RULES

- 5.4 AGENCY ACTION
- 5.5 EMERGENCY RULE MAKING
- 5.6 PETITIONS

Rule 6

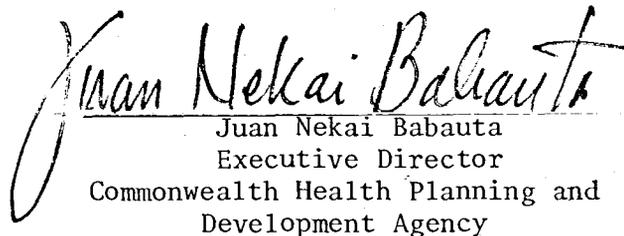
Declaratory Order

- 6.1 SCOPE
- 6.2 FILLING OF PETITIONS
- 6.3 DECLARATORY ORDER

Copies of these proposed regulations may be obtained from the Office of the Commonwealth Health Planning and Development Agency, Saipan. The Agency solicits views, opinions, facts and data for or against the proposed regulations from the general public.

Anyone interested in commenting on the proposed regulations may do so by submitting in writing to the Health Planning Agency, Saipan, Commonwealth of the Northern Mariana Islands within 30 days from the date of this publication in the Commonwealth Register. If no comments are received within 30 days from the date of this publication, these regulations shall be adopted without further notice and will have the force of law.

Dated this 4th day of May, 1983.


Juan Nekai Babauta
Executive Director
Commonwealth Health Planning and
Development Agency

Filed this 29th day of

June 1988.

NOTISAN PUBLIKU

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

COMMONWEALTH HEALTH PLANNING
AND DEVELOPMENT AGENCY
PROPOSED REGULATIONS
CERTIFICATE OF NEED



I Direktot I Commonwealth Health Planning and Development Agency ha propopone na para hu publika regulasion pot I Cetifikon Nesisidat (CON) Programa sigun i probision Lai Publiko Numero 3-49, Seksion 3 (g) yan Lai Public 5-56.

Areglamentu 1

Probison Enerat

- 1.1 ASUNTO
- 1.2 FOTMASION AREGLAMENTU
- 1.3 DEFINISION
- 1.4 I AGENSIAT YAN I CONSEHO
- 1.5 INFOTMASION PUBLIKU

Areglamentu 2

Gastu Yan Tinilaika siha ni ha cucubri

- 2.1 ASUNTO
- 2.2 DETITMINASION I CAPITAT NA GASTU
- 2.3 DETITMINASION I TINILAIKAN I SETBISIO
- 2.4 DETITMINASION I MATULAIKAN I KATRE
- 2.5 DESISION

Areglamentu 3

Distribusion I Setifikon I Nesisidat

- 3.1 ASUNTO
- 3.2 KATTAN ENTENSION
- 3.3 REGISTRAN APPLIKASION
- 3.4 KLASEN APPLIKASION

- 3.5 ASUNTON EKSAMINACION
- 3.6 TIEMPON I EXAMINACION
- 3.7 DOKUMENTUN SAPOTASION
- 3.8 KRITERIAT
- 3.9 MATUGI NA NOTISIA
- 3.10 SINEDA
- 3.11 NESISIDAT SINEDA
- 3.12 NOTIFIKASION I KONDISION
- 3.13 KONDISION CERTIFIKASION
- 3.14 EXPLEKASION DESISION
- 3.15 RENUNSIAN APPLIKASION
- 3.16 GINAGAO NA KONSIDERASION
- 3.17 MANUMENTON I CON
- 3.18 MADEROGAN I CON
- 3.19 TETMINON I REPOT
- 3.20 REPOT POT I AGENSIAT

Areglamentu 4

Infotmacion Nesisidat Para I Planu

- 4.1 ASUNTO
- 4.2 SAGAN MAN MALANGU
- 4.3 SAGAN MANMAREKONOSE

Areglamentu 5

Adopta, Umento, Pat Refotman I Areglamentu

- 5.1 ASUNTU
- 5.2 TUTUHON I AGENSIATE
- 5.3 MA KONDUCTA I INEKUNGOK POT AREGLU

5.4 AKSION AGENSIA

5.5 APRETAO NA MAFATINAS NA AREGLAMENTO

5.6 PETISON

Areglamentu 6

Otden Deklarasion

6.1 ASUNTU

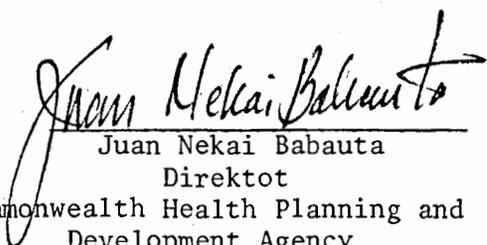
6.2 REGISTRAN PETISION

6.3 OTDEN DEKLARASION

Kopian esti siha na propositun areglamentu sina ma chu'le gi ofisinin i Commonwealth Health Planning and Development Agency, Saipan. I Agensia ha fafaisen i opinion, facto, yan infotmasion para u ma sappota pat uman kontra i ma propone na regulasion ginen i enerat publiku.

