

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CIVIC CENTER, SAIPAN, MARIANA ISLANDS

Volume 6 Number 6

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Date of Publication: June 15, 1984



Commonwealth

Register

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

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Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services

Division of Environmental Quality

Saipan, Mariana Islands 96950



Filed this 30th day of May
Cable Address: CM 96950
Gov. USA Saipan

PUBLIC NOTICE

Office of Registrar Ed. Conception
Commonwealth of the Northern Mariana Islands

PROPOSED HAZARDOUS WASTE MANAGEMENT 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 new regulations for the protection of the environment and public health through the control of use, transportation, and disposal of hazardous waste. These regulations will be used under the authority of CNMI Public Law 3-23.

The purpose of these regulations is to establish a program which identifies hazardous waste, regulates hazardous waste storage, treatment, handling, transport and disposal, and establishes capabilities of inspection and enforcement to ensure that hazardous waste management activities do not jeopardize human health and are carried out in an environmentally sound manner.

The proposed regulations include the following subject areas:

1. Criteria for hazardous waste determination.
2. Standards applicable to hazardous waste generators.
3. Standards applicable to transporters of hazardous waste.
4. Hazardous waste management permit system.
5. Standards applicable to hazardous waste management facilities.
6. Right of entry, inspection, and enforcement.
7. Compliance schedules.

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

Anyone interested in commenting on the proposed Hazardous Waste Management Regulations may do so by submitting comments in writing to the Director, Public Health and Environmental Services, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

5/30/84
Date

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



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

NOTISIAN PUBLIKO

MAPROPOSA NA REGULASION TROMPESON PILIGROSU NA INENKATGA PARA I LAI PUBLIKO 3-23 GINEN I DEPARTAMENTON HINELO' PUBLIKO YAN SETBISION ENVIRONMENTAL

I Direktot i Depattamenton Hinemlo' Publiko yan Setbision Environmental gi Commonwealth i sankattan na Islas Marianas ha proposa un nuebo na regulasion pot para umaprotehe i uriya na hinemlo' yan hinemlo' publiko para umasuheta i usu, transpottasion yan despueston piligrosu na trompeson. Este siha na regulasion para uma'usa komo patte gi Lai Publiko 3-23.

I propositon este na regulasion para uma establese un programa ni aidentifika piligrosu na trompeson, manea sagan piligrosu na trompeson, kriansa, manea, transpotta yan despuesto yan establisa kapas na rikonosimento yan areklamento pot para uma asigura na i aktibidad i inenkatga na trompeson piligrosu ti chinichi'ot i hinemlo' taotao yan ma praktitika gi ginagas yan sanu na manera.

I maproposa na regulasion ha inklulusu i sigiente siha na asunto:

1. Ginagagao para i ditetminasion na trompeson piligrosu.
2. Aplikapble na ginagao para yenereta piligrosu na trompeson.
3. Aplikapble na ginagao para maloffan piligrosu na trompeson.
4. Sistemman lisensia para i inenkatgan i piligrosu na trompeson.
5. Aplikapble na ginagao para i fasilidad i piligrosu na trompeson.
6. Derecho na entrada, rikonosimento yan areklamento.
7. Compliance Schedules.

Kopian i maproposa 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 malago' u espresa i opinion-na pot maproposa na regulasion trompeson piligrosu na inenkatga makombibida na u tuge' i opinion-na ya u satmiti guato gi Direktot i Depattamenton Hinemlo' Publiko yan Setbision Environmental, Saipan CM 96950 gi halom trenta (30) dias ginen ayu na fecha anai mapublika este na notisia gi Commonwealth Register.

8/30/84
Fecha

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

I. PURPOSE AND OBJECTIVE

Whereas continued technological and social progress has increased the amount of hazardous waste generated, the public health and human safety may be endangered and adverse consequences to the environment may result if these hazardous wastes are not managed in a safe and prudent manner. Therefore, pursuant to Public Law 3-23, these Regulations are developed to provide for proper hazardous waste management.

Thus it is the purpose of these Regulations to protect, promote and preserve the beauty and integrity of the Commonwealth of the Northern Mariana Islands environment and to maintain the health and well being of all that live therein.

It is the objective of these Regulations to establish a program which identifies hazardous waste, regulates hazardous waste storage, treatment, handling, transport and disposal, and establishes capabilities of inspection and enforcement to ensure that hazardous waste management activities shall not jeopardize human health and are carried out in an environmentally sound manner.

II. DEFINITIONS - for the purpose of these Regulations the following definitions are in effect.

- A. "Active Portion" shall mean that area of a hazardous waste management facility where waste is currently being managed.
- B. "Aquifer" shall mean a geologic formation capable of yielding groundwater to wells or springs.
- C. "Chief" shall mean the Chief of the Division of Environmental Quality.
- D. "Closed Portion" shall mean that area of a hazardous waste management facility which shall no longer be used to manage waste and/or which has been closed in accordance with the approved closure plan.
- E. "CNMI" shall mean the Commonwealth of the Northern Mariana Islands.
- F. "Constituent" shall mean that part or element of a waste which causes it to be identified as hazardous pursuant to these Regulations.
- G. "Contingency Plan" shall mean a document setting out an organized planned and coordinated course of action to be followed in the event of a fire, explosion or discharge of hazardous waste or its constituents which could threaten human health or the environment.

- H. "Container" shall mean any portable device in which a material is stored, transported, treated, disposed or otherwise managed.
- I. "DEQ" shall mean the Division of Environmental Quality.
- J. "Detonation" shall mean an explosion in which chemical transformation passes through the material faster than the speed of sound.
- K. "Department" shall mean the Department of Public Health and Environmental Services.
- L. "Device" shall mean any equipment, mechanism, instrument or structure used in the management of hazardous waste.
- M. "Dike" shall mean an embankment or ridge of either natural or man-made material which is used to prevent the movement of liquids, solids, sludges or other materials.
- N. "Discharge" shall mean the accidental or intentional spilling, leaking, escape, pumping, pouring, emptying or dumping of waste into or onto any land or water.
- O. "Disposal" shall mean the discharge, deposit, injection or placement of any waste into or onto any land or water so that such waste, or any constituent thereof, may enter, if not properly managed, the environment or be emitted into the air or discharged into any water, including groundwater.
- P. "Equivalent Method" shall mean any testing, operational or procedural method which the Chief determines to be functionally equivalent or superior to the method specified in these Regulations.
- Q. "Facility" shall mean all contiguous land, including structures, devices, other appurtenances and improvements on the land, which is used in the management of hazardous waste.
- R. "Fault" shall mean a geologic fracture along which rocks on one side have been displaced with respect to those on the other side.
- S. "Food Chain Crops" shall mean crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans.
- T. "Freeboard" shall mean the vertical distance between the top of a device and the surface of the material contained therein.
- U. "Generator" shall mean any person who produces hazardous waste identified in these Regulations.

- V. "Groundwater" shall mean water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or any body of surface water within the boundaries of the CNMI.
- W. "Hazardous Waste" shall mean any waste because of its quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or to the environment when improperly managed.
- X. "Inactive Portion" shall mean that area of a hazardous waste management facility where waste is not actively being managed but where waste management operations are expected to begin at a later date.
- Y. "Incinerator" shall mean an enclosed device using controlled flame combustion which is used to thermally break down waste.
- Z. "Incompatible Waste" shall mean any waste which, when mixed or commingled with another waste or material under uncontrolled conditions might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases, or which can cause the corrosion, decay or failure of the containment device.
- AA. "Injection Well" shall mean a well into which fluids are injected.
- BB. "Landfill" shall mean a facility or part of a facility where waste is disposed by placement in or on the land and which is not a land treatment facility, a surface impoundment or an injection well.
- CC. "Leachate" shall mean any liquid that has percolated through waste and has extracted dissolved or suspended materials or constituents from the waste.
- DD. "Liner" shall mean a continuous layer of natural or man-made materials beneath or on the sides of a surface impoundment or a landfill which restricts the downward or lateral movement of hazardous waste, its constituents or leachate.
- EE. "Manage" or "Management" shall mean any act or operation by which hazardous waste is collected, contained, stored, transported, processed, recovered, treated, disposed or otherwise handled or manipulated.
- FF. "Manifest" shall mean the document used for identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the generator to the hazardous waste management facility.

- GG. ~~"Off-site" shall mean that area outside of the facility's~~ or generator's property lines.
- HH. "On-site" shall mean that area within the confines of the facility's or generator's property lines.
- II. "Open Burning" shall mean the combustion of waste without control of combustion air to maintain adequate temperature for efficient combustion, without containment of combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and without control of the emission or the combustion products.
- JJ. "Operator" shall mean any person who actuates the management of hazardous waste.
- KK. "Owner" shall mean any person, including Federal and CNMI agencies, who, alone or in conjunction with others, owns or leases the property upon which hazardous waste is generated or managed.
- LL. "Person" shall mean the CNMI or any local or Federal government instrumentality therein, or any individual, firm, corporation, association, or partnership, or any organized group of individuals whether incorporated or not.
- MM. "Pile" shall mean any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.
- NN. "Plan" shall mean any report, drawing or narrative which is prepared to describe the management of waste and any operation involved therein.
- OO. "Plat" shall mean a document which accurately describes a property, its boundaries and all material placed upon or beneath the ground surface.
- PP. "Representative Sample" shall mean any portion of waste which is statistically equivalent to the total waste in composition.
- QQ. "Run-off" shall mean any water, leachate or other liquid that drains over land from any part of a facility.
- RR. "Run-on" shall mean any water, leachate or other liquid that drains over land onto any part of a facility.
- SS. "Saturation Zone" or "Zone of Saturation" shall mean that part of the earth's crust in which voids are filled with water.
- TT. "Sludge" shall mean any solid, semi-solid or liquid waste, except the treated effluent from a waste water treatment plant, generated from a municipal, commercial or industrial waste water treatment plant, air pollution control facility, or any other waste having similar characteristics or effects.

- UU. "Storage" shall mean the holding of waste for a temporary period in such a manner which does not constitute disposal of the waste.
- VV. "Surface Impoundment " or Impoundment" shall mean a facility or part of a facility which is a natural topographic depression, man-made excavation or diked area which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well.
- WW. "Tank" shall mean a stationary device designed to contain hazardous waste which is constructed primarily of non-earthen materials which provide structural support.
- XX. "Thermal Treatment" shall mean the management of waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological characteristics or composition of the waste.
- YY. "Transporter" shall mean any person or the owner or operator of a business, who, by any method, technique or process, moves hazardous waste from the point of generation to the point where the waste is to be further managed.
- ZZ. "Treatment" shall mean any method, technique, process or operation designed to change the physical, chemical or biological characteristics or composition of any waste.
- AB. "Triple Rinse" shall mean the process by which containers are flushed three times, each time using a volume of diluent at least equal to ten percent (10%) of the containers capacity.
- AC. "Unsaturated Zone" or "Zone of Aeration" shall mean the zone between the land surface and the water table.
- AD. "U.S.E.P.A." or "E.P.A." shall mean the United States Environmental Protection Agency.
- AE. "Waste Explosive" shall mean bulk military propellants or waste which has the potential to detonate.
- AF. "Well" shall mean any shaft or pit dug or bored into the earth.

III. GENERAL

A. Regulatory Revision

1. For the purposes of maintaining the consistency of these Regulations with the U.S.E.P.A. Hazardous Waste Management System, any revisions to the Hazardous Waste Management System regulations promulgated by U.S.E.P.A. may be incorporated into these Regulations by approval of the Department.

2. Any revisions to these Regulations that are more stringent than corresponding requirements of the U.S.E.P.A. Hazardous Waste Management System may be incorporated into these Regulations only after a public hearing and approval by the Department of such revisions.

B. Petitions

For the purposes of these Regulations 40 CFR (Code of Federal Regulations) Part 260, Subpart C, Rulemaking Petitions, shall be in effect.

- C. For the purposes of these Regulations, 42 USCA Section 6961 as amended through 1981 [RCRA: P.L. 94-580, Section 6001 as amended by P.L. 95-609 Section 7(m)] is hereby adopted by reference.

IV. CRITERIA FOR HAZARDOUS WASTE DETERMINATION

For the purposes of these Regulations 40 CFR (Code of Federal Regulations) Parts 261, Hazardous Waste Management System: Identification and Listing of Hazardous Waste, shall be in effect.

V. STANDARDS APPLICABLE TO HAZARDOUS WASTE GENERATORS

A. General

1. All generators covered by 40 CFR Part 262 are covered by this program.
2. Unless otherwise provided in these Regulations, any generator of hazardous wastes as listed or determined by characteristics shall comply with these Regulations. and generators in non-compliance shall be subject to penalties prescribed in Section 3008 of P.L. 94-580.
3. A farmer disposing waste pesticides for his own use is not subject to these Regulations provided that:
 - a. The waste pesticides are disposed of on the farmer's property in a manner consistent with disposal instructions on the pesticides container.
 - b. In the absence of label instruction the farmer shall use a disposal method in accordance with the CNMI Pesticide Regulations.
4. Any person who imports hazardous waste shall be considered a generator and shall comply with appropriate provisions in these Regulations.

B. All generators covered by 40 CFR Part 262 are covered by this program. Requirements for small quantity producing hazardous waste generators, except as otherwise provided below, 40 CFR (Code of Federal Regulations) Parts 261.5 and 261.33 (e) shall be in effect.

1. A generator with a total hazardous waste production of less than 200 kilograms (440 pounds) per calendar month is not subject to these Regulations. However, the generator has the responsibility to ensure that the hazardous waste is delivered to a treatment, storage or disposal facility that is approved by the Chief.
2. Hazardous waste subject to the above quantity limitation may be mixed with non-hazardous waste even though the resultant mixture exceeds the limitation, provided that the resultant mixture does not meet any of the characteristics defined under "Characteristics of Hazardous Waste" (40 CFR Part 261).

C. Identification Number

1. A generator shall not manage hazardous waste without having received a U.S.E.P.A. Generator Identification Number. The identification number may be obtained from the Chief by applying on forms supplied by DEQ.
2. The generator shall not allow the hazardous waste to be managed by any person or facility that has not received an identification number from DEQ.

D. Manifest System

1. General

- a. The generator shall prepare a manifest on forms supplied by DEQ before transporting an off-site shipment of hazardous waste.
- b. Use of the Uniform Hazardous Waste Manifest will be required for all regulated shipments of hazardous waste. This form will be provided by DEQ. On each shipment manifest the generator shall designate the primary facility to receive the shipment and a secondary receiving facility in the event a delivery is prevented to the primary facility. If delivery to either facility is not possible, the generator shall require that the waste be returned so that further instructions may be given and the manifest can be revised.

2. The following certification shall appear on the manifest and shall be signed by the generator prior to shipment:

"This is to certify that the above named materials are properly classified, described, packaged, marked and labeled and are in proper condition for transportation in accordance with applicable regulations of the Department of Transportation and the Division of Environmental Quality."

3. The manifest shall contain a sufficient number of copies to supply one copy to the generator and each transporter and two copies to the receiving facility (three if the shipment is off-island) one of which shall be returned to the generator from the receiving facility.
4. The generator shall:
 - a. sign and date the certification,
 - b. obtain the signature of the transporter and date of acceptance on the manifest prior to shipment of the waste,
 - c. retain the generator's manifest copy on file until the signed manifest copy is returned from the receiving facility; the copy from the facility shall be kept on file for three years,
 - d. give the remaining copies of the manifest to the transporter.

E. Requirements

1. Before allowing hazardous waste to be transported, the generator shall package, label and mark the waste in accordance to applicable regulations of the Department of Transportation contained in 49 CFR (Code of Federal Regulations) Parts 172, 173, 178 and 179.
2. Before allowing hazardous waste to be transported, the generator shall clearly mark, in accordance with 49 CFR 172.304, each container of 110 gallons or less with the following:

HAZARDOUS WASTE

Federal Law Prohibits Improper Disposal. If found contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

GENERATOR'S NAME, ADDRESS, TELEPHONE NUMBER,

U.S.E.P.A. I.D.# _____

DATE OF ACCUMULATION: _____

MANIFEST DOCUMENT NUMBER: _____

3. Before allowing a shipment of 1,000 kilograms (2,200 pounds) or more of hazardous waste to be transported, the generator shall supply or use appropriate placards in accordance with regulations of the Department of Transportation contained in 49 CFR Part 172 Subpart F.
4. The generator shall not offer for transport any container of hazardous waste that is discharging its contents. The generator shall have the responsibility for transferring the hazardous waste to a proper container in good condition.
5. A generator is required to possess a Hazardous Waste Management Permit in order to accumulate hazardous waste on-site for more than 90 days.
6. A generator may accumulate hazardous waste on-site for 90 days or less provided that:
 - a. the waste is packaged, labeled and marked in accordance with the above requirements, and
 - b. the waste is stored, prior to shipment preparations, in accordance with applicable sections of these Regulations,
 - c. the date beginning the accumulation period is clearly marked and visible on each container as it is accumulated.
7. If the generator has not received a signed copy of the manifest from the designated facility located in the CNMI within 30 calendar days, the generator shall contact the transporter and designated facility to determine the status of the waste shipment.
8. Off-Island Shipments
 - a. Export - any generator who allows his hazardous waste to be exported from the CNMI shall comply with the following:
 - i. The generator shall notify the Chief in writing at least thirty (30) calendar days prior to each shipment. The notice shall include:
 - (A) the generators name, address and identification number,
 - (B) the waste identified by its identification number and Department of Transportation shipping description.
 - (C) the name and identification number of the initial transporter,
 - (D) the name and address of the consignee receiving the waste.

- ii. A copy of the notice shall be sent at least thirty (30) calendar days prior to each shipment to :

Office of International Activities (A-106)

United States Environmental Protection Agency
Washington, D.C. 20460.

- iii. The generator shall require the consignee receiving the waste to confirm delivery. A copy of the manifest dated and signed by the consignee and sent to the generator is sufficient for this purpose.
- iv. The generator shall adhere to manifest requirements except the name and address of the consignee shall be used instead of the receiving facility identification number and the generator must identify the point of shipment departure.
- v. If the generator has not received a signed copy of the manifest or shipping documents from the designated facility located outside the CNMI within ninety (90) calendar days, the generator shall file an "exception report" (see E.9.f.)
- b. Import - for the purposes of these Regulations any person importing hazardous waste shall be considered a generator.
- i. The name and address of the off-island waste generator shall also be included on the manifest.
- ii. The certification shall be dated and signed by the importer and the initial transporter and the manifest shall have the importers name, address and identification number.

9. Reporting and Recordkeeping

- a. A generator must keep a copy of each manifest signed in accordance with 40 CFR 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.
- b. A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report (March 1).

- c. A generator must keep records of any test results, waste analyses, or other determinations made in accordance with 40 CFR 262.11 for at least three years from the date that the waste was last sent for on-site or off-site treatment, storage, or disposal.
- d. The periods or retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Chief.
- e. Biennial Report
 - i. A generator who ships his hazardous waste off-site must submit Biennial Reports:
 - (A) On EPA form 8700-13A according to the instructions on the form.
 - (B) To the Chief.
 - (C) No later than March 1 for the preceding calendar year.
 - ii. Any generator who treats, stores, or disposes of hazardous waste on-site must submit an Biennial Report covering those wastes in accordance with the provisions of 40 CFR Parts 264, 265, and 266 and 40 CFR Part 270.
- f. Exception Report.
 - i. The generator shall submit a Exception Report to the Chief if:
 - (A) he has not received a signed copy of the manifest from the receiving facility in the CNMI within thirty-five (35) calendar days from the date of shipment,
 - (B) the waste is exported off-island and he has not received a signed copy of the manifest from the transporter within 45 calendar days from the date of shipment, or
 - (C) the waste is exported off-island and he has not received a signed copy of the manifest or confirmation of delivery from the consignee within 90 days of the date of shipment.

ii. The report shall include:

- (A) A legible copy of the manifest for the waste not received,
- (B) A cover letter signed by the generator explaining efforts to locate the hazardous waste and the results of those efforts.

g. The Chief may require the generator to furnish additional reports concerning quantities and disposition of hazardous waste.

VI. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

- A. These standards do not apply to on-site movement of hazardous waste by the generator or at a hazardous waste management facility. These standards do apply to any movement of hazardous waste on any public road in the CNMI.
- B. The transporter shall comply with standards applicable to hazardous waste generators if:
 - 1. The transporter imports hazardous waste,
 - 2. The transporter mixes hazardous waste of different Department of Transportation shipping descriptions by placing the wastes into a single container.
- C. Identification Number:
 - 1. The transporter shall not transport or otherwise manage hazardous waste without having received a U.S.E.P.A. Transporter Identification Number. The identification number may be obtained from the Chief by applying on forms supplied by DEQ.
 - 2. The transporter shall not deliver the hazardous waste to another transporter, management facility or any other place that has not received an identification number.
 - 3. The transporter shall not receive hazardous waste for shipment from any generator that has not received an identification number from DEQ..
- D. Manifest System:
 - 1. The transporter shall not accept or transport a hazardous waste shipment that is not accompanied by a manifest signed and dated by the generator.

2. The transporter shall sign and return a copy of the manifest to the generator before the hazardous waste shipment may leave the generator's property.
3. The transporter who delivers a hazardous waste shipment to another transporter or to the management facility shall:
 - a. have the manifest signed and dated by the person receiving the waste and the transporter retain one copy for his record,
 - b. give the remaining copies of the manifest to the person receiving the wastes.
4. The transporter who exports hazardous waste shall:
 - a. indicate on the manifest the date the waste left the CNMI,
 - b. sign and date the manifest and retain one copy for records and return one copy to the generator,
 - c. obtain and retain for records a copy of the shipping papers.
5. The transporter shall deliver the entire quantity of the hazardous waste shipment only to the transporter or management facilities designated on the manifest. If delivery cannot be made then the transporter must return with the waste shipment to the generator for further instructions and for revision of the manifest accordingly.

E. Requirements

1. The transporter shall not accept a hazardous waste shipment that is not contained, labeled, marked, and placarded in accordance with applicable regulations of the Department of Transportation (49 CFR Parts 172, 173, 178 and 179).
2. The transporter shall not accept for shipment any hazardous waste container that is discharging its contents.
3. Each vehicle transporting hazardous waste shall be equipped with a two-way radio capable of communicating with the transporter's base of operations.
4. Discharges:
 - a. The transporter shall clean up any hazardous waste discharges that occur during transportation and shall take such action as may be required or approved by the Chief so that the hazardous waste does not present a hazard to human health or the environment.

- b. In the event of a discharge the transporter is responsible for the clean up all of the hazardous waste and shall take appropriate immediate action to protect human health and the environment which include, but is not limited to, the following:
 - i. contact the Department of Public Safety,
 - ii. contact the Division of Environmental Quality,
 - iii. use equipment and methods necessary to keep the discharge from presenting a hazard.
- c. The Chief, after determining that immediate removal of the waste is necessary to protect human health or the environment, may authorize the removal of the waste by transporters without an identification number and without preparation of a manifest.
- d. Any transporter who has a discharge of hazardous waste shall notify the National Response Center if required by 49 CFR 171.15 and:
 - i. submit a Discharge Report to the Chief within 15 calendar days which adequately describes the waste discharged, the actions taken in response to the discharge, and the results of those actions.
 - ii. report in writing as required by 49 CFR (Code of Federal Regulations) 171.16 to:

Director
Office of Hazardous Materials
Regulations
Materials Transportation Bureau
Department of Transportation
Washington, D.C. 20590
 - iii. if the hazardous waste is discharged into waterways of CNMI, the transporter shall submit a notice as required by 33 CFR 153.203 for oil and hazardous substances.

5. Recordkeeping

- a. The transporter shall keep on file the copy of the manifest and, if exported, a copy of the shipping papers of each hazardous waste shipment.
- b. The transporter shall keep on file copies of all Discharge Reports.

- c. Unless otherwise required for enforcement actions, each item of record shall be kept for three years from the date it was filed.
 - d. For water and rail shipments 40 CFR Part 263.22(b) and (c) shall apply.
6. Training - it is the responsibility of the transporter to ensure that his employees have received adequate instruction in equipment operation, safety and emergency procedures.

VII. HAZARDOUS WASTE MANAGEMENT PERMIT SYSTEM

- A. Each person who establishes or operates any site or facility for the storage, treatment or disposal of hazardous waste is required to have a permit. All hazardous waste facilities must be in compliance with 40 CFR 124,270 and 271. The Agency hereby adopts 40 CFR 124,270 and 271 by reference.
- B. The operator of a facility shall:
 - 1. Meet all applicable federal standards and regulations; and
 - 2. Submit an application for a permit to the U.S. Environmental Protection Agency.

VIII. STANDARDS APPLICABLE TO HAZARDOUS WASTE MANAGEMENT FACILITIES

All facilities managing hazardous waste, must meet federal regulations 40 CFR 264 and 265 which are hereby adopted by reference.

IX. RIGHT OF ENTRY, INSPECTION AND ENFORCEMENT

- A. Right of Entry

Any person who manages hazardous waste must allow access of DEQ personnel, upon showing proper credentials, and, where applicable, upon obtaining necessary security clearances, at any reasonable time to any site, facility or any pertinent piece of equipment.
- B. Inspection
 - 1. DEQ personnel may inspect any pertinent records, any pertinent device or equipment, and any pertinent area of the facility as may be necessary in order to determine compliance with these Regulations.

2. DEQ personnel may obtain samples for analysis and copies of pertinent records provided that:
 - a. they give a receipt.
 - b. they submit a copy of any analysis to the owner,
 - c. they can give no guarantee for the return of any sample.
3. All information shall be made available to the public:
 - a. to the extent and manner authorized in the Freedom of Information Act (5 U.S. Code, Section 552)
 - b. unless it is shown to the satisfaction of the U.S. EPA that the information should be protected under 18 U.S. Code, Section 1905.
- C. The DEQ may restrain immediately any person by order or by suit in Superior Court from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.
- D. Enforcement - Enforcement proceedings will be initiated when any person who:
 1. transports hazardous waste to a facility without a permit or to a transporter without a permit,
 2. treats, handles, stores or disposes of hazardous waste in a manner contrary to these Regulations,
 3. manages hazardous waste without a permit,
 4. makes false statements or representation concerning:
 - a. permit application
 - b. manifest
 - c. labeling of hazardous waste containers
 - d. any record or necessary document.

X. COMPLIANCE SCHEDULE

The Chief may establish a Compliance Schedule in order to rectify violations of these Regulations. The violator shall adhere to the conditions of the Compliance Schedule in order to preclude assessment of penalties as described in Public Law 3-23.

XI. STRINGENCY

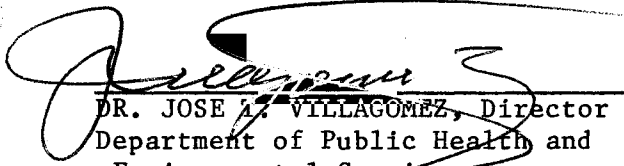
If any provision of these Regulations is in conflict with any provision of a law or regulation that is incorporated by reference into these Regulations, the more stringent provision shall be in effect.

XII. SEVERABILITY

If any provision of these Regulations or their application is held to be invalid, such invalidity shall not affect any other provision or application that can be used without the invalid section, and to this end the provisions of these Regulations and their various applications are declared to be severable.

XIII. 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 V. VILLAGOMEZ, Director
Department of Public Health and
Environmental Services


Date



Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services

Division of Environmental Quality

Saipan, Mariana Islands 96950



Filed this 30th day of

Cable Address: CM

Con. CM Saipan

Office of Registrar Dr. 6999/5114

Commonwealth of the Northern Mariana Islands

PUBLIC NOTICE

PROPOSED AIR POLLUTION 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 new regulations for the protection of the environment through the control of air emissions from stationary and mobile sources. These regulations will be used under the authority of CNMI Public Law 3-23.

The purpose of these regulations is to establish certain minimum standards to insure that air resources are protected against pollution and that air emissions do not constitute a public health hazard.

The proposed regulations include the following subject areas:

1. The authority, purpose, and policy of the regulations.
2. Permitting procedures for new sources.
3. Registration of existing sources.
4. Sampling, testing, and reporting methods.
5. Prohibition of air pollution activities.
6. Public participation.

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

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

6/30/84
Date

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



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

NOTISIAN PUBLIKO

MAPROPOSA PARA MASUHETA INAPPLACHA AIRE NA REGULASION PARA I LAI PUBLIKO 3-23 GINEN I DEPATTAMENTON HINEMLO' PUBLIKO YAN SETBISION ENVIRONMENTAL

I Direktot i Depattamenton Hinemlo' Publiko yan Setbision Environmental gi Commonwealth i sankattan na Islas Marianas ha propoposa nuevo na regulasion pot para umaprotehe i uriya na hinemlo' yan para u masuheta i masottan aire ginen i sumasaga yan kalalamten na kosas. Este na regulasion para uma'usa komo patte gi Lai Publiko 3-23.

I propositon este na regulasion para uma establese metton na mas takpapa' na ginagagao pot para u asigura na i guinaha gi aire man maprotehe kontra inapplacha', ya i malalaknos na inapplacha' aire ti u na' danu i hinemlo' publiko.

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

1. I atoridat, proposito yan areklamento.
2. Areklamenton lisensia para i nuevo na guinaha siha.
3. Registrasion para i la'la'la' na guinaha pat kosas siha.
4. Mostra, tamtam yan ripotte.
5. Prohibision pot inapplacha' aire na aktibidat.
6. Pattisipao i publiko.

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

Kuatkiet petsona na malago' u espresa i opinion-na pot mapropoposa na regulasion inapplacha' aire makombibida na u tuge' i opinion-na ya u satmiti guato 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.

5/30/84
Fecha

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

PART I

AUTHORITY

These regulations have been promulgated by the Department of Public Health and Environmental Services in accordance with Commonwealth of the Northern Mariana Islands Public Law 3-23, and the provisions of the Clean Air Act of 1977, as amended. These regulations 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.

PART II

PURPOSE AND POLICY

The purpose of these regulations, technical provisions and specifications is to establish certain minimum standards and requirements as determined by the Department to be necessary for the public health and safety to insure that air resources are protected against pollution and do not constitute a health hazard.

PART III

POLICY

It shall be the policy of the Department of Public Health and Environmental Services, Division of Environmental Quality to:

1. Affirmatively protect the right of each person to a clean and healthful public environment, as guaranteed by Section 9 of Article I of the Constitution;
2. Maintain optimum levels of air quality in order to protect and preserve public health and general welfare;
3. Assure that necessary or desirable economic and social development proceeds in an environmentally responsible manner in order to promote the highest attainable quality of life for present and future generations;
4. Preserve, protect, and to improve the aesthetic quality of the air in order to promote the beauty of the Commonwealth for the enjoyment of its residents and visitors.

PART IV

DEFINITIONS

A. Definitions found in PART IV apply to these regulations and the CNMI State Air Quality Implementation Plan.

1. As used in these regulations, all terms not defined herein shall have the meanings given them in the Clean Air Act as amended:
 - (a) "Act" means the Clean Air Act (42 U.S.C. 1857-18571, as amended by Public Law 91-604, 84 Stat. 1676).
 - (b) "Administrator" means the Administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.

- (c) "Primary standard" means a national primary ambient air quality standard promulgated pursuant to section 109 of the Act.
- (d) "Secondary standard" means a national secondary ambient air quality standard promulgated pursuant to section 109 of the Act.
- (e) "National Standard" means either a primary or a secondary standard.
- (f) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of any air pollutant for which a national standard is in effect.
- (g) "Regional Office" means the EPA Region 9 Office.
- (h) "Point Source" means:
 - (1) Any stationary source causing emissions in excess of 100 tons (90.7 metric tons) per year of any pollutant for which there is a national standard in a region containing an area whose 1970 "urban place" population, as defined as the Bureau of Census, was equal to or greater than 1 million or
 - (2) Any stationary source causing emissions in excess of 25 tons (22.7 metric tons) per year of any pollutant for which there is a national standard in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census, was less than 1 million.
- (i) "Area source" means any small residential, governmental institutional, commercial, or industrial fuel combustion operations: Onsite solid waste disposal facility; motor vehicles, aircraft, vessels, or other transportation facilities; or other miscellaneous sources such as those listed in Appendix D to this part, as identified through inventory techniques similar to those described in: "A Rapid Survey Technique for Estimating Community Air Pollution Emissions," Public Health Service Publication No. 999-AP-29, October 1966.
- (j) "Region" means (1) an air quality control region designated by the Administrator, (2) any area designated by a State agency as an air quality control region and approved by the Administrator, or (3) any area of a State or designated as an air quality control region under paragraph (m) (1) or (2) of this section.
 - (k) "Control Strategy" means a combination of measures designated to achieve the aggregate reduction of emissions necessary for attainment and maintenance of a national standard, including, but not limited to, measures such as:
 - (1) Emission limitations.

- (2) Federal or State emission charges or taxes or other economic incentives or disincentives.
 - (3) Closing or relocation of residential, commercial, or industrial facilities.
 - (4) Changes in schedules or methods of operation of commercial or industrial facilities or transportation systems, including, but not limited to, short-term changes made in accordance with standby plans.
 - (5) Periodic inspection and testing of motor vehicle emission control systems.
 - (6) Emission control measures applicable to in-use motor vehicles, including, but not limited to, measures such as mandatory maintenance, installation of emission control devices, and conversion to gaseous fuels.
 - (7) Measures to reduce motor vehicle traffic, including, but not limited to, measures such as appropriate parking restrictions and traffic operations restrictions.
 - (8) Expansion or promotion of the use of mass transportation facilities through measures such as increases in the frequency, convenience, and passenger-carrying capacity of mass transportation systems.
 - (9) Any land use or transportation control measures not specifically delineated herein.
 - (10) Any variation of, or alternative to, any measure delineated herein.
- (1) "Compliance schedule" means the date or dates by which a source of category of sources is required to comply with specific emission limitations contained in an implementation plan with any increments of progress toward such compliance.
 - (m) "Increments of progress" means steps toward compliance which will be taken by a specific source, including:
 - (1) Date of submittal of the source's final control plan to the appropriate air pollution control agency;
 - (2) Date by which contracts for emission control systems or process modifications will be awarded; or date by which order will be issued for the purchase of component parts to accomplish emission control or process modification;
 - (3) Date of initiation of on-site construction or installation or emission control equipment or process change;

- (4) Date by which on-site construction or installation of emission control equipment or process modification is completed; and
- (5) Date by which final compliance is to be achieved.
- (n) "Transportation control measure" means any measure, such as reducing vehicle use, changing traffic flow patterns, decreasing emissions from individual motor vehicles, or altering existing modal split patterns that is directed toward reducing emissions of air pollutant from transportation sources.
- (o) "Vehicle trip" means any movement of a motor vehicle from one location to another that results in the emission of air pollutant by the motor vehicle.
- (p) "Trip type" means any class of vehicle trips possessing one or more characteristics (e.g., work, nonwork; peak, off-peak) that distinguish vehicle trips in the class from vehicle trips not in the class.
- (q) "Vehicle type" means any class of motor vehicles (e.g., precontrolled, heavy duty vehicles, gasoline powered trucks) whose emissions characteristics are significantly different from the emissions characteristics of motor vehicles not in the class.
- (r) "Traffic flow measure" means any measure, such as signal light synchronization and curbside parking restrictions, that is taken for the purpose of improving the flow of traffic and thereby reducing emissions of air pollutant from motor vehicles.
- (s) "Roadway type" means any class of roadway facility that can be broadly categorized as to function and assigned average speed and capacity values, e.g., expressway, arterial, collector, and local.
- (t) "Time period" means any period of time designed by hour, month, season, calendar year, averaging time, or other suitable characteristics, for which ambient air quality is estimated.
- (u) "Variance" means the temporary deferral of a final compliance date for an individual source subject to an approved regulation, or a temporary change to an approved regulation as it applies to an individual source.
- (v) "Emission standard" means a regulation (or portion thereof) setting forth an allowable rate of emission, level of opacity, or prescribing equipment or fuel specifications that result in control of air pollution emissions.
- (w) "Capacity factor" means the ration of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.
- (x) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.

- (y) "Nitric acid plant" means any facility producing nitric acid 30 to 70 percent in strength by either the pressure or atmospheric pressure process.
- (z) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.
- (aa) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
- (bb) Major stationary source" means:
- (1) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year of more of any pollutant regulated under the Clean Air Act (the "Act"):
Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil-fuel boiler (or combination thereof) totalling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capability exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;
 - (2) Notwithstanding the stationary source sizes specified in paragraph (bb)(1) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant regulated under the Act.
- (cc) "Major modification" means:
- (1) Any physical change in or change in the method of operation of a major stationary source, or series of contemporaneous physical changes in or changes in the method of operation of a major stationary source, that would result in a significant net increase in that source's potential to emit the pollutant for which the stationary source is major (or that would make the stationary source major taking into account all accumulated net increases in potential emissions occurring at the source, including any initial construction since August 7, 1977). The term "major modification

serves as the definition of "modification" or "modified" when used in the Act in reference to a major stationary source.

- (2) A physical change shall not include routine maintenance, repair and replacement.
- (3) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:
 - (i) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), a prohibition under the Power Plant and Industrial Fuel Use Act of 1978 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
 - (ii) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material;
 - (iii) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
 - (iv) Change in ownership of the stationary source; or
 - (v) Use of refuse derived fuel generated from municipal solid waste.
- (4) Changes are "contemporaneous" only if reductions occur after a notice is filed pursuant to paragraph (v)(4) and before operation of the emission unit or units that will result in emission unit or units that will result in emission increases. Also, to be "contemporaneous" all of the emission reductions must be completed and enforceable under the state plan before operation of the emission unit units that will result in any emission increase. Where that new emission unit is a replacement for an emission unit that is being shut down in order to provide the necessary reductions, the reviewing authority may allow up to ±80 days for shakedown of the new emission unit before the existing emission unit is required to cease operation.
- (5) For a series of changes in a stationary source to satisfy the requirement of "no net increase," all of the following must be satisfied:
 - (i) All reductions and all increases must be for the same pollutant;
 - (ii) The sum of all decreases must be greater than or equal to the sum of all increases;
 - (iii) On balance the air quality of the affected area must not be adversely impacted.

- (6) In performing the calculation in paragraph (cc)(5) of this section to determine whether the sum of all decreases is greater than or equal to the sum of all increases) the following rules shall apply:
- (i) Subject to the following adjustments, the size of an increase or decrease is determined by the difference between the potential to emit of the change of emissions unit before and after the change.
 - (ii) If potential to emit for a changed emission unit was initially higher than allowable emissions, then no offset credit may be taken for decreasing potential to emit down to allowable emissions.
 - (iii) The requirement of 40 CFR Part 51, Appendix S, sections IV.C.2 and 4 shall apply involving the amount of credit permissible for changing fuels and for replacing one hydrocarbon compound with another of lesser reactivity.
- (dd) "Potential to emit" means the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment. Annual potential shall be based on the maximum annual rated capacity of the stationary source assuming continuous year-round operation. Enforceable permit conditions on the type of materials combusted or processed may be used in determining the annual potential. Secondary emissions do not count in determining annual potential. Fugitive emissions also do not count, except with respect to the following stationary sources and then only to the extent quantifiable.
- (1) Coal cleaning plants
 - (2) Kraft Pulp mill
 - (3) Portland cement plants
 - (4) Primary zinc smelters
 - (5) Iron and steel mill plants
 - (6) Primary aluminum ore reduction plants
 - (7) Primary copper smelters
 - (8) Municipal incinerators
 - (9) Hydrofluoric, sulfuric, or nitric acid plants
 - (10) Petroleum refineries
 - (11) Lime plants
 - (12) Phosphate rock processing plants
 - (13) Coke oven batteries
 - (14) Sulfur recovery plants
 - (15) Carbon black plants
 - (16) Primary lead smelters
 - (17) Fuel conversion plants
 - (18) Sintering plants
 - (19) Secondary metal production plants
 - (20) Chemical process plants
 - (21) Fossil fuel-fired boilers
 - (22) Petroleum storage and transfer units
 - (23) Taconite ore processing plants
 - (24) Glass fiber processing plants

- (25) Charcoal-fired plants
 - (26) Fossil fuel-fired steam electric plants
 - (27) Any other stationary source category which, at the time of the applicability determination, is being regulated under section 111 or 112 of the Act.
-
- (ee) "Stationary source" means any structure, building, facility or installation which emits or may emit any air pollutant regulated under the Act.
 - (ff) "Structure, building, facility or installation" means any grouping of pollutant-emitting activities which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control).
 - (gg) "Emission unit" means any part of a stationary source which emits or has the potential to emit any pollutant regulated under the Act.
 - (hh) "Construction" means fabrication, erection, installation, or modification of a source.
 - (ii) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals and either has:
 - (1) Begun, or caused to be, a continuous program of physical on-site construction of the source to be completed within a reasonable time; or
 - (2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.
 - (jj) "Necessary preconstruction approvals or permits" means those permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation plan.
 - (kk) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the act which would be emitted from any proposed major stationary source of major modification which the permitting authority on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques for control of such pollutant. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work

practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achieved by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results.