Todu man interesao manman nai opinion gi ma propone na regulasion sina masatmiti halom i tinige guato gi Ofisinin i Health Planning Agency, Saipan, Commonwealth of the Northern Mariana Islands gi halom trenta (30) dias na tiempo ginen i dia ni ma publika gi Commonwealth Register. Yangin taya opinion ma resibi gi halom trenta (30) dias ginen i ha'ane ni ma publika, esti na regulasion debi di u ma'adopta sin hafa mas na notisia ya siempre u famai lai.

Ma fecha gi dia 4th gi Mayo, 1983.


Juan Nekai Babauta
Direktot
Commonwealth Health Planning and
Development Agency

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CERTIFICATE OF NEED MANUAL

- I - GENERAL INFORMATION
- II - CON POLICIES
- III - PROCEDURES
- IV - CON RULES

Commonwealth Health Planning and Development Agency

Office of the Governor

CERTIFICATE OF NEED MANUAL

Part I - General Information

I. INTRODUCTION

A. Purpose of Manual

The purpose of this manual is to provide to applicants, reviewing bodies and other interested people, a source of comprehensive information regarding the CNMI Certificate of Need Program. (The reader will note that some sections of the manual are repetitious of other sections. This is because each section is made detailed enough to be informative to a reader who is primarily interested in that section only).

The manual presents policy statements, review procedures, and includes, as appendices, the certificate of need law and rules. It describes projects or changes which require a Certificate of Need, the review procedure that applications will go through, the criteria by which applications will be judged and presents other appropriate information.

B. Purpose of the law

In recent years, it became apparent that the proliferation of under-utilized and duplicated health facilities and services was partially responsible for the rapid increase in the cost of health services in the United States. There is also some evidence that, although facilities have been overbuilt in some areas, there are still other areas experiencing a shortage of facilities and services. The major purpose of Certificate of Need legislation is to prevent duplication of facilities and services and to encourage the development of such facilities and services where they are needed.

C. History

During the year that the Northern Mariana Islands existed, politically, as a district of the Trust Territory Government, the NMI health care system was subject to no legislation regulating facilities

By the legislature decree of Public Law 5-56, "an act to establish a health care certificate of need program" in the Northern Marianas and Public Law 3-49, the state health planning agency is charged with CON implementation and administration. Specifically, CHPDA is charged with the responsibilities of CON criteria and regulations development; application intake, analysis and determination; CON information dissemination to all CNMI health care facility and program personnel; and potentially, the revocation of a previously-issued certificate.

B. Commonwealth Health Coordinating Council (CHCC)

The Commonwealth Health Coordinating Council (CHCC) has been established in accordance with the requirements of U.S. P.L. 96-79, Sections 1524 and 1531 and CNMI P.L. 3-49, Section 4.

The CHPDA review process is assisted by the CHCC. The CHCC has review, and recommendations of approval/disapproval responsibility of any plans or applications that involve certain federal allotment funds, as prescribed by Section 1524 (c) (6), of P.L. 93-641 as amended by P.L. 96-79. It also has the function of providing review and comment to the CHPDA on its functions and reviews, including Certificate of Need applications.

The Council must review and approve Certificate of Need rules and regulations manual in-order to carry-out P.L. No. 5-56 and P.L. 3-49, both establishing a health care certificate of need program. Upon its approval of a CON manual the CHCC may submit its review and comment to CHPDA on applications of certificate of need.

The majority (atleast 51%) of the Council membership, are Commonwealth residents who are consumers of health care and who are not, nor within 12 months preceding their appointments have been, providers of health care. Membership is broadly representative of social population, economic population, linguistic population, racial population, geographic areas of the Commonwealth, and major purchasers of health care.