- (11) "Baseline concentration" means that ambient concentration level which exists at the time of the applicable baseline data, minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:
- (1) The actual emissions of other sources in existence on the applicable baseline date, except that contributions from such existing sources to the extent that a plant revision proposing less restrictive requirements affects such sources was submitted on or before the baseline date and was pending actions by the Administrator on that date shall be determined from the allowable emissions under the plan was revised; and
 - (2) The allowable emissions of major stationary sources and major modifications which commenced construction January 6, 1975, but were not in operation by the applicable baseline date.
- (mm) "Baseline date" means, for every part of an Air Quality Control Region (AQCR) designed as unclassifiable or attainment under section 107(d)(1)(D) or (E) of the Act the date of the first complete application after August 7, 1977 for a permit under this section for any major stationary source or major modification, in any part of the AWCR.
- (nn) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.
- (oo) "High terrain" means any area having an elevation of 900 feet or more above the base of the stack of a facility.
- (pp) "Low terrain" means any area other than high terrain.
- (qq) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subjected to enforceable permit conditions which limit the operating rate or house of operation, or both) and the most stringent of the following:
- (1) Applicable standards as set forth in 40 CFR Part 60 and Part 61,
 - (2) The applicable State implementation plan emission limitation, or
 - (3) The emission rate specified as a permit condition.
- (rr) "Fixed capital cost" means the capital needed to provide all the depreciable components.

- (ss) "Secondary emission" means emissions which occur or would occur as a result of the construction or operation of a major stationary source of major modification, but do not necessarily come from the major stationary source or major modification itself. For purposes of this section, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general area as the stationary source or modification which causes the secondary emission. Secondary emissions may include but are not limited to:
- (1) Emissions from ships or trains coming to or from the stationary source or modification; and
 - (2) Emissions from any offsite support source which would be constructed or would not otherwise increase its emissions.
- (tt) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emission reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality of environmental impacts.
- (uu) "Fugitive emissions" means those emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening.
- (vv) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this section, except that use of an alternative fuel or raw material by reason of an order in effect under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 25 of the Act, shall not be considered reconstruction. In determining best available control technology for a reconstructed stationary source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such stationary source.
- (ww) "Reasonable Available Control Technology" or "RACT" means the lowest emission limit that a particular source is capable of meeting by the applicable of control technology that is reasonably available considering technological and economic feasibility.
- (xx) "Air pollutant" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas odorous substances, or any combination thereof.

- (yy) "Air pollution" shall mean the presence in the outdoor atmosphere of one or more air pollutant in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property or interfere with the enjoyment of life or property.
- (zz) "Agricultural burning" shall mean open outdoor fires used in agricultural operations, in the growing of crops or raising of fowls or animals, forest management of range improvement.
- (aaa) "Ambient air" shall mean the general outdoor atmosphere.
- (bbb) "Chief" shall mean the Chief of the Division of Environmental Quality, Department of Public Health and Environmental Services.
- (ccc) "Department" shall mean the Department of Public Health and Environmental Services of CNMI or its duly authorized agent, officer, or inspector.
- (ddd) "Director" shall mean the director of the Department of Public Health and Environmental Services.
- (eee) "Division" shall mean the Division of Environmental Quality, Department of Public Health and Environmental Services.
- (fff) "Effluent water separator" shall mean any tank, box, sump or other container in which any volatile organic compound floating on an entrained or contained in water entering such tank, box sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.
- (ggg) "Emission" shall mean the act of releasing or discharging air pollutants into the ambient air from any source.
- (hhh) "Existing source" shall mean any stationary source other than a new source, or those new sources subject to the Federal Clean Air Act.
- (iii) "Fuel-burning equipment" shall mean any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.
- (jjj) "Fugitive dust" shall mean uncontrolled emission of solid airborne particulate matter from any source other than combustion.
- (kkk) "Modification" shall mean any physical change to or change in the method of operation, including switching to a fuel with a higher sulfur and/or ash content, of a stationary source which changes the amount of any air pollutant emitted by such source of which results in the emission of any air pollutant not previously emitted.
- (lll) "New source" shall mean any stationary source, the construction or modification of which is commenced after adoption of any applicable regulation and which is not covered by the NSPS or PSD sections of the Federal Clean Air Act.

- (mmm) "Odors" shall mean smells or aromas which are unpleasant to persons, or which interfere with sleep, upset appetite, produce irritation of other upper respiratory tract, or create symptoms of nausea, or method of processing, are or may be detrimental or dangerous to health.
- (nnn) "Opacity" shall mean a state which renders material partially or wholly impervious to rays of light and causes obstruction to an observer's view.
- (ooo) "Open burning" shall mean the burning of any matter of such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare.
- (ppp) "Particulate matter" shall mean any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.
- (qqq) "Person" shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or this State, any other State of political subdivision or agency thereof or any legal successor, representative, agency of the foregoing.
- (rrr) "Ringlemann Chart" shall mean the chart published and described in the U.S. Bureau of Mines Information Circular 8333.
- (sss) "Smoke" shall mean the gaseous products of burning carbonaceous materials made visible by the presence of small particles of carbon.
- (ttt) "Stack" shall mean any chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.
- (uuu) "Standard stack conditions" shall mean a dry gas temperature of 70 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (21.1 degrees C, 760 mm Hg.).

PART V PERMITTING OF NEW SOURCES OR MODIFICATIONS

A. PERMIT REQUIRED

This section applies to all new sources or modifications of major sources of airborne emissions. A permit shall be required for the construction and operation of all new sources or modifications of major sources of emissions. The issuance of the local permits shall be coordinated with the issuance of Federal PSD permits, where applicable.

1. Permit to Construct and Operate

No person shall cause or permit the construction, operation or modification of any new source the use of which may cause the issuance of air pollutants without first obtaining a Permit to Construct and Operate for such construction, operation or modification from the Chief. Upon receipt of such permit the applicant is authorized to construct, operate or modify the source

in the manner specified by the permit, these regulations, and other applicable Commonwealth and Federal laws, rules and regulations.

B. LIST OF EXEMPTIONS

A Permit to Construct and Operate shall not be required for the following:

1. The installation or altering of an air pollutant detector, air pollution recorder, combustion controller or combustion shut-off.
2. Air conditioning or ventilating system not designed to remove air pollutants generated by or released from equipment.
3. Fuel burning equipment, other than smoke house generators, which is used in a private dwelling; or has a BTU gross input rate of less than than 500,00 BTU per hour; or is used for space heating, other than boilers and hot air furnaces.
4. Steam generators, steam superheaters, water boilers, water heaters, and closed heat transfer systems that have a maximum gross heat input rate of less than 25 million BTU per hour singly or in combination for all systems located at any one site, and are fired exclusively with one of the following: 1) natural or synthetic gas; 2) Liquified petroleum gas; 3) a combination of natural or synthetic and/or liquified petroleum gas.
5. Mobile internal combustion engines.
6. Laboratory equipment used exclusively for chemical or physical analyses.
7. Ocean-going vessels.

C. VIOLATORS NOT EXEMPT

Issuance of a Permit to Construct and Operate shall not exempt any person owning or operating a source from prosecution for violations of applicable rules, regulations and permit conditions.

D. APPLICATIONS

1. Application for a permit to Construct and Operate as required by this section shall be made on forms furnished by the Chief and shall be accompanied by two copies of complete data, siting information, plan description, specifications, drawings, and other detailed information necessary to determine in what manner the new sources will be operated and controlled.
2. Each application shall be signed by the applicant and shall constitute a formal agreement that the applicant will assume responsibility for the construction or modification and operation of the equipment in accordance with these rules and regulations.
3. If the applicant is a partnership or group other than a corporation, the application shall be made by one individual who is a member of the group having sufficient authority to legally commit such partnership or group. If

the applicant is a corporation, the application shall be made by an officer of the corporation or general manager of the facility.

E. CONDITIONS FOR CONSIDERING APPLICATIONS

1. Within 30 days after receipt of an application for a Permit to Construct and Operate, or any addition to such application, the Chief shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the Chief received all required information.

2. Within six months after receipt of a complete application, the Chief shall make a final determination on the application after adequate consideration of public comment any any written response of the applicant to the public comment. Prior to a final determination, the following requirements must be met:

a. The Chief shall make a preliminary determination whether construction and operation should be approved, approved with conditions, or disapproved; and

b. The public shall be accorded adequate opportunity to comment on the source or modification as provided for in these rules and regulations.

c. The applicant shall have the opportunity to submit a written response to the Chief to any comments submitted by the public not later than 10 days after the close of the public comment period.

3. Approval

The Chief shall approve an application for a Permit to Construct and Operate if the applicant can show to the satisfaction of the Chief that:

a. The new source is designed, built, and equipped in accordance with reasonably available control technology, and

b. The new source is designed and will be constructed or modified to operate without causing a violation of applicable rules and regulations, and

c. The new source will not endanger the maintenance or attainment of applicable national ambient air quality standards or ambient air increments, and

d. New sources or major modifications meet the Federal permitting requirements for Prevention of Significant Deterioration (refer to Part V) of Air Quality, in addition to requirements of this section.

A Permit to Construct and Operate shall be issued for any term not to exceed five years, if the Chief determines that such will be in the

public interest. ~~The Chief, on application, may renew a permit~~ for additional terms each not to exceed five years.

4. Conditional approval

Before granting a Permit to Construct and Operate, the Chief may:

a. Require the applicant to provide such facilities as are necessary for sampling and testing to determine the air pollutant discharged into the atmosphere. These sampling and testing facilities may include but are not limited to the following:

1. Sampling ports of a size, number and location as specified by the Chief.

2. Safe access to the port.

3. Instrumentation for monitoring and recording emission data.

b. Specify conditions which will bring the operation of any new source described in the application within the conditions of this section.

5. Denial

a. In acting upon an application for a Permit to Construct and Operate, the Chief may deny an application if the information submitted shows that the new source described in the application cannot conditionally or otherwise meet the conditions of these regulations, and all fees paid shall be forfeited.

b. If the Chief finds that the new source has been constructed or operated not in accordance with the Permit to Construct and Operate, such permit shall no longer be valid, and all fees paid shall be forfeited.

F. ACTION ON APPLICATION FOR PERMIT TO CONSTRUCT AND OPERATE

1. The Chief may request additional information from the applicant.

2. The Chief shall act within a reasonable time, on an application and shall notify the applicant in writing of his approval, conditional approval, or denial of the application provided:

3. If an application is conditionally approved, or denied, the Chief shall set forth his reasons for conditional approval or denial in the written notice to the applicant.

4. The applicant may submit answers and comments, in duplicate, to the permit decision.

5. The Chief shall consider the applicant's response and shall notify the applicant in writing of his final approval or denial of the application within a reasonable time.

6. If the Chief issues to the applicant a conditional approval of the application, commencing work under such a Permit to Construct and Operate shall be deemed acceptance by the applicant of all specified conditions.

7. If the Chief issues to the applicant a final denial of the application, the Chief shall not give further consideration until a new application is submitted.

G. PERFORMANCE TESTING

If required by the Chief, the applicant shall conduct performance tests in order to determine compliance with applicable rules and regulations in accordance with the test methods as specified by the Chief with the tests being made at the expense of the applicant. The Chief may monitor or conduct such test at the expense of the applicant.

H. CANCELLATION OF PERMIT TO CONSTRUCT AND OPERATE

1. The Chief may cancel a Permit to Construct and Operate if the approved work is not begun within one year from the date of issuance, or if the work involved in the construction, operation or modification is suspended by the applicant for one year or more.

2. An applicant may request an extension of the cancellation date by writing to the Chief and stating reasons for the request. Extensions may be granted for a period of not more than six months after the cancellation date.

I. SUSPENSION OR REVOCATION OF PERMIT TO CONSTRUCT AND OPERATE

Any violation of these rules and regulations shall be cause for the Chief to suspend or revoke a Permit to Construct and Operate. Suspension or revocation of a Permit to Construct and Operate shall become final ten days after service of notice on the holder of the permit. A Permit to Construct and Operate which has been revoked shall be surrendered forthwith to the Chief, and all fees paid shall be forfeited.

J. TRANSFER OF PERMIT TO CONSTRUCT AND OPERATE

A Permit to Construct and Operate shall not be transferrable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another, without the Chief's action to approve, approve with conditions, or deny a new application for a Permit to Construct and Operate.

K. REPORTING DISCONTINUANCE OR DISMANTLEMENT

It shall be required of holder the Permit to Construct and Operate to report to the Chief within thirty days of permanent discontinuance or dismantlement of the source for which the Permit to Construct and Operate has been issued. Such permit shall then be surrendered forthwith to the Chief.

L. POSTING OF PERMIT TO CONSTRUCT AND OPERATE

Upon granting of a Permit to Construct and Operate, the applicant shall post a facsimile of such permit in a conspicuous place at or near the source for which the permit was issued.

M. FALSIFYING OR ALTERING A PERMIT TO CONSTRUCT AND OPERATE

A person shall not willfully deface, alter, forge, counterfeit, or falsify a Permit to Construct and Operate.

N. AIR POLLUTION CONTROL TECHNIQUES

Use of tall stacks and intermittent supplementary techniques as forms of controlling air pollution are not acceptable unless an exemption from those requirements of the Clean Air Act and EPA policy is granted by EPA to the CNMI under Section 325 of the Clean Air Act.

PART VI REGISTRATION OF EXISTING SOURCES

A. REGISTRATION REQUIRED

Any person responsible for the operation of existing sources, the use of which may cause the issuance of air pollutants shall be required to register with the Chief not later than six months of the effective date of this regulation.

B. LIST OF EXEMPTIONS

Registration shall not be required for the following:

1. An air pollutant detector, air pollutant recorder, combustion controller, or combustion shutoff.
2. Air conditioning or ventilating systems not designed to remove air pollutants generated or released from equipment.
3. Fuel burning equipment, other than smoke house generators, which is used in a private dwelling; or has a BTU gross input rate of less than than 500,000 BTU per hour; or is used for space heating, other than boilers and hot air furnaces.
4. Steam generators, steam superheaters, water boilers, water heaters, and closed heat transfer systems that have a maximum gross heat input rate of less than 25 million BTU per hour singly or in combination for all systems located at any one site, and are fired exclusively with one of the following: 1) natural or synthetic gas; 2) Liquified petroleum gas; 3) a combination of natural or synthetic and/or liquified petroleum gas.
5. Mobile internal combustion engines.
6. Laboratory equipment used exclusively for chemical or physical analyses.
7. Ocean-going vessels.

C. REGISTRATION FORMS

Registration shall be made on forms provided for this purpose by the Chief and shall include such information as may be necessary to enable the Chief to evaluate the nature and extent of emissions.

D. VIOLATORS NOT EXEMPT

Registration shall not exempt any person owning or operating a source from prosecution for violation of applicable rules and regulations.

PART VII SAMPLING, TESTING AND REPORTING METHODS

A. APPROVED SAMPLING AND TESTING TECHNIQUES

1. All sampling and testing shall be made and the results calculated in accordance with test procedures approved by the Chief. All tests shall be made under the direction of persons knowledgeable in the field of air pollution control.

2. The Chief is authorized to conduct tests of emissions of air pollutants from any source. Upon request of the Chief, the person responsible for the source to be tested shall provide necessary ports in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the emission of air pollutants.

B. RECORD KEEPING AND REPORTING

1. The owner or operator of any stationary source in the CNMI shall, upon notification from the Chief, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Chief to determine whether such source is in compliance with applicable emissions limitations or other requirements.

2. The information recorded shall be summarized and reported to the Chief, on forms furnished by the Chief, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1- June 30 and July 1- December 31, except that the initial reporting period shall commence on the date the Chief issues notification of the record-keeping requirements.

3. Information recorded by the owner or operator and copies of the summarizing reports submitted to the Chief shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

4. Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other requirements and will be made available to the public during normal business hours at the Division.

C. SHUTDOWN OF AIR POLLUTION CONTROL EQUIPMENT REPORT

In case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Chief at least twenty-four hours prior to the planned shutdown. Such prior notice shall included, but is not limited to the following:

1. Identification of the specific facility to be taken out of service as well as its location and permit number.
2. The expected length of time that the air pollution control equipment will be out of service.
3. The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period.
4. Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period.
5. The reasons that it would be impossible or impractical to shut down the source operation during the maintenance period.

D. AIR POLLUTION CONTROL EQUIPMENT FAILURE REPORT

1. In the event that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air pollutants in violation of applicable rules and regulation, the owner or operator of such equipment shall immediately notify the Chief of such failure or breakdown and provide a statement giving all pertinent facts, including the estimated duration of the breakdown. The Chief shall be notified when the condition causing the failure or breakdown has been corrected and the equipment is again in operation.

PART VIII

PROHIBITION OF AIR POLLUTION

A. CONTROL OF OPEN BURNING

1. No person shall ignite, cause to be ignited, permit to be ignited, or maintain any open fire. This section shall not apply to:
 - a. Open fires for the cooking of food.
 - b. Fires for recreational, decorative, or ceremonial purposes.
 - c. Fires to abate a fire hazard, providing hazard is so declared by the CNMI Department of Public Safety.
 - d. Fires for the prevention or control of disease or pests.
 - e. Fires for training personnel in the method of fighting fires.

f. Fires for the burning of leaves, grass, weeds, wood, paper and similar materials on one's own premises, and provided further that such burning shall not be in violation of other applicable fire control regulations.

2. Agricultural burning

a. No person shall cause or permit agricultural burning unless a permit has been applied for and obtained from the Chief, provided that this permit is valid only if the conditions specified in the permit are complied with, that the permit is not valid on "no burn" days and provided further that no permit shall be granted for the open burning of trash and other wastes that have been handled or processed by factory operations.

b. Applications shall be made on forms specified by the Chief and shall be accompanied by two copies of any data required by the Chief.

c. Each application shall be signed by the applicant and shall constitute an agreement that the applicant will assume responsibility for the open agricultural burning in accordance with these rules and regulations.

d. The Chief is authorized to declare "no-burn" days for the purpose of reducing the levels of suspended particulate matter which result of atmospheric and environmental conditions.

e. Each permittee shall maintain a record of conditions existing at the time of each burn to include the location and identification of burn area, size of area, date and time of day, prevailing wind direction and speed, rainfall in preceding 24 hours, type of materials burned, and any other pertinent data as required by the Chief.

f. The Chief shall act on an application within a reasonable period of time, but not to exceed 30 calendar days from the date a complete application is received and shall notify the applicant in writing of its approval or denial of the application. If the Chief has not acted within the 30 calendar day period, the application shall be deemed to have been approved, provided that the Chief may request additional information from the applicant and the 30 calendar day period shall commence on the day the supplementary information is received.

g. The permit may be granted for a period of up to one year from the date of approval.

h. The Chief may, on his own motion or the application of any person, modify, suspend, or revoke a permit if, after affording the applicant a hearing, he determines that, any condition of the permit has been violated, or the maintenance or attainment of a national air quality standard will be interfered with, or that such is in the public interest.

...the permit shall not be transferrable, whether by operation of law or otherwise or from one person to another.

B. CONTROL OF VISIBLE EMISSIONS

1. Existing stationary sources

a. No person shall cause or permit the emission of visible air pollutants of a shade or density equal to or darker than that designated as No. 2 on the Ringelmann Chart or 40 percent opacity, except as provided in Part VIII paragraph B(1)(b).

b. A person may discharge into the atmosphere from any single source of emission, for a period or periods aggregating not more than 3 minutes in any 60 minutes, air pollutants of a shade or density not darker than No.3 on the Ringelmann Chart or 60 percent opacity.

2. New stationary sources

a. No person shall cause or permit the emission of visible air pollutants of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or 20 percent opacity, except as provided in Part VIII paragraph B(2)(b).

b. A person may discharge into the atmosphere from any single source of emission, for a period or periods aggregating not more than 3 minutes in any 60 minutes, air pollutants of a shade or density not darker than No.3 on the Ringelmann Chart or 60 percent opacity.

3. The provisions of this regulation shall not apply to any emission which, except for the presence of uncombined water, such as condensed water vapor, would not be in violation of such provisions.

C. CONTROL OF MOTOR VEHICLES

1. No gasoline-powered motor vehicle shall be operated which emits visible smoke while moving upon streets, roads, and highways.

2. No diesel-powered motor vehicle shall be operated which emits visible smoke for a period of more than five consecutive seconds while upon streets, roads, and highways.

3. No person shall cause, suffer or allow to keep any engine in operation while the motor vehicle is stationary at a loading zone, parking or servicing area, route terminal or other off-street areas, except:

a. During the adjustment or repair of such engine at a garage or similar place or repair.

b. During operation of ready-mix trucks, cranes, hoists, and certain bulk carriers or other auxiliary equipment built onto the

vehicle or equipment that require power take-off from the engine, provided that there is not visible discharge or smoke and the equipment is being used and operated for the purposes as originally designed and intended. This exception does not apply to operations of air conditioning equipment or systems.