The rest of the members are Commonwealth residents who are providers of health care and may represent any of the following:

- physicians, dentists, nurses, and other health professionals
- health care institutions
- qualified health maintenance organizations
- health care insurers
- health professional schools
- allied health professionals

C. CON Review Panel

The NMI Commonwealth Review Panel for Certificate of Need is a formally identified and appointed committee of the Health Coordinating Council. The CON Review Panel, the majority of whose members are consumers of health care, bears the primary responsibility for reviews and recommendations regarding all certificate of need applications. Technical assistance to the panel will be furnished by one or more professional members of the CHPDA staff, to be assigned by the agency director. Following an in-depth review of every CON application, the panel membership shall report its findings and recommendations to the Commonwealth Health Coordinating Council.

III. PROJECTS REQUIRING A CERTIFICATE OF NEED

Under CNMI law, there are four types of changes by health facilities which may require a certificate of need. Depending on the facility involved, any one of these changes may trigger a certificate of need review. The four types of changes are:

1. Any capital expenditures over \$50,000.
2. Any new health service regardless of cost.
3. Any change in beds regardless of cost and regardless of the number of beds involved.
4. Pre-development activity expenditures in excess of \$50,000.

It should be noted that any person, including a physician in the private practice of medicine, requires a certificate of need for the purchase of equipment which costs more than \$50,000.

Table I summarizes by types of providers the changes which

require a certificate of need.

A. Capital Expenditures over \$50,000.

Rule 2 of the Certificate of Need Rules provides detailed information regarding which items are included and which are excluded in calculating whether an expenditure exceeds the \$50,000 threshold. The following summarizes the rule:

CHANGES BY PROVIDERS WHICH REQUIRE CERTIFICATE OF NEED

Provider	CHANGES REQUIRING CERTIFICATE		Change in Service	Change in Beds
	Capital Expenditure			
	Over \$50,000	Any Other		
Equipment	Expenditure			
Inpatient Facility	Yes	Yes	Yes	Yes
Other Facilities*	Yes	Yes	Yes	---
Organized Ambulatory Health Care Facilities**	Yes	Yes	Yes	---
Practitioners in Private Practice	Yes	No	No	---

* Kidney centers, outpatients clinics, emergency facilities, home health agencies.
 ** Defined as: "a facility not part of a hospital, which is organized and operated to provide health service to outpatients. This term includes the following facilities: clinical health centers' diagnostic centers; treatment centers; family planning clinics; family health centers; health maintenance organizations that include any of the previous listed facilities or any combination of same; neighborhood health centers; ambulatory surgical facilities including centers for dental surgery; cosmetic surgery centers, dental clinics; optometric clinics; community mental health and mental retardation centers; outpatient mental health facilities; prenatal or abortion clinics; drug abuse or alcoholism treatment centers; facilities for the provision of outpatient physical therapy services including speech pathology; rehabilitation facilities; any provision of medical or health services by a provider of medical health services organized as a not-for-profit or business corporation other than a professional corporation; and, any provider of medical or health services which describes itself to the public as a "center", "clinic" or by any name other than the name of one or more of the practioners providing these services. The agency may adopt rules to establish further criteria for differentiating between the private practice of medicine and organized ambulatory health care facilities."

1. Obligation for capital expenditure. A facility is deemed to have obligated itself not a capital expenditure when it has entered an enforceable contract for the construction, acquisition, lease or financing of a capital asset.
2. Type of acquisition covered. Any capital asset worth more than \$50,000 requires a certificate of need, whether it is being acquired by purchase, lease or gift. In the case of a lease, it is the value of the asset and not the annual lease cost that determines whether a certificate of need is required.
3. Inclusions.
 - (a) Individual items costing less than \$50,000 are included in the total cost of all such items cover a twelve month period for a specified program service or plan exceeds \$50,000. For example, two separate pieces of radiology equipment, each costing less than \$50,000, would require a certificate of need if they were both purchased within one year and if the total cost exceeded \$50,000.
 - (b) Schematic drawings, preliminary drawings, and working drawings, regardless of costs, require a certificate of need if the facility being designed will result in a capital expenditure over \$50,000. This is because the obligation for such drawings are the initial obligation in a total package requiring a certificate of need. Ordinarily, such drawings are part of the capitalized cost of the facility.
 - (c) The initial cost of training and instruction attendant to the use of equipment or capital items is included in calculating the total cost of the expenditures.
 - (d) Once a project has been approved, an increase in its cost will require another approval by the Agency if the increase exceeds the estimated cost by 15% or \$50,000 whichever is less. The project is allowed a 5% contingency in its original

estimate.