D. CONTROL OF FUGITIVE DUST

1. No person shall cause or permit any materials to be handled, transported or stored, or a building or its appurtenances, or a road to be constructed, altered, repaired or demolished without taking reasonable precautions as determined and approved by the Chief, to prevent particulate matter from becoming airborne.
2. No person shall cause or permit the discharge of visible emissions of fugitive dust beyond the lot line of the property on which the emissions originate.

E. CONTROL OF INCINERATION

1. No person shall cause or permit the emission from any incinerator of particulate matter to exceed 0.20 pounds per 100 pounds of refuse charged.
2. Emission tests shall be conducted at maximum burning capacity of the incinerator.
3. The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Chief in accordance with good engineering practices. In cases of conflict, the determination made by the Chief shall govern.
4. For the purposes of this regulation, the total of the capacities of all furnaces within one system shall be considered the incinerator's capacity.

F. CONTROL OF PROCESS INDUSTRIES

1. No person shall cause or permit the emission of particulate matter in any one hour from any source in excess of the amount shown in Table VIII-1 for the process weight rate allocated to such source.
2. Process weight per hour is the total weight of all materials introduced into any specific process that may cause any emission of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a typical period of time by the number of hours of such period.

3. Where the nature of any process or operation of the design of any equipment is such as to permit more than one interpretation of this regulation, the interpretation that results in the minimum value for allowable emission shall apply.

4. For purposes of this regulation, a process is any method, reaction, or operation whereby materials introduced into the process undergo physical or chemical change. A specific process, independent of production unit, is one which includes all of the equipment and facilities necessary for the completion of the transformation of the materials to produce a physical or chemical change. There may be several specific processes in series necessary to the manufacture of a product. However, where there are parallel series of specific processes, the similar parallel specific processes shall be considered as a specific process for emission regulation.

G. CONTROL OF SULFUR OXIDES FROM FUEL COMBUSTION

1. No person shall burn, sell, or make available for sale for burning within the CNMI, any fuel containing in excess of 3.5 percent sulfur by weight except for fuel used in ocean-going vessels.

2. The sale and use of fuels prohibited by (1) above may be allowed when the Chief has determined that the use of such fuels will not violate the ambient air quality standards or increments for oxides of sulfur.

H. VARIANCES TO PROHIBITION OF AIR POLLUTION

1. Every application for a variance shall be made on forms furnished by the Chief and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to standards, and such other information as the Chief may prescribe.

2. Each application for a variance shall be reviewed in light of the descriptions, statements, plans, histories, and other supporting information submitted with the application, such additional information as may be submitted upon the request of the Chief, and the effect or probable effect upon the air quality standards established by these rules and regulations.

3. Whenever an application for a variance is approved, the Chief shall issue a variance authorizing the emission in excess of applicable standards. Approval of a variance shall be made only after a public hearing is held by the Chief on the island where the source is to be situated. No variance shall be granted unless the application and the supporting information clearly show that:

a. The continuation of the function or operation involved in the emissions by the granting of the variance is in the public interest; and

b. The emission occurring or proposed to occur does not substantially endanger human health or safety; and

c. Compliance with the rules, regulations, or standards from which the variance is sought would produce serious hardship without equal or greater benefits to the public.

4. Any variance or renewal thereof shall be granted with the requirements of this section and for time periods and other conditions consistent with the reasons therefore, and within the following limitation:

a. If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control or abatement of the emission involved, it shall be only until the necessary means for prevention, control or abatement becomes practicable and subject to the taking of any substitute or alternate measures that the Chief may prescribe. No renewal of variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the emission involved.

b. The Chief issue a variance for a period not exceeding one year.

c. Every variance granted under this section shall include conditions requiring the owner or operator to guarantee to perform air sampling and report the results to the Chief.

5. Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding ten years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided, further that the renewal, and the variance issued pursuant thereto, shall provide for emission not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least 60 days prior to the expiration of the variance.

6. No variance shall be granted unless the Chief finds that public health, welfare and safety will not be endangered thereby and that the attainment or maintenance of a National Ambient Air Quality Standard or increment will not be prevented or interfered with.

7. No variance granted pursuant to this part shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

8. Variances are SIP revisions and must be approved in advance by the EPA Administrator after approval by the Chief.

PROCESS WEIGHT RATE

Process Weight Rate (Lb/Hr)	Rate of Emission (Lb/Hr)
100	0.551
200	0.877
400	1.40
600	1.83
800	2.22
1,000	2.58
1,500	3.38
2,000	4.10
2,500	4.76
3,000	5.38
3,500	5.96
4,000	6.52
5,000	7.58
6,000	8.56
7,000	9.49
8,000	10.4
9,000	11.2
12,000	13.6
16,000	16.5
18,000	17.9
20,000	19.2
30,000	25.2
40,000	30.5
50,000	35.4
60,000 or more	40.0

Interpolation of the data in this table for process weight rates up to 60,000 Lb/Hr shall be accomplished by use of the equation $E=4.10P^{0.69}$.
 E = rate of emission in Lb/Hr and P = process weight rate in tons/year.

A. PAYMENT IN FULL

1. The Chief shall not initiate any action authorized by these rules and regulations which requires a fee prior to receipt of full payment of such fee.

B. REQUIRED FEES

1. Fees shall be as determined by the Chief in accordance with individual cost accounting principles. In no case shall the Chief charge and collect a fee less than \$25.00 unless otherwise stated. Any CNMI or Federal government agency shall be exempt from paying any fee prescribed herein.

2. Fees shall be required for the following:

a. Filing Fee for each application for a Permit to Construct and Operate;

b. Where an application is filed for a Permit to Construct and Operate any new source by reason of an alteration or addition and where a Permit to Construct and Operate has been granted.

c. Where an application is filed for Permit to Construct and Operate by reason of a transfer from one person to another, and no alteration, addition, or transfer of location has been made.

d. Where an application is filed for a Permit to Construct and Operate by reason of transfer from one location to another permanent location, and no alteration, addition, or transfer of person has been made.

e. Where a request for a duplicate Permit to Construct and Operate is received by the Chief within 10 days after the destruction, loss or defacement of the permit. Such fee shall be \$5.00.

f. Registration for each type of existing or new source or modification.

g. Variances

PART X

PUBLIC PARTICIPATIONA. AVAILABILITY OF INFORMATION

1. Prior to approval of an application to Construct and Operate, the Chief shall make available on the island which is the site of the proposed source or modification, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in the preliminary determination.

B. PUBLIC NOTICE

1. The Chief shall notify the public, by advertisement in a newspaper of general circulation in the island in which the proposed source would be constructed or modified, of the application, the preliminary determination, the degree of increment consumption, that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment during a minimum period of 30 days.

2. The Chief shall send the notice of public comment to the application and to officials and agencies having cognizance over the location where the proposed action would occur.

C. PUBLIC HEARING

1. The Chief shall provide an opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, the control technology required, and other appropriate considerations.

D. AVAILABILITY OF RESULTS

1. The Chief shall make all comments and the notice of final determination available for public inspection in the same location where preconstruction information was made available.

E. EXEMPTION

1. The Public Participation requirements of this section shall not apply to any major stationary source or major modification which Part IX paragraph F of these regulations would exempt from the requirements of Part IX paragraphs G, I and K, but only to the extent that, with respect to each of the criteria for construction approval under the CNMI State Implementation Plan and for exemption under Part IX paragraph F, requirements providing the public with at least as much participation in material determination of those of Part IX paragraph L have been met in granting of such construction approval.

F. OTHER REQUIREMENTS

1. The Chief shall notify the public on a regular basis of instances or areas in which any primary standard was exceeded during any portion of the preceding calendar year.

2. The Chief shall advise the public of any health hazard associated with such an exceedance of a primary standard.

3. The Chief shall increase the public awareness of measures which can be taken to prevent a primary standard from being exceeded, and ways in which the public can participate in regulatory and other efforts to improve air quality.

Should any section, paragraph, sentence, clause, phrase or application of these rules and regulations be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of these rules and regulations shall not be affected thereby.

PART XII


EFFECTIVE DATE

The effective date shall be immediately upon adoption of these regulations by the Division of Environmental Quality; provided that, for the date by which modification to existing sources shall have occurred not later than 18 months from the adoption date of these regulations.

PART XIII

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, Public Health and
Environmental Services


Date

Filed this 6th day of
June 1984.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

PUBLIC NOTICE

Adoption of Regulations

NOTICE IS HEREBY GIVEN, pursuant to the provisions of 1 CMC §9102 and 9105, 2 CMC §2122(j), and §4 of the Regulations of the Registrar of Corporation, 5 Commonwealth Register No. 5, p. 2148, that the Commonwealth Ports Authority has adopted and hereby publishes and promulgates an amendment to its Airport Rules and Regulations. The text of the amendment to the Rules and Regulations, originally published at 6 Commonwealth Register No. 5, p. 2472, is set forth hereinbelow.

The said amendment takes effect ten days after this publication in the Commonwealth Register.

The undersigned hereby certifies that he is the official who is authorized by law to approve the adoption of the Rules and Regulations of the Commonwealth Ports Authority; that the Rules and Regulations referred to in this Notice were formally adopted by the Commonwealth Ports Authority; and that the original and one copy of the said Rules and Regulations have been filed with the Registrar of Corporations.

DATED, this 15th day of June, 1984:



J.M. GUERRERO, Chairman

AMENDMENT TO AIRPORT RULES AND REGULATIONS

1. Paragraph B of Part 2.11 of the Airport Rules and Regulations, relating to fees for hotel-motel vehicles, is hereby amended to read as follows:

"A basic monthly fee of Fifty Dollars (\$50.00) per hotel or motel."

2. This amendment takes effect upon its adoption and promulgation in the manner provided by law.



Commonwealth of the Northern Mariana Islands
 Office of the Governor
 Saipan, Mariana Islands 96950

FOR OFFICIAL USE
 CABLE ADDRESS
 GOV. NMI SAIPAN
 REPLY TO:
Rev. & Tax.
 DEPT. or ACTIVITY

June 11, 1984

Filed this 12th day of
June 1984.

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

ADOPTED AMENDMENT NO. 30584
 REVENUE AND TAXATION REGULATIONS NO. 8301

The Director of Finance, in accordance with 4 CMC §1818 and 1 CMC §2557, has published amendments to the rules and regulations identified as Revenue and Taxation Regulations No. 8301 of the Division of Revenue and Taxation.

The adopted amendments include the following subjects:

- Section 1. Title and number of the amendments.
- Section 2. The regulations being amended and the addition of a new §2.812(a)(2).1.
- Section 3. New §(E) to §2.104(u)(2).

The amendments may be inspected at the Division of Revenue and Taxation, Central Office, Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. These amendments are published in the Commonwealth Register. Copies of the register may be obtained from the Attorney General's Office.

Certified By: Tomás B. Aldan 6/11/84
 TOMAS B. ALDAN Date
 Director of Finance



Commonwealth of the Northern Mariana Islands
Office of the Governor
Saipan, Mariana Islands 96950

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REPLY TO:
Rev. & Tax.
DEPT. or ACTIVITY

Junio 11, 1984

Filed this 12th day of
June 1984.

NOTISIAN PUBLIKOffice of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

MA ADOPTA NA AMENDASION NO. 30584
AREGLAMENTO NUMERO 8301
PARA I REVENUE YAN TAXATION

I Direktot i Finansiat, segun i 4 CMC §1818 and 1 CMC §2557,
man publika amendasion gi areglamento yan regulasion ni ma
rekognisa komo Revenue yan Taxation Regulasion No. 8301.

I ma adopta na amendasion ha-konsiste este siha:

- Seksiona 1. Titulu yan numeron i amendasion.
- Seksiona 2. Areglamento ni ma amemenda yan i mana halom
i nuevo na §2.812(a)(2).1.
- Seksiona 3. Nuevo na §(E) para i §2.104(u)(2).

I amendasion gi regulasion siña ma rikonosu gi ofisinan
i Revenue yan Taxation gi Capitol Hill, Commonwealth of the
Northern Mariana Islands, Saipan, CM 96950. Este na amendasion
gi regulasion ma publika gi Commonwealth Register. Siña mañule
hao kopian este na publikasion gi ofisinan i Abogadon Gobietno.

Sinettifika As:

Tomas B. Aldan
TOMAS B. ALDAN
Direktot i Finansiat

6/11/84
Fecha



Commonwealth of the Northern Mariana Islands
Office of the Governor
Saipan, Mariana Islands 96950

FOR OFFICIAL USE
CABLE ADDRESS
GOV. NMI SAIPAN
REPLY TO:
Rev. & Tax.
DEPT. or ACTIVITY

June 11, 1984

Filed this 12th day of

June 19 84.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

PUBLIC NOTICE

Tarant

PROPOSED AMENDMENT NO. 40684
REVENUE AND TAXATION REGULATIONS NO. 8301

The Director of Finance, in accordance with 4 CMC §§1811 and 1818, and 1 CMC §2557, is proposing to promulgate amendments to the rules and regulations identified as Amendment No. 40684 to Revenue and Taxation Regulations No. 8301 of the Division of Revenue and Taxation.

The proposed amendments include the following subjects:

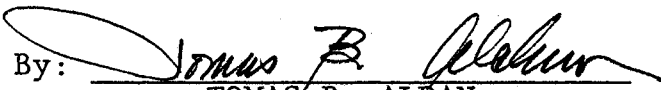
- Section 1. Title and number of the amendments.
- Section 2. New §2.811.1.

The proposed amendments may be inspected at the Division of Revenue and Taxation, Central Office, Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. These amendments are published in the Commonwealth Register. Copies of the register may be obtained from the Attorney General's Office.

The Office of the Director of Finance is soliciting views, opinions, facts and data for or against the proposed amendments to Revenue and Taxation Regulations No. 8301 from the general public.

Anyone interested in commenting on the proposed amendments to Revenue and Taxation Regulations No. 8301 may do so by

submitting in writing to the Director of Finance, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

Certified By:  6/11/84
TOMAS B. ALDAN Date
Director of Finance



Commonwealth of the Northern Mariana Islands
Office of the Governor
Saipan, Mariana Islands 96950

FOR OFFICIAL USE
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REPLY TO:
Rev. & Tax.
DEPT. or ACTIVITY

Junio 11, 1984

Filed this 12th day of
June 1984.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

NOTISIAN PUBLIKU

Asan

PROPOSITON AMENDASION NO. 40684
AREGLAMENTO NUMERO 8301
PARA I REVENUE YAN TAXATION

I Direktot i Finansiat, segun i 4 CMC §§1811 yan 1818, yan 1 CMC §2557, ha propopone para una guaha amendasion gi areglamento yan regulasion, ya para u ma rekognisa komo Amendasion No. 40684 gi Revenue yan Taxation Regulasion No. 8301.

I proposito na amendasion ha-konsiste este siha:

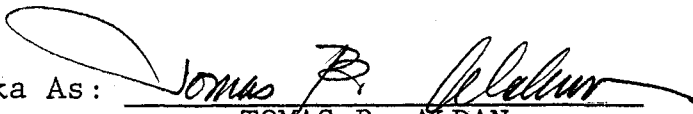
- Seksiona 1. Titulu yan numeron i amendasion.
- Seksiona 2. Nuevo na §2.811.1.

I proposito na amendasion gi regulasion siña ma rikonosi gi ofisinan i Revenue yan Taxation gi Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. Este na amendasion gi regulasion ma publika gi Commonwealth Register. Siña mañule hao kopian este na publikasion gi ofisinan i Abogadon Gobietno.

I ofisinan i Direktot i Finansiat ma ma-maisen idea, fakto yan nota ginen i publiku kao mauleg osino makontra este na propositon amendasion gi Regulasion Numero 8301.

Todo man interesao na individual ni para ufan na halom opinion ni fumabot, osino ma kokontra este na amendasion, man ma-fafaisen na u ma satmite i matugi na opinion niha guato gi ofisinan

i Direktot i Finansiat, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan, CM 96950, gi halom 30 dias desde i fecha anai ma publika este na notisia gi Commonwealth Register.

Sinettifika As:  6/11/84
TOMAS B. ALDAN Fecha
Direktot i Finansiat

Filed this ~~12th~~ day of

June 19 84.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands



AMENDMENT NO. 40684
REVENUE AND TAXATION REGULATIONS NO. 8301
OFFICE OF THE DIRECTOR OF FINANCE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS




Section 1. This amendment shall be known and may be cited as "Amendment No. 40684."

Section 2. For the purpose of establishing levy procedures and guidelines for the enforcement of the Revenue and Taxation Laws, 4 CMC Div 1, the following provision is added to Revenue and Taxation Regulations No. 8301, as amended:

"Section 2.811.1. Levy Procedure. By virtue of 4 CMC §1811, the Director has the authority to collect taxes by levy upon property and rights to property belonging to taxpayers. For purposes of Title 4, Division 1 of the Commonwealth Code, the Director has adopted the "Seizure of Property for Collection of Taxes" procedure of the Internal Revenue Code of 1954—IRC §§6631 through 6344 inclusive, and other referenced provisions of the Internal Revenue Code and its accompanying regulations."

Certified By.


TOMAS B. ALDAN
Director of Finance

6/11/84
Date

Filed this 13th day of

June 1984.

PUBLIC NOTICE

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

ADOPTED RULES AND REGULATIONS GOVERNING
THE OPERATION, MANAGEMENT AND MAINTENANCE
OF A PUBLIC CEMETERY - SAIPAN, CNMI

Authority

The Director, Department of Public Health and Environmental Services, in accordance with the provision of Section 5, Public Law 3-45, and pursuant to the authority granted said Director under Section 3 (g) (8) of Chapter 12, Title I of PL 1-8, is adopting Rules and Regulations relative to the establishment of a publicly-owned cemetery and conditions governing the operation, the management, and the maintenance of said cemetery.

The adopted rules and regulations include the following subject matters:

1. Legal Authority
2. Definitions of Works
3. General Provision viz
 - a. Location
 - b. Burial Procedure
 - c. Lot size, locations, and Assignment
 - d. Fees
 - e. Grave Preparation
 - f. Ground Maintenance

Public Comment

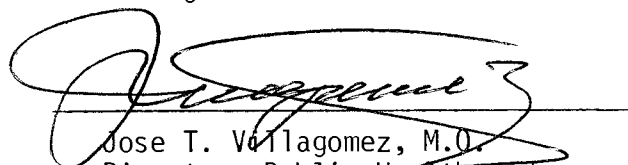
During the period of time designated for public comment on the proposed rules and regulations of the Department of Public Health and Environmental Services received no comments or complains on the proposed rules and regulations governing the operation, management and maintenance, and fees of a Public Cemetery.

Since there is no comment or complain from the general public, the Department of Public Health and Environmental Services adopt this rules and regulations. Copies of the adopted regulations may be obtain from the office of the Director or the office of the Administrator, Division of Public Health in Chalan Kanoa, Saipan, CNMI 96950.

The Department of Public Health and Environmental Services is soliciting views, opinions, facts and data for and against the adopted regulations from the general public.

Anyone interested in commenting on the adopted regulations may do so by submitting comments in writing to the Department of Public Health and Environmental Services, Terlaje Hill, Saipan, CM 96950, within 30 days from the date this notice is published in the Commonwealth Register.

DATE: 6/13/84


Jose T. Villagomez, M.O.
Director, Public Health and
Environmental Services

I MA ADAPTA NA AREKLO YAN REGULASION SIHA NI
HA GOBIEBIETNA I MANA'KALAMTEN, MAMANEA,
MANA'GASGAS YAN MANA'BONITON UN SIMENTIEYUN
PUBLIKO - SAIPAN, CNMI

I Direktot i Depattamenton Hinemlo Publiko yan Environmental na Setbisio, sigun i ginagagao gi provision is Seksiona 5, Lai Publiko Numero 3-45 (Public Law 3-45), yan segun i ginagagao gi autoridad ni manae i mansagan na Direktot gi papa i Seksiona 3, (g) (8) Chapter 12 Titulo 1 gi Lai Publiko Numero 1-8 yan regulasion siha pot para maestablesin simentieyun publiko yan condision siha ni ha gobiebietna i mana'kalamten, mamanea, mana'gasgas yan mana'boniton i mansagan na simentieyu.

I ma adapta na areklo yan regulasion siha ha inkluluso i man sigiente na asunto siha:

1. Legat na Autoridad
2. Sustansian i Palabra siha
3. Inerat na Privision viz
 - a. Lugat
 - b. Areklo Manhafot
 - c. Minedung i Sulat, Lugat siha yan Manganyin i Lugat
 - d. Apas
 - e. Preparasion Naftan
 - f. Mana'boniton yan mana'gasgas i Lugat

Opinion Publiko

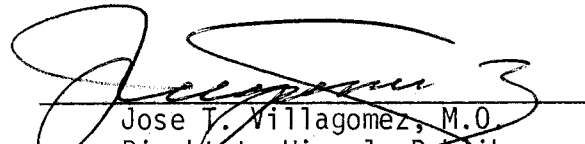
Durantin i tiempo ni manannahe publiko para hu nahalom opinion niha pot i ma propoposito na areklo yan regulasion Depattamenton Hinemlo Publiko yan Environmental na Setbisio taya ma resibe na opinion pot i ma propoposito na areklo yan regulasion ni ha gobiebietna i mana'kalamten, mamanea, mana' gasgas yan mana'boniton, yan apas i simentieyun publiko.

Pot i taya nota yan queha ginen i publiko henerat, i Depattamenton Hinemlo Publiko yan Environmental na Setbisio ha adapta este na areklo yan regulasion. Kopian pot i ma adaptan este na regulasion siña machule ginen i ofisian i Direktot pat i ofician i Administradot i Division i Hinemlo Publiko giya Chalan Kanoa, Saipan, CM 96950.

I Depattamenton Hinemlo Publiko yan Environmental na Setbision man man solisita pionion siha fabot de pat kontra pot este na areklo ni esta ma adapta ginen i publiko henerat.

Haye interesao para hu nahalom opinionña pot este na areklo ni ma adapta esta, hu tugi yan una halom gi Depattamenton Hinemlo Publiko yan Environmental na Setbisio, Okso Terlaje, Saipan, CM 96950, gi halom trenta dias anai ma langos este na notisia ginen Commonwealth Register.

DATE: 6/13/84


Jose T. Villagomez, M.O.
Direktot, Hinemlo Publiko yan
Environmental na Setbisio

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES
RULES AND REGULATIONS
GOVERNING THE OPERATION, MANAGEMENT AND
MAINTENANCE OF CEMETERIES

I. AUTHORITY

In accordance with the provision of Section 5, PL 3-45, and pursuant to the authority vested in the Director of Public Health and Environmental Services under Section 3 (g) of Chapter 12, Title I, of Public Law 1-8, as amended, the following Rules and Regulations are hereby prescribed governing the establishment, the operation, the management and the maintenance of Public Cemetery hereinafter called Wireless Hill on Saipan, CNMI.

II. DEFINITIONS

Unless the context clearly otherwise requires, and for the purpose of these rules and regulations, the definitions to the words hereinunder listed shall apply;

1. Director - The duly appointed director of the Department of Public Health & Environmental Services.
2. Cemetery - Any approved burial ground; the Wireless Hill Public Cemetery.
3. Burial Permit - The authority granted by the Director releasing human remains for burial.
4. Grave Marker - Any headstone, cross, or other ornament used to mark a burial plot.
5. Human Remains - The lifeless remains of a human being.
6. Death Certificate - A document prepared and duly attested by a responsible official reporting the demise of a human being.
7. Disinterment - The authorized opening of a grave for the purpose of transferring remains.
8. Burial Plot - A parcel of lot measuring about 10'6" X 6'6" in a cemetery lot.

III. GENERAL

1. Until such time that the Marianas Public Land Corporation completes its environmental impact and general feasibility study of proposed and currently in use cemeteries, and unless otherwise deemed a threat to the health of the Community by the Director, all existing cemeteries shall remain in operation subject to these Rules and Regulations as made applicable thereto.
2. Wireless Hill Cemetery is hereby declared a Public Cemetery and shall be used for the interment of human remains without regard to race, creed, religion or citizenship.
3. The cemetery shall be under the administration of the Director, Department of Public Health and Environmental

Services with the Department of Public Works and Natural Resources providing field landscaping, surveying, mapping and other maintenance services as needed.

A. BURIAL PROCEDURE

1. No dead human remains will be accepted for burial unless a Death Certificate has been filed and a Burial Permit is issued by the Director.
2. Burial shall take place no later than sunset nor earlier than sunrise unless special written permission is granted by the Director.

B. LOT LOCATION, ASSIGNMENT AND FEE

1. The cemetery ground shall be subdivided into ten feet six inches by six feet six inches (10'6" X 6'6") lots which will provide a three-foot spacing between graves in each direction.
2. Each lot shall be numbered and burial assignments will be made in a consecutive order without reference to race, creed, or religion.
3. For the purpose of space conservation, the cemetery shall provide space for children with six feet six inches by five feet (6'6" X 5') lots which provide a three-foot spacing between graves in each direction.
4. The office of Vital Statistics shall keep a current and accurate map and plot record showing the location of each burial.
5. A plot fee shall be established to defray the cost of digging and covering of each grave, as well as for general ground maintenance.
6. Payment of the plot fee shall be made to the office of the Director, Department of Public Health and Environmental Services.

C. GRAVE PREPARATION

1. Upon receipt of a request for a burial plot and payment having been made and burial permit issued, the office of Vital Statistics shall proceed to make arrangements with the Department of Public Works for the digging of the grave.
2. Each grave shall not be less than six feet (6') in

depth and shall be at least one foot (1') larger in width and length than the coffin.

3. Only one (1) body shall be buried in each grave, except that in the case of a woman in an advanced stage of gestation in which the foetus may have been delivered dead both bodies may be buried together if the family so wishes.
4. Upon completion of the burial ceremony, the Department of Public Works shall backfill each grave or as in the case where members of the family desiring to do so, supervise such back filling to its completion.
5. No dead body shall be disinterred or removed from the cemetery or its place of burial, for reburial or otherwise, without a written permit from the Director.

D. CEMETERY MAINTENANCE

1. To discourage desecration, vandalism and invasion by domestic and wild animals, the cemetery shall be enclosed by a fence with a gate which shall be kept locked except at such times as a burial is actually being performed. A pedestrian gate will be provided however for public access between the hours of sunrise and sunset.
2. The Department of Public Works and Natural Resources will provide periodic care of the grounds to cut grass and control vegetation, and insure accessibility to the cemetery at all times.
3. To facilitate ground maintenance, markers may either be a cross no larger than three (3) feet in height, or a 12" X 18" flush-mounted marker, placed at the top edge of the "head" end of the lot.
4. No permanent plants will be permitted on individual lots although a recessed vase or pot may be installed flush with the ground surface in front of, or to the side of, each grave marker to facilitate the placement of flowers.

PUBLIC NOTICE

Filed this 14th day of

June 19 84.

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

NOTICE OF ADOPTION OF THE REGULATIONS FOR THE NUTRITION ASSISTANCE PROGRAM
DEPARTMENT OF COMMUNITY & CULTURAL AFFAIRS

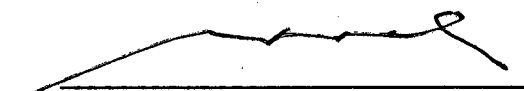
The Director of the Department of Community & Cultural Affairs hereby adopts regulations governing the administration of the Nutrition Assistance Program in the Northern Marianas.

These regulations are embodied in a Manual of Operations which describe the policies and procedures pertaining to the operation of the NAP in the CNMI. The portions of the manual which were proposed on May 15, 1984, modified to incorporate comments, and are now being adopted include the following subjects:

1. Program Evaluation
2. Retailer Compliance
3. Redemption Process
4. Disaster Assistance
5. Benefit Reduction
6. Hearing Procedures

For a nominal fee, copies of the adopted Regulations may be obtained from the DCCA, NAP Division, Lower Base, Saipan CM 96950.

Date: June 14, 1984



Gilbert C. Ada
Director, DCCA

A. State Agency Responsibilities.

1. The State agency in compliance with sections 17(j) and (k) and 18(j) of the MOU shall establish a continuing management evaluation system to review performance by the State agency in its administration of the NAP. The components of the State agency's management evaluation system shall include:
 - a. Data collection through ongoing reviews throughout the fiscal year;
 - b. Analysis and evaluation of data from all sources which shall be distributed in a formal report of findings to the State agency Director once a year within 30 days of the end of the fiscal year. An interim report of findings to date shall be submitted to the State agency Director after 6 months;
 - c. Formulation of a comprehensive corrective action plan which shall respond to the formal report of findings and which shall be updated and modified as more current data are received from the different sources of analysis and evaluation;
 - d. Implementation of corrective actions and monitoring of the corrective actions until completion or modification.
2. The State agency shall designate a unit separate from the NAP to coordinate and perform the necessary activities of the management evaluation system.
3. The State agency shall employ sufficient staff to perform all aspects of the Management Evaluation System as required by this section.

B. FNS Responsibilities.

FNS shall review its information copy of the State agency's corrective action plan and may suggest improvements to the Plan. FNS may comment on all functions performed at the State agency level in the administration/operation of the Program, such as, but not limited to: certification and issuance procedures; security and control procedures; accountability; reconciliation; record keeping and reporting procedures; training; outreach; redemption procedures; retailer monitoring procedures; fraud; fair hearings; work registration; disaster preparedness; and program monitoring. FNS shall monitor corrective actions by whatever means or from whatever source is available to it to determine that compliance with the Federal Regulations and MOU have been met.

The State agency shall prepare a handbook which will describe the policies and procedures governing the activities of the Management Evaluation Unit.

1. Modified quality control review.
 - a. The ME unit shall review 5% of the active (certified) cases and 100% of the negative (denied and terminated prior to the expiration of the household's certification period) cases each month.
 - b. Casefiles shall be desk reviewed to determine proper application of policy, verification, documentation and computation for each review element. The Management Evaluation Unit shall do a full field review of five active cases selected at random from the sample during each month. Cases with overissuances which were not selected for a full field review shall also be subjected to a full field review. Additionally, the ME unit shall conduct full field reviews of questionable cases requested by the NAP Division, but these cases shall not be included as part of the random sample for the month.
 - c. The NAP staff shall cooperate fully with the ME unit in providing all information necessary to facilitate completion of the review.
 - d. The ME unit shall provide the NAP Division a review action form for each review completed. This form must be returned, with comments, to the ME unit within 10 days after receipt.
 - e. The ME unit shall provide monthly reports of findings to the NAP Administrator for his disposition no later than five days after the end of the month following the review month, with a courtesy copy to the Director.
 - f. The ME unit shall also provide a quarterly report of findings to the NAP Administrator for his disposition. This report shall include an analysis of the findings (both numerical and narrative) and recommendations for corrective actions. This report shall be submitted to the NAP Administrator no later than ten days after the end of the month following the review quarter, with a courtesy copy to the Director.
 - g. The State agency shall initiate action to correct individual cases as soon as possible and formulate plans to reduce pervasive deficiencies reported by the ME unit.

2. Review of compliance with administrative requirements.

- a. The ME unit shall examine procedures to determine if controls are provided through division of responsibilities for eligibility determinations and issuance among certification, data management, and issuance units.

In order to review this requirement, the reviewer shall determine if:

- i. The certification responsibilities include the determination of household eligibility and the creation of records and documents to authorize;
 - ii. The data management unit responsibilities include the creation and maintenance of the HIR masterfile; and
 - iii. The issuance unit provides certified households with authorized allotments.
- b. The ME unit shall determine if all forms needed in the certification and issuance process as well as all notices sent to households have been approved by the State agency Director's Office.
 - c. The ME unit shall determine if the State agency maintain program records for a period of three years from the month of origin.
 - i. Certification records include, but are not limited to the following:
 - casefiles including worksheets and notices
 - restoration of lost benefits documentation
 - claims
 - fair hearing records
 - fraud hearing records
 - ii. Issuance records include, but are not limited to the following:
 - notices of changes
 - HIR files
 - transacted ATPs

- cashier's daily reports
 - daily tally sheets
- d. The ME unit shall determine if the State agency implement program changes within the required time frames.
 - e. The ME unit shall determine if the following materials are available for public inspection during regular hours of regular workdays:
 - i. The NAP Federal Regulations
 - ii. The Memorandum of Understanding
 - iii. The NAP Manual of Operations
 - iv. Any other State agency procedures affecting the public with regard to the NAP.
3. Review of compliance with personnel requirements.
 - a. The ME unit shall assess the adequacy of the number of staff in certification, data management, issuance, retailer monitoring, and redemption monitoring.
 - b. The ME unit shall determine if only merit personnel are used in the certification process.
 - c. The ME unit shall determine if the hearing officials presiding over hearings meet one of the following: an employee of the State agency; an individual under contract with the State agency; an employee of another public agency designated by the State agency to conduct hearings; a member or official of a statutory board or other legal entity designated by the State agency; an executive officer of the State agency; or a person expressly appointed to conduct State level hearings or to review State hearing decisions.
 - d. The ME unit shall determine if the State agency has instituted a continuing training program for all NAP personnel.
 4. Review of compliance with certification requirements.
 - a. Application processing.
 - i. The ME unit shall determine if application forms are readily accessible to potentially eligible households or any one else requesting the form.

- ii. The ME unit shall determine if applications are mailed or given on the day of request and are accepted when submitted so long as they have a name, address and signature.
 - iii. The ME unit shall determine if all applicant households undergo face-to-face interviews in a certification site prior to initial or recertification unless a telephone interview or home visit is requested and warranted.
 - iv. The ME unit shall determine if the NAP staff follows processing procedures with regard to authorized representatives.
 - v. The ME unit shall determine if eligible households which complete the initial application process are given an opportunity to participate no later than 30 calendar days after the application is filed.
 - vi. The ME unit shall determine if the NAP staff provides households, which timely reapply, program benefits within the required time limits.
 - vii. The ME unit shall determine if the NAP staff assigns certification periods based on individual household circumstances.
- b. Work registration.
- i. The ME unit shall determine if: all household members exempted from work registration are properly exempt; all exemptions are adequately documented; and work registration has been accomplished for non-exempt members within the past six months.
 - ii. The ME unit shall determine if the NAP staff forwards work registration forms to the Employment Service, Department of Commerce and Labor in a timely manner.
 - iii. The ME unit shall determine if the NAP staff takes appropriate action on information received from the Employment Service, DCL.
- c. Notification to households.
- i. The ME unit shall determine if the NAP staff provides applicants with either a notice of eligibility, denial, or pending status within 30 days after the date of initial application.

- ii. The ME unit shall determine if the NAP staff sends a notice of denial on the 30th day to applicant households when verification is lacking.
 - iii. The ME unit shall determine if the NAP staff provides households with a notice of adverse action before any action is taken to reduce or to terminate benefits within a certification period.
 - iv. The ME unit shall determine if the NAP staff issues ID cards to each household only at the time of certification unless a replacement is necessary.
- d. Action upon changes.
- i. The ME unit shall determine if the NAP staff imposes requirements on households to report changes other than those required by the MOU or the NAP Manual of Operations.
 - ii. The ME unit shall determine if State NAP mass changes (such as adjustments in the income guidelines or the earned income deduction) are publicized and implemented on the effective date(s) of the change(s).
 - iii. The ME unit shall determine if the NAP staff handles mass adjustment in SSI as mass changes and if the benefits are recomputed effective in the same month as the mass adjustment.
 - iv. The ME unit shall determine if the notice of change (TAD) is accurate, contains all required information, and is transmitted to the data management unit in time to meet processing requirements.
- e. Restoration of lost benefits.
- i. The ME unit shall determine if benefits are restored as required but not for losses incurred more than 2 months from the date the losses were discovered (except for reversed fraud disqualifications).
 - ii. The ME unit shall determine if the amount of benefits to be restored is offset against any claims owed by the household.
 - iii. The ME unit shall determine if an accounting system is maintained for documenting a household's entitlement for and current balance of restored benefits.

iv. The ME unit shall determine if households are notified of their entitlement to restoration. The notices must include the amount of benefits to be restored, the method of restoration, any offsetting against claims, and the right to appeal through the fair hearing system.

f. Claims against households.

- i. The ME unit shall determine if the NAP staff establishes a claim against any household that has received more food stamps than it was entitled to receive.
- ii. The ME unit shall determine if established claims are offset against lost benefits.
- iii. The ME unit shall determine if the NAP staff initiates collection action by sending demand letters which contain all required information.
- iv. The ME unit shall determine if fraud claims that are not repaid in cash are recouped from allotments in accordance with required procedures.
- v. The ME unit shall determine if the NAP staff follows procedures for suspension and termination of claims.
- vi. The ME unit shall determine if the NAP staff maintains an accounting system for monitoring claims against households.
- vii. The ME unit shall review the pertinent casefiles of 20% of current claims during the month of ME review or 20 cases, whichever number is greater; and 20% of closed claims during the month of ME review or 20 cases, whichever number is greater to determine the accuracy of claims determinations, whether the method and amount of repayment was negotiated with the client, and whether the casefile contains all appropriate documentation of the claim determination and client notices.

g. Fair hearings.

- i. The ME unit shall determine if the State agency provides fair hearing to households aggrieved by any action affecting their current benefits which occurred in the prior 60 days.
- ii. The ME unit shall determine if the State agency provides advance written notice to all parties at least ten days before the scheduled hearing.

~~iii. The ME unit shall determine if households who~~

request a fair hearing within the ten day period provided by the notice of adverse action and who have not specifically waived continuation of benefits continue to participate on the basis authorized prior to the adverse action notice.

- iv. The ME unit shall determine if within 60 days of receipt of a request for a fair hearing, the hearing is conducted, a decision is reached, the household and the NAP division are notified of the decision, and the decision is reflected in the coupon allotment.
- v. The ME unit shall determine if fair hearing decisions are reflected in the coupon allotment for the month of issuance following the month the decision was rendered.
- vi. The ME unit shall determine if the notice of the fair hearing decision includes the reason for the decision, the right to appeal the decision to a court of law, and the effect of the decision on the household's benefits.
- vii. The ME unit shall review the pertinent casefiles of all fair hearings on record during the month of ME review for compliance with the foregoing and to determine whether the separate fair hearing and fraud disqualification procedures described in the Manual of Operations are being met.

h. Fraud disqualification.

- i. The ME unit shall determine if administrative fraud hearings are initiated when required and households are notified at least 15 days in advance of the scheduled hearing.
- ii. The ME unit shall determine if within 60 days of the notification date, hearings are conducted, decisions reached, and actions taken.
- iii. The ME unit shall determine if individuals found guilty of fraud through an administrative fraud hearing is disqualified for a period of at least three months (not to exceed one year).
- iv. The ME unit shall review the pertinent casefiles of all fraud hearings on record during the month of ME review for compliance with the foregoing and to determine whether the separate fair hearing and fraud disqualification procedures described in the Manual of Operations are being met.

5. Review of compliance with issuance requirements.

a. HIR masterfile.

- i. The ME unit shall determine if the State agency maintains an HIR (Household Issuance Record) Masterfile which comprise the issuance records of all certified food stamp households.
- ii. The ME unit shall determine if the HIR masterfile is divided into active and inactive HIRs.
- iii. The ME unit shall determine if the HIR masterfile contains all required information for each household and if the State agency updates the HIRs as required based upon receipt of a notice of change or other authorizing document, with controls for expired certification periods.
- iv. The ME unit shall determine if the State agency checks the HIR masterfile to ensure that the household is not currently participating or disqualified before establishing an HIR.
- v. The ME unit shall determine if the State agency checks the HIR masterfile prior to issuance of an ATP under expedited service.

b. Coupon issuers.

- i. The ME unit shall determine if the State agency conducts an onsite review of each coupon issuer and bulk storage point at least once every 3 months.
- ii. The ME unit shall determine if the physical inventory of each coupon issuer agrees with its perpetual inventory records and monthly report.
- iii. The ME unit shall determine if coupon issuers check each person's ID card and ATP and perform signature comparison before coupon issuance.
- iv. The ME unit shall determine if replacement allotments are provided when coupons are mutilated or improperly manufactured.
- v. The ME unit shall determine if the State agency has a system which allows issuance of coupons to emergency representatives.
- vi. The ME unit shall conduct an on-site review of the coupon issuer during the issuance process to determine compliance with issuance procedures described in the Manual of Operations.

c. ATP issuance.

- i. The ME unit shall determine if ATPs contain all required information.
- ii. The ME unit shall determine if the State agency follows required actions to maintain control over manually prepared ATPs such as: at least two persons are responsible for the issuance of the ATP; information from the ATP is immediately recorded in the HIR masterfile; and cross-checks are made prior to issuing the ATP to ensure the household is not currently certified or disqualified.
- iii. The ME unit shall determine if replacement ATPs are provided as required following established procedures.
- iv. The ME unit shall determine if the State agency maintains a control log for undelivered ATPs.

d. Reconciliation.