4. Exemptions.

- (a) Preliminary studies, surveys, or plans which cost less than \$50,000 and which are not at the schematic drawing phase.
- (b) Equipment which is not for diagnosis or treatment.
- (c) The renewal of leases on substantially the same terms as the previous lease.
- (d) Operating costs beyond the costs of installation and training.
- (e) Normal inventories.
- (f) Acquisition of major medical equipment as defined in Rule 2.2 (f) (6).
- (g) Health Maintenance Organization and certain Health Maintenance Organization facilities as defined in Rule 2.2 (f) (7).

B. Change in Service

Exhibit 1, Part 1, of the Rules lists standard categories of services. The deletion or addition of any of these services, except in the case of a provider who is terminating his entire operation, will require a certificate of need. Part 2, Exhibit 1, of the Rules contains a sample of components which lie within the standard categories. Once a facility is providing any of the components within a service category, a certificate of need is not required to add other components within the same service.

A change in location is considered a change of service requiring a certificate of need unless the CON program administrator determines that the change does not significantly affect the delivery of service to the target group.

C. Change in Beds

Exhibit 1, Part 1, of the Rules presents a list of bed categories. Any addition or deletion to or from the total capacity of a health facility requires a certificate of need. Any change of beds within a facility from one category to another also requires a certificate of need.

Temporary changes which do not exceed ninety days are exempt.

IV. CRITERIA

Federal and Commonwealth Laws and regulations all provide criteria by which certificate of need application must be judged.

The general criteria, as adopted in the Northern Marianas Certificate of Need Rules, are as follows:

- A. The health care needs of the population to be served.
- B. The relationship of the proposal to the State Health Plan, the Annual Implementation Plan, and the State Medical Facilities Plan.
- C. The relationship of the proposal to the long-range development plan of the proponent.
- D. The relationship of the proposal to the existing health care system of the area.
- E. The availability of less costly or more effective alternatives methods of providing service.
- F. The quality of the health care services proposed.
- G. The accessibility of the health care services proposed.
- H. The immediate and long term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the proponent.
- I. The availability of resources, including manpower and funds for capital and operating needs, for the provision of the services proposed to be provided and the availability of alternative uses of such

resources for the provision of other health services.

- J. The relationship of the services proposed to ancillary or support services.
- K. The special needs and circumstances of those entities who provide a substantial portion of their services to people who live outside the Commonwealth.
- L. The special needs and circumstances of health maintenance organizations (if and when introduced into the CNMI health system).
- M. The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.
- N. In the case of a construction project,
 - 1. The costs and methods of the proposed construction, including the costs and methods of energy provision, and
 - 2. The probable impact of the construction project reviewed on the costs of providing health care services by the proponent.
- O. The availability of evaluation mechanisms for supplying information to the health planning agency.

In addition to these general criteria, the Agency, from time to time, may adopt specific criteria for specific sorts of projects. For example, as the Federal Government adopts National Guidelines for Health Planning, the Agency will also adopt them with some necessary and allowable adjustments.

Under Criterion B, the State Agency considers the State Health Plan, the Annual Implementation Plan, and the State Medical Facilities Plan when it reviews a certificate of need application. The agency will also consider the information and findings of the most recent Hill-Burton Plan.* Although these plans will not have official status as formally adopted plans, they do contain information useful in reviewing applications.

*The subject Hill-Burton plan for medical facilities, prepared for the Trust Territory Government, includes a "district" section for the Northern Mariana Islands.

Part II - Certificate of Need Policies

This part of the Policies and Procedure Manual presents the specific policies on certificate of need used by the Agency in operating the certificate of need program.

- I. The Certificate of Need Rules and Procedures of the State Agency shall be liberally construed to provide for mandatory planning for health facilities and services in the State and the provision of all information necessary for the planning and certificate of need functions of the State Agency.
- II. The policies and procedures of the State Agency shall be designed to insure maximum public input into the certificate of need function, the planning functions, and other functions of the State Agency.
 - A. All records of the State Agency, and all applications and other documents filed with the agency (except for those accorded confidential treatment by the law) are public information and are available for public inspection and public copying.

All records of the State Agency are available for public inspection. This includes rules, certificate of need applications, all comments and recommendations received by the Agency or the Review Panel in regard to certificate of need applications, all decisions and minutes of CHCC, or the Panel, and any other document unless accorded confidential treatment pursuant to law. Copies of such public records shall be furnished to any person upon request.

- B. Public participation at meetings. All meetings of CHCC, the Review Panel and other reviewing bodies are public meetings and members of the public are invited to participate in the meetings.

All meetings of CHCC and its committees, the Review Panel, and Agency meetings for reconsideration of Agency decisions are public meetings, conducted in accordance with federal and local regulations. All affected persons shall be given an opportunity to appear at these meetings and give testimony regarding the applications. Those interested in giving such testimony are requested to inform the agency or the Chairman of the meeting before the meeting begins. During the meeting, interested persons may seek recognition from the chair if they wish to give testimony or make comment.

- C. Public input will be invited and an opportunity for written comment will be given before the Agency adopts certificate of need rules, procedures and criteria.
 - 1. The State Agency shall distribute copies of the proposed rules, procedures and criteria to CHCC, health facilities and health maintenance organizations, statewide health agencies, and other interested organizations.
 - 2. The State Agency shall publish a legal notice stating that rules, review procedures and criteria have been proposed, and indicating locations where copies are available for inspections.
- D. Certificate of Need procedures and criteria shall be widely distributed to the public. rules, procedures and criteria, once they have been adopted, shall be distributed to CHCC, health facilities and health maintenance organizations, statewide health agencies, and other interested organizations.
- E. Upon receipt of a certificate of need application, the Agency shall provide written notice of the beginning of a review cycle.

Except for emergency applications, the Agency shall provide written notification to affected persons of the beginning of a review, including the review schedule. "Affected persons" includes

the persons whose proposal is being reviewed, representatives of areas the Executive Director determines will be affected by the proposal, officials of health care facilities and health maintenance organizations located in the area which the Executive Director determines is the primary target area of the application, any agency which establishes rates for health care facilities or health maintenance organizations in the Commonwealth and members of the public. For purposes of this section, the date of notification is the date on which the notice is sent to the applicant or the date on which the notice appears in a newspaper of general circulation, whichever is later. Written notification to members of the public may be provided through newspapers of general circulation and public information channels; notification to all other affected persons shall be by mail, which may be as part of a newspaper. The written notice shall include the schedule for the review, and the time and place of Review Panel and Council meetings at which the application will be reviewed.

F. During the course of a review, the Agency shall provide in writing, to any person who request it, information regarding the status of any proposal in the review cycle, findings of the Agency, and any other appropriate information.

G. The Agency shall provide written findings stating the basis for its final decision on a certificate of need application and these findings shall be sent to the applicant and others upon request. In addition, all decision shall be published in a newspaper of general circulation.

III. The staff of the Agency shall provide all necessary technical assistance to applicant or prospective applicants for certificate of need.

This technical assistance shall be provided to those who are:

1. Requesting findings as to whether a certificate of need is required for a proposed project.
 2. Requesting a preliminary finding of need.
 3. Filing letter of intent.
 4. Preparing and filing applications for a certificate of need.
 5. Undergoing the review process.
 6. Filing appeals or requests for reconsideration.
- IV. The staff of the State Agency shall provide ordinary staff services to the reviewing committees, including CHCC, and the Review Panel.
- V. Applicants for certificate of need and all other health care facilities shall submit to the State Agency all necessary information for planning and for review of certificate of need applications.
- A. In a certificate of need proceeding, the burden of proof is on the applicant.
 - B. Once an application has been approved, the applicant shall submit periodic reports respecting the development of the project.
 - C. Providers of health services shall submit to the agency the information necessary for the Agency to carry out its other health planning and review functions.
- VI. The Agency will develop the forms and request for information and will implement the necessary procedures that will provide the information necessary for the Agency's functions. The Agency will provide for public input in the review process without putting an unnecessary burden on the application.
- VII. The Agency shall adopt certificate of need criteria. These criteria shall include, as a minimum, the federal criteria and guidelines with necessary and allowable adjustments for the specific conditions of the Commonwealth. Other criteria, beyond those required by the federal government, shall be adopted as necessary.

VIII. The Agency shall adopt a procedure which allows for a preliminary finding of need.

An applicant interested in developing projects may request the agency to issue a preliminary finding of need. Such a preliminary finding of need may be issued if plans or other documents of the agency have already identified the need or if the applicant is able to provide a detailed demonstration that a need exists and receives the agreement of the Agency. A preliminary finding of need is not a certificate of need but merely an agreement by the Agency that a need exists and that the applicant is free to develop a full certificate of need application with some expectation that it may be approved.

IX. The Agency shall adopt a procedure providing for the submission of letters of intent by applicants who intend to apply for a certificate of need.

X. The Agency shall establish certificate of need review schedules so that, to the extent possible, no certificate of need review will take longer than ninety days.