- i. The ME unit shall determine if the coupon issuer reconciles its issuance on a daily basis.
- ii. The ME unit shall determine if the State agency posts all transacted ATPs and reconciles them against the HIR master file following required procedures.
- iii. The ME unit shall determine if the State agency verify the number of transacted ATPs received from coupon issuers and the total value of authorized coupon issuance at least on a weekly basis.
- iv. The ME unit shall fully reconcile the total issuance during the month of review against the source documents (notice of change, OTC authorization, TADs, etc.) authorizing the issuance.

e. Distribution of coupons.

- i. The ME unit shall determine if the State agency established a coupon inventory management system which ensures that coupons are requisitioned and that required inventories are maintained.
- ii. The ME unit shall determine if coupon issuers and bulk coupon suppliers comply with established procedures when shipping or receiving coupons.

- iii. ~~The ME unit shall determine if~~ common issuers and bulk coupon suppliers cancel improperly manufactured or mutilated coupons and follow State agency procedures for disposition of such coupons.
- f. Reporting/recordkeeping.
 - i. The ME unit shall determine if the State agency correctly prepares the weekly accountability report.
 - ii. The ME unit shall determine if the State agency correctly prepares the monthly report of participation and coupon issuance (FNS-256).
 - iii. The ME unit shall determine if the State agency retains issuance records at least three years from the date of origin.
 - g. Security/control.
 - i. The ME unit shall determine if the State agency provides the required security and control for ATP cards.
 - ii. The ME unit shall determine if the State agency provides secure storage and limit access to blank ID cards and notices of change (TADs).
 - iii. The ME unit shall determine if the State agency established control and security procedures to safeguard coupons.
 - iv. The ME unit shall determine if the State agency has adequate procedures to handle any loss, theft or embezzlement of coupons.
6. Review of compliance with retailer operations requirements.
 - a. Approval of retail food stores.
 - i. The ME unit shall determine if the NAP staff requires firms to submit an application prescribed by the State agency in order to participate as an authorized retailer.
 - ii. The ME unit shall determine if the NAP staff considers the factor delineated in Section XA2 of the manual prior to authorizing or denying a retailer's application.
 - iii. The ME unit shall determine if all authorized retailers has opened an account with the Redemption Agent within 10 days of authorization for redemption record tracking purposes.

- iv. The ME unit shall determine if the State agency issues a non-transferable authorization card which automatically terminates at the end of the calendar year to each authorized retail firm.
 - v. The ME unit shall determine if the State agency complies with procedures to handle NAP coupons received by a retail store prior to authorization.
- b. Adverse action against applicant retailers.
- i. The ME unit shall determine if the NAP staff follows State agency procedures in denying the application of any firm.
 - ii. The ME unit shall determine if the State agency issues a notice of denial or a notice of withdrawal to subject firm(s) and allows the firm(s) 10 days from the date of notice to request an administrative review of the State agency's decision.
- c. Adverse action against participating retailers.
- i. The ME unit shall determine if the State agency takes action against any authorized firm violating the NAP rules, regulations, and/or procedures.
 - ii. The ME unit shall determine if the State agency maintains records to document adverse action against authorized firms.
 - iii. The ME unit shall determine if the State agency follows proper notification procedures when handling firms charged with violations.
 - iv. The ME unit shall determine if the State agency retrieves authorization cards from firms whose authorization has been withdrawn and if adequate notice of such withdrawals is given to the Redemption Agent and the recipients.
 - v. The ME unit shall determine if the State agency has a system of processing civil money penalties paid by authorized firms charged with violations.
- d. Administrative review.
- i. The ME unit shall determine if the State agency has a system of administrative review of actions against retailers.

ii. The ME unit shall determine if the State agency schedules and conducts administrative reviews and renders a decision no later than 30 days after the date of a request for administrative review.

e. Participating retail stores.

- i. The ME unit shall determine if the State agency has a current listing of all authorized firms in the CNMI.
- ii. The ME unit shall determine if the State agency conducts authorization visits and follow-up educational visits according to established procedures.
- iii. The ME unit shall determine if the State agency maintains redemption records on each authorized retailer and conducts an analysis of redemption to food sales ratio at least on a monthly basis.
- iv. The ME unit shall determine if the State agency maintains a High Redeemer List and conducts compliance investigations of all stores which appear on the High Redeemer List.
- v. The ME unit shall determine if the State agency periodically explains components of the NAP coupon transaction (eligible food items, ID check, change making, endorsement, redemption, etc.) to authorized firms.
- vi. The ME unit shall determine if the State agency provides timely notice to participating retailers regarding changes in food coupon series.
- vii. The ME unit shall determine if the State agency has procedures regarding handling of old series coupons accepted by authorized retailers after the cut-off date.
- viii. The ME unit shall determine if the State agency has procedures regarding the disposition of damaged or mutilated coupons accepted by authorized retailers.
- ix. The ME unit shall determine if the State agency provides updated information regarding authorized retailers to the Redemption Agent in a timely manner.
- x. The ME unit shall determine if the State agency follows procedures to safeguard the confidentiality of authorized retailer information obtained by the NAP staff.

7. Review of compliance with redemption procedures.

a. Procedures for redeeming food coupons.

- i. The ME unit shall determine if the State agency requires authorized firms to endorse food coupons before it is presented for redemption.
- ii. The ME unit shall determine if the State agency requires the use of redemption certificates.
- iii. The ME unit shall determine if the State agency has established policies and procedures for redeeming burned or mutilated NAP coupons.

b. Participation of the redemption agent.

- i. The ME unit shall determine if the State agency has a valid contract with the Redemption Agent.
- ii. The ME unit shall determine if the Redemption Agent has a complete and current listing of all authorized retailers.
- iii. The ME unit shall determine if the Redemption Agent timely adds or deletes retailers from its authorized list.
- iv. The ME unit shall determine if the Redemption Agent has established policies and procedures for redeeming NAP coupons from other local banks.
- v. The ME unit shall determine if the Redemption Agent retains redeemed coupons in secure storage and maintains accountability as required prior to the destruction of the redeemed coupons.
- vi. The ME unit shall determine if the State agency and the Redemption Agent reconcile the redeemed coupons with deposit slips and transmittal reports prior to the destruction of the redeemed coupons.
- vii. The ME unit shall determine if the State agency reconciles redeemed coupons within 30 days after the end of the month of issuance and destroys redeemed coupons within 90 days after the end of the month of issuance.
- viii. The ME unit shall determine if the Redemption Agent timely applies effective dates when coupon series are changed.

c. ~~Retention~~ Retention monitoring.

- i. The ME unit shall determine if the Redemption Agent submits reports to the State agency as required.
- ii. The ME unit shall determine if the State agency conducts an actual physical inventory of the designated sample (authorized retailers) once a month as required.
- iii. The ME unit shall determine if the State agency timely deposits funds to the NAP account.
- iv. The ME unit shall determine if the State agency timely provides the quarterly payments to the Redemption Agent for its services as stipulated in the contract.
- v. The ME unit shall determine if the Redemption Agent provides the State agency a comprehensive Redemption Report for all authorized retailers on a monthly basis.

d. Retention of records/confidentiality.

- i. The ME unit shall determine if the Redemption Agent and the State agency retains redemption records for a minimum of three years from date of origin.
- ii. The ME unit shall determine if the Redemption Agent and the State agency has established policies and procedures to safeguard the confidentiality of redemption information.

8. Review of compliance with coupon production procedures.

a. Contract.

- i. The ME unit shall determine if the State agency has a valid contract with the Coupon Supplier.
- ii. The ME unit shall determine if the State agency has established policies and procedures to ensure that contractual arrangements are completed prior to the start of the fiscal year.

b. Participation of coupon supplier.

- i. The ME unit shall determine if the Coupon Supplier has established appropriate accountability procedures and controls to protect the bulk supply of coupons.
- ii. The ME unit shall determine if the Coupon Supplier has taken adequate measures to protect NAP coupon from counterfeiting.

- iii. The ME unit shall determine if the Coupon Supplier maintains bulk supply inventories of NAP coupon at appropriate levels.
 - iv. The ME unit shall determine if the Coupon Supplier provides the bulk supply of NAP coupons to the State agency in a timely manner.
 - v. The ME unit shall determine if the State agency conducts periodic physical inventory of the Coupon Supplier as required.
 - vi. The ME unit shall determine if the Coupon Supplier changes the coupon series on a quarterly basis.
- c. Reports and accountability.
- i. The ME unit shall determine if the Coupon Supplier provides the inventory reports to the State agency as required.
 - ii. The ME unit shall determine if the Coupon Supplier provides the master plates to the State agency after their use as required.
 - iii. The ME unit shall determine if the State agency has established policies and procedures regarding the receipt and proper safeguard of bulk supply of coupons.
 - iv. The ME unit shall determine if the State agency timely remits payments to the Coupon Supplier for its services as stipulated in the contract.
- d. Retention of records/confidentiality of information.
- i. The ME unit shall determine if the Coupon Supplier retains pertinent program records for a minimum of three years from date of origin.
 - ii. The ME unit shall determine if the State agency and Coupon Supplier have established policies and procedures to safeguard the confidentiality of bulk coupon supply information.

D. Documenting Findings.

The ME unit shall record program deficiencies and the numerical extent of the deficiency where applicable in accordance with the ME handbook. A comprehensive report of findings consolidating the ME unit's findings during the foregoing fiscal year, with recommendations, shall be submitted to the Director, DCCA no later than 30 days after the end of the foregoing fiscal year.

E. Determining Causal Factors.

To the extent possible, the reviewer shall determine the causes of deficiencies cited during the review. In ascribing causal factors, the reviewer must be aware of the relationships between requirements and corresponding deficiencies. ME reviewers shall consider information derived from previous reviews or audits of the NAP and any corrective actions taken. At a minimum, ME reviewers shall examine previous FNS NAP reviews and determine whether adequate actions were taken to correct problems identified by the FNS reviews.

F. Corrective Action Plan.

1. The State Agency shall prepare a corrective action plan addressing those deficiencies found by the ME unit in the course of its monthly case reviews and the ongoing evaluation of NAP operations as reflected in the ME unit's annual ME report.

This corrective action plan is an open-ended plan and shall remain in effect until all deficiencies in program operations have been reduced substantially or eliminated. Any deficiencies, detected through any source, not previously included shall be incorporated into the State Corrective Action Plan within 60 days of identification. As deficiencies are reduced substantially or eliminated, the State agency shall be responsible for documenting why each deficiency is being removed from the Plan.

2. State corrective action plans shall contain, but not necessarily be limited to the following, based on the most recent information available:
 - a. Specific description and identification of each deficiency;
 - b. Source(s) through which the deficiency was detected;
 - c. Identification of causal factor(s) contributing to the occurrence of each deficiency;
 - d. Identification of any action already completed to eliminate the deficiency;
 - e. An outline of actions to be taken, the expected outcome of each action, and the target date for each action, and the target date by which each deficiency will have been eliminated; and
 - f. A description of the manner in which the State agency will monitor and evaluate the effectiveness of the corrective action in eliminating the deficiency.

3. Initial corrective action plan. The State shall develop a comprehensive corrective action plan within 60 days of the submittal of the initial report to NAP management on the ME unit's review findings.
4. Assessment of corrective action.
 - a. The NAP management will conduct a comprehensive annual assessment of the State agency's corrective action process by compiling all information relative to the State agency's corrective action efforts, including the State agency's system for data analysis and evaluation. The purpose of this assessment and review is to determine if identified deficiencies are analyzed in terms of causes and magnitude and are properly included in the State Corrective Action Plan, if the State agency is implementing corrective actions according to the appropriate plan, if target completion dates for reduction or elimination of deficiencies are being met, and if corrective actions are effective.
 - b. In addition, the State agency will conduct on-site reviews of selected corrective actions at least annually or as frequently as considered necessary to ensure that proposed corrective actions are completed within the timeframes specified in the State Corrective Action Plans and to determine the effect of the corrective action on deficiencies. The on-site reviews will provide the State agency with a mechanism for early detection of problems in the corrective action process to minimize losses to the Program, participants, or potential participants.

G. Monitoring and Evaluation.

1. The State agency shall establish a system for monitoring and evaluating corrective action. Monitoring and evaluation shall be an ongoing process to determine that deficiencies are being substantially reduced or eliminated in an efficient manner and that the Program provides responsive service to eligible households.
2. The State agency shall ensure that corrective action on all deficiencies identified in the State Corrective Action Plan is implemented and achieves the anticipated results within the specified time frames. The State agency shall monitor and evaluate corrective action through a combination of reports, field reviews, and examination of current data available through program management tools and other sources.

In instances where the State agency determines that the proposed corrective action is not effective in substantially reducing or eliminating deficiencies, the State agency shall promptly reevaluate the deficiency, causes, and the corrective action taken, and develop and implement new corrective actions.

H. Submittal of Corrective Action Plan to Director, DCCA.

1. Proposed corrective action for all deficiencies identified as requiring State agency action shall be submitted to the DCCA Director's Office for approval within 60 days after identification.
2. The NAP Division shall advise the Director's Office immediately upon becoming aware that previously reported corrective actions will not be effective in eliminating a deficiency or that a projected target date will not be met. At that time, revisions to corrective actions or time frames for completion shall be negotiated with and approved by the Director of DCCA.

I. Record Retention.

1. The State agency shall maintain Management Evaluation System records to permit ready access to, and use of, these records for a minimum of 3 years from date of origin. Management Evaluation System records include information used in data analysis and evaluation, corrective action plans, corrective action monitoring records and ME review records. To be readily accessible, system records shall be retained and filed in an orderly fashion. Precautions should be taken to ensure that these records are retained without loss or destruction during the 3-year period required by FNS regulations. Information obtained on individual households for Performance Reporting System purposes shall be safeguarded in accordance with rules on disclosure of information for the Nutrition Assistance Program.
2. ME review records consist of documentation of review findings, sources from which information was obtained, procedures used to review program requirements including sampling techniques and lists, and ME review plans. The State agency may submit documented evidence of review findings to the FNS Regional Office upon its request for purposes of evaluating State agency corrective action plans.

J. Determination of State Agency Program Performance.

1. FNS may comment on the efficiency and effectiveness of the State agency's administration of the Nutrition Assistance Program by measuring State agency compliance with the standards contained in the Food Stamp Act, Regulations, the MOU, this Manual, and the State agency's efforts to improve program operations through corrective action. This determination may be made based on:

- a. Reports submitted to FNS by the State agency;
 - b. FNS reviews of State agency operations;
 - c. State agency management evaluation system reports and corrective action efforts; and
 - d. Other available information such as federal audits and investigations, administrative cost data, complaints, and any pending litigation.
2. FNS shall submit comments to the State agency within 90 days of the conclusion of an FNS review, receipt of a NAP ME report or receipt of an audit report.

A. Approval of Retail Food Stores.

1. Application. Any firm desiring to participate in the Program shall file an application as prescribed by the State agency. The State agency shall deny or approve authorization, or request more information, within thirty (30) calendar days of receipt of the application.
2. Determination of authorization. An applicant shall provide sufficient data on the nature and scope of the firm's business in order for the State agency to determine whether the applicant's participation will further the purposes of the Program. In making this determination, the State agency shall consider all of the following:
 - a. The nature and extent of the food business conducted by the applicant. The retail food store should be of sufficient size to effect economies which result in lower prices and wider varieties of food for the recipients.
 - i. An applicant retail food store with annual gross sales of less than \$100,000 shall be authorized to participate in the Program only if the State agency determines that the applicant's participation is critical in effecting the purposes of the Program.
 - ii. Retail food stores which sell primarily food for home preparation and consumption and in which one or more staple food items make up more than 50 percent of eligible food sales shall normally be considered to have food business of a nature and extent which will further the purposes of the Program. "Staple food" means those food items intended for home preparation and consumption, which include meat, poultry, fish, bread, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products such as cheese and butter. Accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, spices; cakes, pies, sweet pastries, ice cream and ices normally eaten as dessert; and other snack or merienda type food items such as chips, bibingka, potu, apigigi which are clearly not intended for home preparation are not staple foods for the purpose of qualifying a firm to participate in the program as an authorized retail food store. These stores shall include: full-time grocery stores; convenience stores; stores which sell meat, poultry, or fish; stands which sell agricultural commodities; farmers markets; bakeries which sell bread; and non-profit cooperative food

purchasing ventures which are properly licensed to sell food in the CNMI. In addition, retail outlets selling a significant amount of fishing and/or farming equipments which are listed on the Official Food List may be authorized. Retail stores must have a valid business license issued by the CNMI Department of Commerce and Labor and a current health permit issued by the Department of Health before it is authorized.

- iii. Retail food stores must also carry a sufficient amount of local foods before it is authorized to accept NAP coupons. The dollar value of local foods (as previously defined) carried by a retail store must equal or exceed 10% of the store's food sales. Retail outlets selling a significant amount of fishing and/or farming equipments are exempt from this requirement.
 - iv. Newly opened retail food stores must be in operation at least ninety days after issuance of the business license by DCL before the State agency may consider it for authorization.
- b. The volume of NAP coupon business which the State agency may reasonably expect the firm to do. The State agency shall consider such factors as the location of a store, previous food sales volumes, and the availability of other authorized food stores in the area in evaluating the ability of an applicant firm to attract NAP coupon business.
 - c. The business integrity and reputation of the applicant. In considering these factors, the State agency shall examine the following items:
 - i. Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;
 - ii. Official records of removal from other Federal or local programs;
 - iii. Judicial determinations in civil litigation adversely reflecting on the integrity of officers or managers of the applicant firm;
 - iv. Evidence of an attempt to circumvent a period of disqualification from the Program or a civil money penalty imposed for violations of the provisions of this section;
 - v. Evidence of prior fraudulent behavior of officers, managers or employees of the applicant firm; and

- vi. Any other evidence reflecting on the business integrity and reputation of the applicant.
- d. Other factors. Any other factors which the State agency considers pertinent to the application under consideration.
3. Account with redemption agent. Each authorized retail firm must open an account with the Redemption agent within 10 days of authorization for redemption record tracking purposes. The State agency shall withdraw the authorization from retail firms which fail to comply with this requirement.
4. Retailer NAP coupon transaction agreement. Each approved retailer shall execute a Retailer NAP Coupon Transaction Agreement with the State agency prior to the authorization of the retailer.
5. Authorization card. Upon approval, the State agency shall issue a nontransferable authorization card to the firm. The authorization card shall be retained by the firm until superseded, surrendered, suspended or revoked as provided for in this section. Authorization cards shall automatically terminate at the end of the calendar year. The authorization card shall be in prominent display at the retail outlet at all times.
6. Denying authorization. The State agency shall deny the application of any firm if it determines that:
 - a. The firm does not qualify for participation in the Program as specified in this section; or
 - b. The firm has failed to pay in full any fiscal claim assessed against the firm. The Administrator shall issue a notice to the firm by mail or personal service of any authorization denial, and shall advise the firm that it may request review of that determination.
7. Withdrawing authorization. The State agency shall withdraw the authorization of any firm authorized to participate in the Program if it determines that the firm's continued participation will not further the purposes of the Program. The State agency shall issue a notice to the firm by mail or personal service to inform the firm of the termination at least 10 days if for cause, and at least 30 days if not for cause, prior to the effective date of termination.

8. Updating information. The State agency may require, from time to time, a firm to update any or all of the information on the firm's application form. Failure to provide this information may result in the withdrawal of the firm's approval to participate in the Program. At a minimum, the State agency shall require a new application from each authorized retailer prior to the start of each calendar year for the upcoming calendar year.
9. Applications containing false information. The filing of any application containing false or misleading information may result in the denial or withdrawal of approval to participate in the Program and may subject the firm and persons responsible to civil or criminal action.
10. Administrative review. A denial of authorization to participate in the NAP and a termination of authorization for cause shall be subject to administrative review.
11. Safeguarding privacy. The contents of applications or other information furnished by firms, including information on their gross sales, food sales volumes and their redemptions of food stamps, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the NAP regulations or this Manual.

B. Participation of Retail Stores.

1. Use of food coupons. Food coupons shall be accepted by an authorized retail store only in exchange for eligible items. The State agency shall provide each authorized retailer an Official Eligible Food List which must be in prominent display at the retail outlet at all times. Food coupons identified as restricted to purchase of local foods shall only be accepted in exchange for local foods. Food coupons may not be accepted in exchange for cash except when cash is returned as change in a transaction in which coupons were accepted in payment for eligible food at authorized retail firms. Food coupons may not be accepted in payment of interest on loans, or for any unauthorized use.
2. Equal treatment for food stamp customers. Food coupons shall be accepted for eligible items at the same prices and on the same terms and conditions applicable to cash purchases of the same foods at the same stores. However, nothing in this part may be construed as authorizing the State agency to specify the prices at which retail stores may sell food. No retail store may single out food stamp users for special treatment in any way.