Criteria for determining when it would not be practical to complete a review within ninety days include, but are not limited to,

- A. Any capital expenditure over \$2,000,000.
- B. New technology with a capital expenditure over \$500,000 or an annual operating cost over \$250,000.
- C. Equipment over \$500,000.
- D. Concurrent applications from other facilities proposing a similar project.
- E. Any new service not previously offered in the State.

XI. In the case of certificate of need applications involving the provision of health services to inpatients, the State Agency shall not grant a certificate of need unless it makes the written findings required by the federal government.

- XII. The Agency shall provide procedures by which conditional certification may be granted to certificate of need applications which would successfully meet the criteria for approval if they were modified.
- XIII. The Agency will adopt procedures whereby any person may, if good cause is shown, request a reconsideration of a certificate of need decision.
- XIV. In the case of an applicant who appeals a denial to the Northern Marianas High Court, or in the case of an applicant or any other person who requests a reconsideration, and the decision of the court, or the decision of the Agency regarding the reconsideration, shall be deemed the final decision of the Agency.
- XV. In the case of any new institutional health service proposed by or through a health maintenance organization, the Agency shall not deny a certificate of need with respect to such service in those cases (a) when the Agency has granted a certificate of need which authorized the development of the service, or expenditures in preparation for such offering or development (or has otherwise made a finding that such development or expenditure is needed), and (b) when the offering of this new institutional health service will be consistent with the basic objectives, time schedules, and plans of the previously approved applications: provided, that the Agency may impose a limitation on the duration of the certificate of need which shall expire at the end of such time unless the health service is offered prior thereto.
- XVI. The Agency will revoke any certificate of need which are significantly behind schedule in implementation or which are not being implemented as they were approved.
- XVII. The Agency shall publish annual reports and periodic reports in the monthly newsletter, describing the reviews being conducted, the reviews completed since the last report, and a general statement of findings and decisions made on each application.

Part III - Procedures

This section of the Policies and Procedures manual deals with the procedures by which applications for Certificate of Need are submitted, reviewed and approved or disapproved.

I. PRELIMINARY FINDING OF NEED

In many cases, a provider intending to initiate a project seeks some sort of advice from the Agency as to whether the project is needed. Sometimes the Agency is able to advise the applicant that a project is definitely not needed and would almost certainly be denied a certificate of need. In other cases, the agency is able to advise the applicant that there is an apparent need for a project although a certificate of need cannot be issued without all the detailed information provided in a certificate of need application.

Any provider intending to initiate a project may contact the State Agency and request a preliminary finding of need. Under this procedure, the Agency may advise the applicant that a need has already been identified in Agency documents or may request the applicant to provide detailed demonstration that a need exists. If the agency agrees that there is a need, it may issue a preliminary finding of need, and the applicant will then be able to develop his full application with some confidence that the project has a chance of approval.

However, a preliminary finding of need by the Agency does not guarantee an applicant that his application will ultimately be approved since the circumstances of need could change from time to time and since the project as it is finally developed and proposed may not meet the other criteria for certificate of need.

II. LETTERS OF INTENT

Applicants proposing certificate of need projects should submit to the Agency letters of intent at the earliest opportunity. The letter of intent should provide as much detail as is necessary to inform the Agency of the scope and nature and should be submitted on forms prescribed by the Agency. Such letters or intent will allow the Agency to provide prompt technical assistance to the applicant in the development of the application.

III. THE REVIEW PROCEDURE

A. Categories of Applications

Since a certificate of need is required for any capital expenditure over \$50,000 or any change of service or any change of beds, there will be many projects proposed by providers which do not really require a lengthy review and extensive supporting documentation. For example, a hospital giving services which are consistent with the criteria and plans of the Agency may wish to reequip its radiology service at a cost of more than \$50,000. This is a basic service in a needed facility. Although the dollar amount requires review, it would not be efficient to use large amounts of staff time to review such a project. It would also not be fair to the provider to require extensive paperwork and an involved review procedure.

The Agency Certificate of Need Rules establish the following categories of applications:

1. Emergency - Emergency circumstance such as disasters and equipment failure which jeopardize a facility's ability to deliver its existing range of health services.
2. Minor Service Change - A change in service involving less than \$50,000 in capital expenditures and an annual operating cost of less than \$50,000.
3. Equipment Replacement - The replacement of existing equipment that is old, outdated, outmoded, defective, in poor working condition, or which is no longer the best technology, as long as the cost does not exceed \$50,000.
4. Code Deficiencies - Renovations or improvements to any existing health care structure to correct Safety Code or Building Code deficiencies.
5. Renewal of Lapsed Certificate - Renewal of a certificate of need which has not been implemented within 12 months of the date of issuance, provided that the applicant demonstrates that the circumstances of need

have not substantially changed and that satisfactory progress towards implementation of the project has been made.

6. Design Phase Plans - Design phase plans such as schematic drawings which cost less than \$50,000, but which are part of a project which will have an overall capital cost exceeding \$50,000.
7. Change in Ownership. A change in ownership, or lease agreement, of a health facility.
8. Expenditure of less than \$50,000 not changing beds or services.
9. change of service or beds at a cost below \$50,000 - A change of service or beds which costs less than \$50,000 and which does not fit into Category B.
10. Termination of Service - The termination of a service where the termination eliminates existing duplication of service, where the applicant demonstrates that the duplication is unjustified.
11. Standard - All other proposals.

The Agency will prepare application forms and will provide a prospective applicant with the necessary forms for whatever category of application is being considered.

B. Roles of the Participants in the Review Procedure

1. Applicant.

- (a) In a certificate of need procedure, the burden of proof rests with the applicant. The applicant must demonstrate beyond doubt that his proposal meets the certificate of need requirements, and to this end he must provide all the information necessary to demonstrate that the application meets the criteria.
- (b) The applicant should inform the Agency of an intended project by submitting a letter of intent.

- (c) Following the letter of intent, the applicant should seek technical assistance from the Agency as he develops the application.
- (d) The applicant must submit the required number of copies of the application; one copy for an emergency application, 6 copies in the case of a minor service change, and 17 copies for all other types.
- (e) The applicant should appear at committee meetings where the application is being reviewed in order to explain the proposal and to answer the questions of the committee members.

2. Reviewing Bodies.

(a) State Review Panel.

- (i) The NMI Certificate of Need Review Panel is established under the provision of CON regulations. It is a committee of CHCC and is charged with the responsibility of thorough review and analysis of certificate of need applications.
- (ii) Members of the Review Panel receive applications from staff of the Agency. Any member believing that additional information should be requested of the applicant shall notify the staff.
- (iii) Every application, except an emergency application, is considered by the Review Panel at an open meeting. The Panel considers the recommendations, advice, and comments of any interested organization and/or individual.

- (iv) The Review Panel forwards its comments and recommendations to CHCC in writing.
- (v) Members of the Review Panel are selected because of their expertise in various fields and not as representatives of particular groups. The majority of the panelists are consumers and two of the five seats are reserved for the neighbor islands, one each from Tinian and Rota.

(b) NMI Health Coordinating Council (HCC)

- (i) The role of CHCC is to make comments and recommendations to the State Agency on each certificate of need application, except emergency applications.
- (ii) In making its comments and recommendations, CHCC relies primarily upon the recommendations of its CON committee, the NMI Certificate of Need Review Panel.
- (iii) In general, CHCC does not reopen all the issues and testimony considered by the Review Panel, but primarily confines its discussion to the Panel's written report. Extensive discussion of an application does not usually take place at the CHCC level unless the application is controversial, or the Review Panel was closely divided in its recommendation, or it appears that all pertinent information was not been properly followed.

3. Agency Staff

The general role of the staff is to work with the applicant and assist him in the review procedure, to provide staff services to the reviewing bodies, and to assure that the review process is properly implemented.

- (a) The staff determines whether a proposed project requires a certificate of need. To this end, the staff consults with prospective applicants, the review bodies and others who may raise the question of whether a certificate of need is required for a specific proposal.
- (b) The staff consults with perspective applicants to assist them in preparing letters of intent or requests for preliminary findings of need.
- (c) The staff assists an applicant in preparing a certificate of need application so that all necessary information is presented and so that the applicant understands the review procedure.
- (d) The staff receives certificate of need applications, determines if an application is complete, and informs the applicant of whatever additional information is required if an application is incomplete.
- (e) The staff sets the meeting times and places for reviewing bodies.
- (f) The staff publishes the required public notices and publicizes applications as appropriate.
- (g) The staff maintains a project tracking system showing the progress of each application in the review process.
- (h) The staff distribute copies of the proposal to the State Review Panel.
- (i) The staff analyzes applications and presents appropriate analyses to the applicant and the reviewing bodies.