3. **Accepting food coupons. No authorized food store may accept** food coupons marked "paid" or "cancelled". Nor may a retail food store accept food coupons bearing any cancellation or endorsement, or food coupons of other than the one dollar or five dollar denomination which have been detached from the food coupon books prior to the time of purchase or delivery of eligible food unless the detached food coupons are accompanied by the food coupon books which bear the same serial number that appears on the detached food coupons. Except as noted above, food coupons may only be detached in the presence of the cashier at authorized retail stores. Finally, no authorized food store may accept coupons which are no longer valid because of a change in coupon series.
4. **Making change.** An authorized retail food store shall use, for the purpose of making change, uncancelled and unearmarked one dollar and five dollar food coupons which were previously accepted for eligible items. The one dollar coupon earmarked for local food only shall not be used for making change. If change in an amount of less than one dollar is required, the eligible household may receive the change in cash. At no time may cash change in excess of 99 cents be returned in a coupon transaction. An authorized retail food store may not engage in a series of coupon transactions of less than one dollar, the purpose of which is to provide the same food stamp customer an amount of cash change greater than the maximum 99 cents cash change allowed in one transaction.
5. **Accepting food coupons before delivery.** Retailers shall not accept food coupons before delivering the eligible items, retain custody of any unspent coupons, or in any way prevent an eligible household from using food coupons in making purchases from other authorized firms. However, an authorized firm billing an order for a recipient living on an island without authorized firms, may accept food coupons at the time the member places a food coupon order for eligible items.
6. **Paying credit accounts.** Food coupons shall not be accepted by an authorized retail store in payment for any eligible items sold to a household on credit.
7. **Redeeming food coupons.** Authorized retail stores may exchange food coupons in accordance with this part for face value, upon presentation to a local bank willing to accept the coupons at face value or to the Redemption Agent designated by the State agency to accept coupons from authorized retailers.
8. **Identifying food coupon users.** Food coupons shall not be accepted from persons who have no right to possession of food coupons. The retailer shall require all persons presenting coupons to show the ID card of the household to establish the right of that person to use the food coupons.

1. Endorsing food coupons. Each authorized retail food store shall mark its authorization number or name on each food coupon and bundle the coupons by denomination before it presents the food coupons for redemption. The earmarked coupons (local food only coupons) shall be bundled separately from the \$1 general purpose coupon.
2. Using redemption certificates. The Redemption Agent will provide all authorized firms with redemption certificates. Retail stores shall use the redemption certificates to present food coupons to the Redemption Agent for credit or for cash. An authorized retail firm using redemption certificates to redeem food coupons shall fill out the redemption certificate to show the business name of the retail store, the value of the food coupons redeemed, the date, and the signature and title of the official of the firm redeeming the food coupons.
3. Food coupons accepted without authorization. Food coupons accepted by a retail store before the receipt by the firm of an authorization card from the State agency may not be presented for redemption unless the State agency has approved the redemption. Approval may be granted by the State agency at its discretion under the following conditions:
 - a. The firm presents a written application for approval to the State agency. This application shall be accompanied by a written statement signed by the firm of all facts about the acceptance of the food coupons. The statement shall also include a certification that the food coupons were accepted in good faith, and without any intent to circumvent the provisions of this part;
 - b. The food coupons were received in accordance with the requirements of this part governing acceptance of food coupons except the requirement that the firm be authorized before acceptance; and
 - c. The firm receives authorization to participate in the Program.
4. Burned and mutilated food coupons. The State agency may redeem burned or mutilated food coupons only to the extent that the State agency can determine the value of the food coupons. The firm presenting burned or mutilated food coupons for redemption shall submit the food coupons to the State agency with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of food coupons to be redeemed, an estimate of the value of the burned or mutilated food coupons submitted for redemption shall be entered if the exact value of the food coupons is unknown.

1. Accepting food coupons. The Redemption Agent may redeem food coupons only from authorized retail stores or other local banks accepting coupons and in accordance with the provisions of this part and the instructions from the State agency. Food coupons submitted to the Redemption Agent for credit or for cash must be properly endorsed and shall be accompanied by a properly filled-out and signed redemption certificate. The Redemption Agent may require persons presenting food coupons for redemption to show their authorization cards. Copies of the redemption certificates accepted by the Redemption Agent shall be forwarded with the weekly Redemption Agent's report to:

DIRECTOR
DEPT. OF COMMUNITY & CULTURAL AFFAIRS
SAIPAN, CM 96950

Food coupons redeemed must be cancelled by the Redemption Agent by indelibly marking "paid" or "cancelled" on each food coupon. A portion of a food coupon consisting of less than three-fifths (3/5's) of a whole food coupon may not be redeemed by the Redemption Agent.

2. Loss of food coupons by burglary or robbery. The State agency will consider claims from the Redemption Agent for cancelled food coupons lost as a result of burglary or robbery. Stolen food coupons, later recovered, for which the Redemption Agent was compensated by a claims payment from the State agency shall be returned to the State agency and shall not be redeemed. To be compensated for such losses, the Redemption Agent must provide the State agency with:
 - a. Documentation showing that the stolen cancelled food coupons were in the possession of the Redemption agent at the time of the burglary or robbery;
 - b. Evidence that the amount of food coupons recovered will not be compensated for by the Redemption Agent's insurer;
 - c. An investigation report detailing the facts of the robbery or burglary; and
 - d. Evidence that negligence on the part of the Redemption Agent did not contribute to the loss.
 - e. Evidence that credit equal to the amount of the coupons stolen was given to authorized retailer(s) and has not been previously claimed from the State agency by the Redemption Agent.

3. Current list of participating retailers. The Redemption Agent shall maintain a current listing of all authorized retail stores and shall maintain a record of redemptions for each. The State agency shall inform the Redemption Agent of any additions or deletions to the list of authorized retailers within one working day of the State agency's action.
4. Accountability. The Redemption Agent shall retain redeemed coupons in their original bundles (when they were initially deposited with the Redemption Agent) and kept in separate stacks by authorized retailer in a secure storage area.
5. Reconciliation. The State agency and Redemption Agent shall reconcile the redeemed coupons with deposit slips and transmittal reports from other banks on a monthly basis.
6. Retention. The Redemption Agent shall retain redeemed coupons for three months after redemption or actual destruction, whichever is earlier. The State agency shall destroy redeemed coupons only after they have been reconciled but no later than three months after the coupons have been redeemed by the Redemption Agent. The destruction shall be witnessed and certified by at least two State agency employees or agent.
7. Reporting. The Redemption Agent shall provide the State agency a Comprehensive Redemption Report for all authorized retailers no later than the fifth of the month for the previous month.
8. Changes in coupon series. The Redemption Agent shall enforce effective dates of NAP coupon series in accordance with written instructions from the State agency. The State agency shall provide written notice to the Redemption Agent at least five working days prior to the effective dates of the coupon series change. The State agency shall not reimburse the Redemption Agent for coupons redeemed by the Redemption Agent after the coupon series' effective termination date without a written waiver of this prohibition from the State agency.

E. Disqualification of Retail Stores.

1. Authority to disqualify or subject authorized firm to a civil money penalty. The State agency may disqualify any authorized retail store from further participation in the Program for a reasonable period of time, not to exceed three (3) years, as the State agency may determine, if the firm fails to comply with applicable rules, regulations, policies, or the provisions of this section. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification or at any later time shall file a new application so that the State agency may determine whether reinstatement is appropriate. The application may be filed starting ten (10) days before the end of the period of disqualification. The State agency may, in lieu of disqualification, subject the firm to a civil money penalty of up to \$5,000 for each violation if the State agency determines that a disqualification would cause hardship to participating households. For purposes of this section, unless otherwise noted, "firm" means the ownership or management of any authorized retail store or any person acting on behalf of the ownership or management.
2. Charge letter. Any firm considered for disqualification under paragraph E, or imposition of a civil money penalty under paragraph F shall have full opportunity to submit to the State agency information, explanation, or evidence concerning any instances of noncompliance before the State agency makes a final administrative determination. The State agency shall send the firm a letter of charges before the determination. The letter shall specify the violations or actions which the State agency believes constitute a basis for disqualification or imposition of civil money penalty. The letter shall inform the firm that it shall respond in writing to the charges contained in the letter within ten (10) days of the date of the letter. The firm's response shall set forth a statement of evidence, information, or explanation concerning the specified violations or acts.
3. Review of evidence. The letter of charges, the response, and any other information available to the State agency shall be reviewed and considered by an administrative review officer appointed by the State agency who shall then issue the determination.
4. Basis for determination. In making a determination the administrative review officer shall consider:
 - a. The nature and scope of the violations committed by personnel of the firm;
 - b. Any prior action taken by the State agency to warn the firm about the possibility that violations were occurring; and

- c. Any other evidence that shows the firm's intent to violate the regulations, rules, policies, or the provisions of this part.
5. Penalties. The State agency shall take action against any firm determined to have violated the regulations, rules, policies, or the provisions of this section as follows:
- a. Disqualify the firm for three (3) years if the firm has committed flagrant violations of program regulations and/or trafficked in ATP cards and/or food coupons, which have resulted in major diversions of food coupons from their intended purpose. The State agency must determine that the flagrant violations cited resulted in the diversion of at least \$5,000 worth of food coupons from their intended purpose in order to impose a three year disqualification.
- b. Disqualify the firm for one (1) year if the evidence shows one or more of the following and the amount involved total less than \$5,000:
- i. It is the firm's policy to sell expensive or conspicuous nonfood items, cartons of cigarettes, alcoholic beverages or gasoline, in exchange for food coupons, and the firm has engaged in such practices, or
- ii. The firm bought food coupons at discount, and
- iii. The firm was warned about the possibility that such violations were occurring and of the possible consequences of violating NAP regulations. The State agency may disqualify a firm for one (1) year, even though the firm was not warned about the possibility that violations were occurring, if the State agency finds that the firm has committed unusually serious violations of the kind described in 5bi or 5bii of this subparagraph.
- iv. The firm's food coupon redemptions for a specified period of time exceed its sales of eligible items for the same period of time.
- v. The firm accepted coupons identified as restricted to purchase of local foods only for any eligible food.
- vi. It is the firm's policy to commit violations such as the sale of common ineligible nonfood items in amounts normally found in a shopping basket, and the firm was warned about the possibility that violations were occurring and of the possible consequences of violating NAP regulations.

- c. Disqualify the firm for six months if the evidence shows one or more of the items enumerated in E5b above except the amounts involved total less than \$1000.
6. Warning letter. The State agency shall send the firm a warning letter if violations are too limited to warrant a disqualification.
7. Previous penalties. The State agency may assign a penalty that is more severe than the penalty normally warranted by the evidence of violations if the same firm has been previously disqualified or has been previously assigned a civil money penalty.
8. Claims against violators. The State agency may establish a claim against an authorized firm which has accepted food coupons in violation of applicable rules, regulations, policies, or the provisions of this part. If a firm fails to pay the claim, the State agency may collect the claim by offset against the amount due the firm on redemption of other food coupons, or deny the application for reauthorization by a firm which has been disqualified and failed to pay a claim.

F. Civil Money Penalty In Lieu of Disqualification.

1. Criteria for civil money penalty. The State agency may impose a civil money penalty in lieu of disqualification only when the firm subject to a disqualification is selling a substantial variety of staple food or other eligible items, and the firm's disqualification would cause hardship to food coupon households because there is no other authorized retail store in the area selling as large a variety of items at comparable prices and the firm requests payment of civil money penalty in lieu of disqualification.
2. Amount of civil money penalty. The civil money penalty may not exceed \$5,000 for each violation. The State agency shall determine the amount of the civil money penalty as follows:
 - a. Determine the firm's average monthly redemption of food stamps for the twelve (12)-month period ending at the time the firm was charged with violations or the average monthly redemption at the time the firm was charged with violations.
 - b. Multiply the average monthly redemption figure by ten percent (10%) to represent the loss of profits that would result from the loss of food coupon business and related cash business. The State agency may double the ten percent (10%) multiplier in cases in which the firm has been disqualified or subjected to a civil money penalty previously.

c. Multiply the product arrived at in subparagraph b immediately above by the number of months for which the firm would have been disqualified under paragraph E5 of this section.

3. Notifying the firm of civil money penalty. The State agency shall inform the firm in writing that it has ten (10) days in which to pay the fine or notify the Director in writing of its intent to pay in installments as specified by the State agency. In any event, the fine must be paid in full by the end of the period for which the firm would have been disqualified. The State agency shall disqualify the firm for:
 - a. The period determined to be appropriate under paragraph E5 of this section if the firm refuses to pay the fine; or
 - b. A period corresponding to the unpaid part of the fine, if the firm does not pay the fine in full or in installments as specified by the State agency.
4. Delivery of notice. The delivery by mail or personal service of any notice required of the State agency by this part will constitute notice to the addressee of its contents. The notice shall advise the firm that it may request review in accordance with procedures outlined in Section G below.
5. Review of determination. The determination of the State agency shall be final and not subject to further review unless a written request for review is filed within ten (10) days of the date of the notice.
6. Imposition of claims. The State agency may impose a claim against a firm caught violating the program who opted for civil money penalty in lieu of disqualification if the firm does not pay the amount in full or in installments as specified by the State agency.

G. Requesting Administrative Review - Retail Stores.

1. A retailer aggrieved by an administrative action under this section may, within ten (10) days of the date of the adverse notice, file a written request for review of the administrative action with the DCCA Director. On receipt of the request for review, the questioned administrative action may be stayed by the State agency at the request of the aggrieved retailer pending disposition of the request for review by the DCCA Director or his duly authorized designee.

2. The request for review shall be filed with the Director, Department of Community & Cultural Affairs, Lower Base, Saipan, CM 96950.
3. An administrative review will be scheduled, conducted and a decision rendered no later than 30 days after the date the request for administrative review was filed with the State agency. The DCCA Director may, at his discretion, preside over an administrative review hearing or designate an Administrative Review Officer to hear the case. The decision of the hearing officer shall be final and binding on all parties.

H. Judicial Review.

1. A firm aggrieved by an order of the State agency may appeal the order to the Commonwealth Trial Court within ten (10) days following the date of the order.
2. The commencement of any appeal proceedings in any court shall not operate as a stay of compliance with the order.

I. Other Penalties and Remedies.

In addition to any other penalties prescribed by this part. The Attorney General may bring this action in any court of competent jurisdiction to enjoin violations of the provisions of this section, the CNMI Food Stamp Fraud Statute, or any other applicable NAP rules, regulations, or policies and to assess damages for such violations.

J. State Agency Monitoring of Retailer Compliance.

1. List of authorized firms. The State agency shall maintain a current listing of all authorized firms in the CNMI. A file for each authorized store shall be maintained by the State agency. At a minimum, this file shall include: a) a contact sheet; b) an application form; c) current gross receipts tax form; and d) a record of monthly redemptions.
2. High redeemer list. The State agency shall determine the Redemption Ratio for each authorized retailer each month. The Redemption Ratio shall be obtained by dividing the store's monthly NAP coupon redemptions by its reported monthly food sales. The stores showing a redemption ratio of 10% or more shall be placed on a High Redeemer List. This list shall be further separated into categories as follows:
 - a. 20% redemption ratio with monthly redemptions exceeding \$1000;
 - b. 20% redemption ratio with monthly redemptions up to \$1000;

- c. ~~10% or more redemption~~ redemption ratio but less than 20% redemption ratio with monthly redemption exceeding \$1000;
 - d. 10% or more redemption ratio but less than 20% redemption ratio with monthly redemption up to \$1000.
3. Compliance activity based on redemption ratio analysis. The State agency shall conduct a compliance visit within 30 days of stores appearing in category 2(a) above, on the High Redeemer List; and within 60 days of stores appearing in category 2(b) above on the High Redeemer List. The State agency shall monitor the redemption patterns of stores appearing in categories 2(c) and 2(d) above, and shall conduct a compliance visit to those stores if they remain in the High Redeemer List for three consecutive months with priority on category 2(c) stores.
4. Follow-up on compliance visits. The State agency shall make one of three determinations as a result of the compliance visit based on an analysis of the store's size, location, nearest competitors, hours of operation, comparative prices proximity to low income areas, and any other relevant factor(s).
- a) The firm's redemptions are unreasonable and are likely the result of program violations. The State agency shall schedule a field investigation as soon as possible and complete the investigation no later than 60 days after the determination. The State agency shall take appropriate action based on the results of the investigation (see Item 6 below).
 - b) The firm's redemptions are high but reasonable based on pertinent factors. The State agency shall document the compliance visit and the determination of high but reasonable redemption ratio. The State agency need not conduct another compliance visit to the same firm following a determination of reasonable though high redemption for a period of six months. Firms found to be high but reasonable redeemers after two consecutive compliance visits shall be subjected to subsequent compliance visits no more frequently than once a year.
 - c) The State agency official conducting the visit cannot make a determination and recommends further monitoring. The State agency shall monitor the firm's redemptions for three consecutive months and at the end of that period shall either make a determination of high but reasonable redemption or request a field investigation if the firm remains on the High Redeemer List during the monitoring period.

5. Compliance visit. The State agency representative conducting the visit shall inform the firm's proprietor or manager of the reason for the visit. He shall provide the firm a copy of the firm's redemption record (at least the last three months, if appropriate) and allow the firm's owner or manager the opportunity to explain the reason(s) for the high redemption(s). The State agency representative shall conduct a collateral visit to the Department of Revenue and Taxation (if sales figures are updated) and to two nearby competitors (authorized retailers) to confirm or corroborate the subject store owner or manager's statements, and to inquire about rumors of program violations or complaints against the subject firm prior to completing his written determination. A letter confirming the visit shall be sent to the firm within 10 days of the store visit.
6. Store investigations. The State agency shall attempt to confirm suspected violations by actual purchase of ineligible items or exchange of coupons for cash at the subject firm through agents. The State agency's agents shall conduct three attempts and document each attempt immediately after. The documentation shall include, at a minimum: time and place of buy; items bought; and the name or description of firm personnel committing the violation. The State agency shall disqualify stores found guilty of violations as a result of investigations in accordance with section XE.
7. Other compliance action. Nothing in Section XJ shall preclude the State agency from performing additional compliance actions not required herein.

- A. General. The State agency shall be responsible for the administration of temporary emergency provisions within CNMI, as authorized by FNS, including certification of households, publicity activities, evaluation of disaster operations, and preparation of accurate and timely reports of emergency food assistance. The CNMI Food Service Office shall be directly responsible for the distribution, accountability and reporting of commodities utilized during emergency operations.
- B. Definitions.
1. Disasters.
 - a. Natural disasters such as typhoons, storms, floods, high water, wind-driven water, tidal waves, earthquakes, drought and fires; and
 - b. Man-made disasters such as explosions, fires, riots, nuclear and chemical contamination.
 2. Other emergencies. These include special situations of distress in which food assistance needs warrant group feeding. For example, defense related crisis relocation.
 3. Disaster victims. Disaster victims include those persons who because of acts of God or man-made disasters and emergencies, are in need of emergency food assistance.
 4. Disaster relief agency. Disaster relief agencies include all recognized institutions or associations of persons engaged in charitable activities.
- C. Coordination. The State agency director or his designee shall coordinate disaster operations with the Governor's Chief Administrative Officer, the CNMI Disaster Control Officer, the CNMI Food Service Office and corresponding individuals in the Federal Emergency Management Agency, Civil Defense, the American Red Cross and other disaster relief agencies.
1. The State agency shall ensure that it is on the CNMI Disaster Control Office's notification list so it can be alerted to any potential disaster as quickly as possible.
 2. The State agency shall request those disaster relief agencies to provide information on disaster eligibility standards to potentially eligible households in a disaster and to refer these households to the NAP disaster assistance.
 3. If the disaster is limited in nature (not meeting the criteria to be designated a disaster by FNS), the State agency shall request disaster relief agencies which are providing assistance to affected households to provide information on and refer potentially eligible households to the ongoing NAP.

D. Disaster Declaration Procedures.

FNS shall determine the need for temporary food assistance for households which are victims of a disaster when the conditions are severe enough and affected households in such a way that the regular NAP cannot respond to their temporary food needs. Emergency food assistance is appropriate when, for example, a quick response is needed to meet a sudden heavy demand at the State agency which the regular NAP is not capable of timely processing. FNS shall authorize the area for emergency food assistance as a result of a disaster. This area may or may not have boundaries congruent with areas designated as a major disaster by the US President. The State agency shall obtain from FNS a formal disaster declaration in writing.