- (j) The staff analyzes applications and presents appropriate analysis to the applicant and reviewing bodies.
- (k) The staff assists the reviewing bodies in preparing their remarks and forwards their comments and recommendations to the next reviewing body or the Agency.
- (l) The Executive Director of the Agency approves, disapproves, or gives conditional approval to the application.
- (m) The Executive Director makes written findings as required by the Rules and sends the findings to the applicant, the reviewing bodies and other appropriate persons.
- (n) In the case of a negative finding, the staff informs the proponent of the appeals procedures available to him.
- (o) In the case of an appeal by an applicant or any interested person, the staff assures that the proper appeals procedures are followed and provides ordinary staff services to the appellant and other involved bodies.

C. Process of Review.

In general, there are three review processes. The first is for emergencies, the second is for minor service change applications, and the third is for all other categories of application.

1. Emergency - In the case of an emergency situation, an applicant may submit an application for a certificate of need and request an emergency review.

Within forty-eight hours, the Agency Executive Director or his representative will consult with the Chairman of the Council, and the Review Panel for recommendation and comments.

If the Executive Director determines that an emergency exists, he may issue a certificate of need under this procedure or may disapprove the certificate.

2. Minor Service Change - In the case of a minor service change, an applicant must submit 6 copies of a completed application at least six days before a scheduled Review Panel meeting.

The Review Panel considers the application at one of its regularly scheduled meetings and makes its recommendations to the Council which in turn, makes its findings and recommendations to the Agency.

3. All other Certificate of Need Applications - An applicant may submit a certificate of need at any time. After an application has been submitted, the State Agency has fifteen calendar days within which it must inform the applicant that the application is either complete or that further information is required to complete the application. 17 copies of the completed application must be submitted.

In general, the review cycle is to be completed within 45 days. Any application which is not complete will not be entertained until the next review cycle.

Except for emergency applications and applications for minor service change, every application for a certificate of need is referred, by the Agency staff to the Review Panel, at least eight days before a scheduled Review Panel meeting.

The Review Panel meets when required, such meetings to be scheduled nine days before the CHCC, and submits its findings and recommendations in writing, to CHCC.

CHCC reviews the recommendations of the Review Panel and other interested bodies and makes its recommendations to the State Agency.

find that superior alternatives are not available or cannot be practically developed and that patients will not experience serious problems if the application is not approved.

The federal requirement that the Agency must make these written findings emphasizes the importance of the applicant providing complete information in the proper format so that there is clear demonstration that the application meets the certificate of need criteria.

IV. CONDITIONAL CERTIFICATION

The Agency may grant conditional certificate to applications which would successfully meet the criteria for approval if they were modified in some way.

The Agency notifies the applicant in writing of the modifications required and establishes a time period up to 120 days within which the applicant must certify that the required changes have been made. The Agency shall not issue a certificate of need until the changes have been made and must deny any application in which the changes are not made within the 120 days period. It should be noted that a conditional certificate of need is not a certificate of need allowing the applicant to proceed with the project, but a commitment by the Agency that a valid certification is amended as required.

V. APPEALS

An applicant who is denied a certificate of need may appeal under one of two procedures. In the first instance, an applicant may appeal to the Commonwealth Trial Court of the Agency's decision.

In addition, any person, including the applicant, may request a reconsideration of the Agency's decision for good cause. To be effective, a request for a reconsideration must be received within 30 days after the Agency's decision, and the Agency shall convene a public hearing to reconsider its decision within 30 days after receipt of the request.

An applicant for reconsideration will be deemed to have shown good cause if the application:

1. Presents significant relevant information not previously considered by the Agency.
2. Demonstrates that there have been significant changes in factors or circumstances relied upon by the State Agency in reaching its decision.
3. Demonstrates that the State Agency has materially failed to follow its adopted procedures in reaching its decision.
4. Provides such other basis for a public hearing as the State Agency determines constitutes a good cause.

VI. EXTENSION OF CERTIFICATE OF NEED

Each certificate of need is valid for a period of one year from the date of issuance by the State Agency, unless the period is extended. This means that an applicant must formally commit himself to a project within one year of receiving a certificate of need. Ordinarily, a formal commitment by a facility means contractual obligation of funds for the project.

An applicant may request an extension of a certificate of need by submitting a category five (5) applications (See III. Review Procedure).

VII. REVOCATION

The Executive Director may revoke a certificate of need if he determines that:

1. The start of the project is more than eighteen months behind schedule;
2. The obligation of funds for a later project phase, identified in the CON application, is more than eighteen months behind schedule;
3. The project being implemented by the facility or service sponsor differs substantially from that which was approved by the Agency.