E. Disaster Designation. Conditions which may require a disaster designation by FNS include, but are not limited to:

1. Damage has been caused of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act of 1974.
2. Federal emergency assistance is needed to supplement CNMI efforts to save lives and protect property, public health and safety.
3. Alternative certification procedures, and/or physical facilities are needed on a mass scale to supplement or replace normal certification procedures, and/or physical facilities.
4. Additional certification staff are needed to timely handle the volume of applicants.

F. Application To Conduct Emergency Operations.

1. When all or part of the CNMI has been struck by a disaster and the ongoing NAP cannot respond to the temporary food needs of affected households, the State agency shall apply to FNS for authorization to implement emergency food assistance procedures. This application shall be made as quickly as possible by telephone or other means to the FNS Western Regional Office as soon as the need has been established. However, the written application with substantiating facts will be submitted to WRO as soon after the informal application as possible.

2. The written application must include the following:
 - a. The date the disaster began.
 - b. The CNMI islands in need of emergency food assistance.
 - c. A determination with substantiation that households residing within the disaster area are in need of emergency food assistance.
 - d. A determination with substantiation that the food needs of these households cannot be met by the ongoing NAP.
 - e. An estimate of the numbers of eligible households in need of assistance.
 - f. An assessment of the availability and accessibility of NAP certification sites in the disaster area.
 - g. A determination that temporary certification arrangements are or are not necessary and a description of any such proposed arrangement.
 - h. An assessment of the availability and accessibility of authorized food outlets in the affected area.
 - i. An estimate of the period of emergency food assistance need of the affected households and an estimate of the period needed for processing disaster applications from affected households. The State agency shall recommend emergency food assistance period of either one half month or one month, whichever is appropriate to meet the needs of the affected households. The application processing period shall not exceed the anticipated emergency food assistance period.
 - j. Identification of disaster relief agency(ies), if any, which will assist the State agency in administering emergency food assistance. The disaster relief agency designated by the State agency to perform specified functions in connection with certification or distribution of emergency food assistance must be authorized by FNS. The State agency shall also specify the island(s) in which such functions will be performed by the disaster relief agency.
 - k. Indication of type of emergency food distribution (household distribution, group feeding, or both) and the quantity and types of food needed. This information shall be obtained from the CNMI Food Service Office.

1. Approval. The State agency shall use the CNMI emergency food assistance procedures set out in Exhibit D, specifying the areas where such procedures are authorized, only after the application for disaster designation is approved. This authorization will be made by telephone if possible, followed by written confirmation.
 2. Denial. If the application is denied, FNS shall notify the State agency immediately by telephone if possible, followed by written confirmation. The State agency shall request a review of the decision if additional information is available to substantiate the request for authorization.
 3. Period of authorization. FNS shall specify the period of emergency food assistance need and the corresponding anticipated food distribution period. This period shall be for either a half month or one month. Such an extension may be authorized if FNS determines that emergency food assistance is necessary beyond the original period.
- H. Reporting. Within thirty days following termination of the emergency food assistance period, the State agency shall provide a summary report to the Western Regional Office FNS using Form FNS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief.
- I. Monitoring. The State agency shall implement and maintain controls over the certification of disaster victims for emergency assistance while disaster procedures are in effect.
- J. Post Audits.
1. The State agency shall conduct a post review of disaster certification activities by selecting and reviewing 5% of all cases certified for disaster assistance within sixty days after the end of the disaster assistance period.
 2. The State agency shall prepare and complete a report of findings based on the above review within ten working days after the completion of the review.
 3. The State agency shall formulate corrective actions responding to the report of findings within ten working days after the completion of the report of findings and implement those corrective actions to improve future disaster certification.

- K. Record Retention. The State agency shall retain all emergency food assistance records to include certification and food distribution records a minimum of three years from the date of origin.
- L. Household Disaster. The State agency shall provide replacement benefits to households affected by personal calamity outside the scope of disaster assistance which was covered above in this section.
1. Coupons destroyed after receipt. A household may request a replacement for that portion of its allotment, not to exceed one month's food stamp allotment, which it had received but which was destroyed in a household disaster such as fire or flood. To qualify for a replacement, the household shall report the destruction to the food stamp office within 10 days of the incident and sign a statement:
 - a. Attesting to the destruction of the household's food stamps;
 - b. Indicating the amount of food stamps destroyed; and
 - c. Stating that the household is aware of the penalties for intentional misrepresentation of the facts. The statement shall be retained in the casefile.
 2. Replacement of coupons. Replacement coupons, if warranted, shall be issued within 10 days of receipt of the request for replacement. Replacement of coupons reported as destroyed subsequent to receipt shall be made only once in a 6 month period. If in the previous 5 months the household has been issued a replacement for coupons reported as destroyed subsequent to receipt, then the request for replacement shall be denied.
 3. ATP's stolen or destroyed after receipt. A household may request replacement for an ATP which it had received but which was subsequently destroyed in a household disaster such as a fire or flood, or stolen. To qualify for a replacement the household shall report the theft or destruction within 10 days of the incident and sign a statement:
 - a. Attesting to the theft or destruction of the household's ATP;
 - b. Stating that the original ATP will be returned to the State agency if recovered by the household; and
 - c. Stating that the household is aware of the penalties for intentional misrepresentation of the facts. The statement shall be retained in the casefile.

4. Replacement of ATP's. Replacement ATP's, if warranted, shall be issued within 10 days of receipt of the request for replacement. Replacement of ATP reported as stolen or destroyed subsequent to receipt shall be made only once in a 6 month period. If in the previous 5 months the household has been issued a replacement for an ATP reported as stolen or destroyed subsequent to receipt, then the request for replacement shall be denied. ATP's stolen or destroyed after the valid period of the ATP shall not be replaced.
5. Lost or misplaced ATP's, coupons. The State agency shall not issue a replacement ATP or coupons to a household which reports that its ATP or coupons were lost or misplaced after being received.
6. Replacement of food destroyed in a disaster. In cases where food purchased with food stamps is destroyed in a disaster affecting a participating household, the State agency may replace the actual value of loss not to exceed one month's food allotment, if the loss is reported within 10 days and the household's disaster is verified within 10 days.
7. Prohibition of duplicate benefits. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits, the household shall not receive both the disaster allotment and a replacement allotment under this provision.

XII. BENEFIT REDUCTION PROCEDURES

- A. General Purpose. This section sets forth the procedures to be followed if unanticipated high program participation or other reasons make it necessary to reduce Program benefits in order not to exceed the authorized grant amount.
- B. Procedures. Should it be determined that a reduction in benefits is needed, the following procedure shall be used to effect the reduction:
1. Calculate the total estimated amount of benefits to be used for the month using the established certification process.
 2. Determine the amount of funds available for distribution. This is the total grant amount pro-rated monthly less authorized administrative expenses.
 3. Determine the percentage of total available funds for distribution in relation to the total funds required by certification.
 4. Apply the calculated percentage to each case in order to distribute the pro-rata share.
 5. Round cents down to the nearest dollar to determine benefits to be issued to the household. All households shall be guaranteed a minimum benefit of \$10 a month.
- C. Notification of Eligible Households. The State agency shall notify households of reductions through mass media at least ten days before the reductions take effect. Reductions shall be made effective on the first day of the month. Individual notices of adverse action shall not be provided to households.
- D. Restoration of Benefits. Households whose allotments are reduced as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a future date. The only exception is if it is determined that the household's benefits were reduced by more than the appropriate amount computed by following the procedures above.
- E. Effects of Reduction on Certification.
1. Determinations of the eligibility of applicant households shall not be affected by a reduction in benefits. The State agency shall accept and process applications in accordance with the provisions of Section VI. If an applicant is found eligible, the amount of benefits shall be computed using the calculated percentage for reduction.

2. The reduction shall also have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which benefits were reduced shall be recertified in accordance with the provisions of Section VI. Households found eligible to participate during the month in which benefits were reduced shall be assigned certification periods in accordance with the provisions of Section VI.

Agency Hearing Procedures.

- I. SCOPE. These rules govern the proceedings before the Hearing Officer under the NAP Manual of Operation, Regulations, or Memorandum of Understanding.
- II. CONSTRUCTION OF RULES. The rules shall be liberally construed to effectuate the purposes of the program and to secure the just and speedy determination of every proceeding.
- III. DEFINITIONS. As used in these rules, except as otherwise required by the context:

- Program. The term "Program" shall mean the Nutrition Assistance Program.
- Director. The term "Director" shall mean the Director of the Department of Community & Cultural Affairs (DCCA).
- Party. The term "Party" shall mean any person, household or organization filing a complaint, petition, request or application under these rules and any person, organization named as a party in the complaint, request or petition filed under these rules.
- Hearing Officer. The term "Hearing Officer" shall mean any person designated and authorized by the Director pursuant to the Manual of Operation to hold a hearing for the purpose of taking evidence and to make findings of facts, conclusions of law and recommendations to the Director upon matters involved in a proceeding before the Director.
- Administrator. The term "Administrator" shall mean the Administrator of the CNMI Nutrition Assistance Program.
- State Agency. The term "State Agency" shall mean the DCCA and as appropriate, the Nutrition Assistance Program Division within DCCA.

IV. APPEARANCE AND PRACTICE BEFORE THE HEARING OFFICER.A. Appearance Before the Hearing Officer.

A person may appear in his own behalf; a household or an organization may be represented by a person or persons duly designated and authorized by the household or an organization; and the program may be represented by the Administrator or person duly designated and authorized by the Administrator.

F. Representation.

In any proceeding under these rules, any person, household, organization or the program may be represented by counsel or any other authorized person.

C. Personal Appearance Constitutes Representation.

When a person acting in a representative capacity appears in person or signs a paper in practice before the Hearing Officer, his personal appearance or signature shall constitute a representation to the Hearing Officer that under the provisions of these rules and the law he is authorized and qualified to represent the particular person on whose behalf he acts. The Hearing Officer may at any time require any person transacting business before the Hearing Officer in a representative capacity to show his authority and qualifications to act in such capacity.

V. PROCEEDING BEFORE THE STATE AGENCY.

A. Filing of Documents.

1. Place of filing documents. All complaints, pleadings, submittals, petitions, reports, exceptions, briefs, memoranda and other papers required to be filed with the State agency in any proceeding shall be filed with the Hearing Officer.
2. Service of documents. Such papers may be sent by mail or hand carried to the Director's Office in Saipan, CM, within the time limit, if any, for such filing.
3. Date of filing documents. The date on which the papers are actually received by the State agency shall be deemed to be the date of filing.
4. Signing of documents. All papers must be signed in ink by the party signing the same or his duly authorized representative. The signature of the person signing the document constitutes a certification that he has read the document; that to the best of his knowledge, information and belief every statement contained in the instrument is true and correct and no such statements are misleading; and that it is not interposed for delay.

B. Investigation by the State Agency.

1. Initiation of investigation. The State agency may at any time institute investigations on its own motion particularly in cases of potential fraud.
2. Notice of investigation. The Director shall serve its notice of investigation upon the person or organization being investigated or having a direct interest or concern in the matter under investigation and shall designate the time and place for the investigation.

C. Record of Proceedings.

1. Official record. The State agency shall make the only official recording of such proceeding.
2. Copies shall be provided. Copies of the official recording shall be provided by the State agency upon request.

D. Hearings.

1. Who shall conduct. The hearing for the purpose of taking evidence shall be conducted by the Director's designated Hearing Officer.
2. Nature of hearing. The hearing shall be open to the public, unless requested by the parties to the proceedings or otherwise provided by the rules or ordered, for good cause, by the Director or Hearing Officer.
3. Duty of Hearing Officer. It shall be the duty of the Hearing Officer to inquire fully into all matters at issue to obtain a full and complete record and issue a ruling disposing of the matter before him.
4. Powers of Hearing Officer. The Hearing Officer shall have the authority, subject to the rules, to:
 - a. Give notice concerning the hearing.
 - b. Administer oaths or affirmations.
 - c. Take or cause depositions to be taken whenever the ends of justice would be served thereby.
 - d. Rule upon offers of proof and receive relevant evidence.
 - e. Call, examine and cross-examine witnesses and introduce into the record documentary or other evidence.
 - f. Limit lines of questioning or testimony which are repetitive or irrelevant.
 - g. Hold conferences for the settlement or simplification of the issues.
 - h. Dispose of procedural requests, motions or similar matters which shall be made part of the record of the proceedings, and issue a written ruling or order disposing of the matter.

- i. Request the parties at anytime during the hearing to state their respective positions concerning any issue in the proceedings or theory in support thereof.
 - j. Dispose of any other matter that normally and properly arises in the course of any proceedings, and to take any other action authorized by the rules or by any other statute.
5. Termination of Hearing Officer's authority. The Hearing Officer's authority in each case will terminate either upon the submission of his findings, conclusions and recommendations to the Director, or upon the certification of the record in the proceeding to the Director, or when he shall have withdrawn from the proceeding upon considering himself disqualified, or when he has been withdrawn by the Director for good cause shown.
 6. Disqualification of Hearing Officer. Upon approval of the Director, a Hearing Officer assigned by the Director to hold a hearing and to make recommendations shall withdraw from a proceeding at any time he deems himself disqualified, or he may be withdrawn by the Director, for good cause found, after timely affidavits alleging personal bias or other disqualifications have been filed and the matter has been heard by the Director.
 7. Substitution. A Hearing Officer may be substituted at any time for the Hearing Officer previously presiding.
 8. Unavailability of Hearing Officer. In the event the Hearing Officer designated to conduct the hearing becomes unavailable, the Director may designate another Hearing Officer for the purpose of further hearing or issuance of a report and a recommendation on the record as made, or both.
 9. Motions.
 - a. During hearing. All motions made during a hearing shall be made a part of the record of the proceedings.
 - b. Before or after hearing.
 - i. Form; Contents. All motions other than those made during a hearing shall be made in writing to the Director or Hearing Officer, and shall briefly state the relief sought and shall be accompanied by affidavits setting forth the grounds upon which they are based.

- ii. Service of motions. The moving party shall serve a copy of all motion papers on all other parties and shall, within three (3) working days thereafter, file with the State agency the original with proof of service.
 - iii. Answering affidavits. Answering affidavits, if any, shall be served on all parties and the original thereof, together with proof of service, shall be filed with the State agency within five (5) working days after service of the motion papers.
 - iv. Ruling. The Director may rule upon motions filed with the Director or it may refer the ruling of the motions to the Hearing Officer.
 - v. Argument; Testimony. The Hearing Officer may decide to hear oral argument or testimony thereon, in which case the Director shall notify the parties of such fact and of the time and place of such argument or for the taking of such testimony.
 - vi. Review. Unless expressly authorized by the Director, rulings of a Hearing Officer on motions shall not be appealed directly to the Director, but shall be considered by the Director when it considers such exceptions to the report and recommendations of the Hearing Officer as may be filed.
10. Witness. All witnesses shall appear in person and shall be examined under oath or affirmation.
 11. Depositions.
 - a. Written application. Upon application and for good cause shown, the Director or Hearing Officer may permit the parties to take deposition upon oral examination or written interrogatories in the manner consistent with the Commonwealth Trial Court's Rules of Civil Procedure.
 - b. Filing of copy. A copy of the deposition or interrogatories shall be filed with the Director or Hearing Officer.
 12. Rules of evidence.
 - a. Technical rules. In any proceeding, the Director or Hearing Officer shall be guided by, but need not conform to technical rules of evidence.

- b. Irrelevant, immaterial, repetitious evidence. All irrelevant, immaterial or unduly repetitious evidence shall be excluded.
 - c. Documentary evidence. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request the parties shall be given an opportunity to compare the copy with the original.
 - d. Cross-examination. Each party shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts and shall have the right to submit rebuttal evidence.
12. Contemptuous conduct.
- a. Grounds for exclusion. Contemptuous conduct at any hearing shall be grounds for exclusion from the hearing.
 - b. Refusal of witness to answer. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper may, in the discretion of the Director or Hearing Officer, be grounds for striking all testimony previously given by such witness on related matters.
13. Retention of documents by the state agency. All documents filed with or presented to the Hearing Officer shall be retained in the files of the State agency.
14. Substitution of parties. Upon motion and for good cause shown, the State agency may order substitution of parties, except that in the case of death of a party, substitution may be ordered without the filing of a motion.
15. Consolidation of proceedings. The State agency, upon its own initiative or upon motion, may consolidate for hearing or for other purposes, or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues if it finds that such consolidation of proceedings or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.
16. Stipulation of fact.
- a. Agreed statement of facts. In any proceeding, an agreed statement of facts may be introduced into the record with respect to any issue.

- b. Acceptance of agreed statement of facts. An agreed statement of facts may be accepted by the Director or Hearing Officer without a hearing.
 - c. Waiver of hearing. The parties to an agreed statement of facts may agree to a waiver of a hearing.
17. Burden of proof. The charging party, in asserting a violation of the Manual of Operation, the NAP Rules and Regulations, the Memorandum of Understanding, or other applicable statutes, shall have the burden of proving the allegations by a preponderance of the evidence.
18. Argument; briefs; proposed findings.
- a. Oral argument. Any party shall be entitled, upon request made before the close of the hearing, to present oral argument.
 - b. Briefs; proposed findings. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of facts and conclusions of law, or both, with the Hearing Officer within such time as may be fixed by the Hearing Officer, but not in excess of ten (10) working days from the close of the hearing.
 - c. Direction of argument; briefs; proposed findings. The Hearing Officer may direct oral argument or the filing of briefs or proposed findings of facts, conclusions of law, or both, when he deems the submission of briefs or proposed findings, or both, is warranted by the nature of the proceeding or the particular issues therein.
19. Decision of Hearing Officer.
- a. Submission of recommendations. The Hearing Officer shall prepare a report setting forth his findings of facts, conclusions, and the reasons therefor, and a tentative or proposed order and submit the same to the Director. The Hearing Officer shall have five (5) workdays from the final adjournment of the hearing to issue a tentative or proposed order. Such tentative or proposed order shall be in force and effect until modified, reversed, or remanded by the Director who shall have five (5) workdays to review the order. Unless modified, overruled, or remanded, the order shall become final at the expiration of the five-day review period.
 - b. Service of Hearing Officer's order. The Hearing Officer shall cause a copy of his order to be served upon all parties to the proceedings within five days of the date the Hearing Officer's order becomes final.

20. Decisions and recommendations of the Director.

- a. Service. All opinions or recommendations entered by the Director in a proceeding shall be served upon the parties or persons participating in the proceeding by regular mail or personal delivery by the Director and may be released for general publication.
- b. Inspections; copies. Copies of such published material shall be available for public inspection in the Office of the Director.

Disaster Procedures.

I. DISASTER DESIGNATION

- A. Assessing Geographical Limits. The State agency shall coordinate with the CNMI Disaster Control Office in identifying areas damaged and affected by the disaster as quickly as possible.
- B. Governor's Concurrence. The State agency shall then request concurrence from the Governor's Office with regard to the CNMI island(s) designated as a disaster area.
- C. Request to FNS. Upon obtaining the Governor's concurrence as to the islands affected by the disaster, the State agency shall prepare the request for FNS approval with assistance from the CNMI Food Service Office, which shall be conveyed by telephone to WRO and later confirmed in writing. The request shall cite the following information:
 1. Household distribution.
 - a. The type of disaster or emergency situation;
 - b. The number of households affected;
 - c. The anticipated distribution period;
 - d. The method of distribution available; and
 - e. The quantity and types of foods needed for distribution. The State agency shall work closely with the CNMI Food Service Office in preparing this portion of the application.
 2. Group feeding.
 - a. The type of situation requiring emergency group feeding;
 - b. The number of persons requiring meals;
 - c. The anticipated distribution period;
 - d. The quantity and types of food needed for group feeding;
 - e. The method of feeding (organization and facility); and
 - f. The disaster relief agency involved.

- D. FNS Approval or Denial. If FNS denies the request, the State agency shall resubmit the request if it has additional information to substantiate the request and obtain a more favorable decision. If the request for disaster designation is approved by FNS, the State agency shall apply the disaster certification procedures described below.

II. DISASTER CERTIFICATION PROCEDURES

- A. State Agency Instructions to Certification Staff. The State agency shall instruct its certification staff of the following:
1. Period of emergency food assistance when disaster certification procedures will be in effect. This period shall be for either a half month or one month. The authorization for an initial disaster assistance period shall not exceed one month.
 2. Period for processing disaster applications. This period may be less than the disaster assistance period but it may not exceed the disaster assistance period. The State agency may apply for an extension of either or both of these periods.
 3. Disaster relief agency. The State agency will identify the FNS authorized disaster relief agency(ies) and specify the functions which it will perform in connection with certification or food distribution.
- B. Liaison. If the affected area is declared a major disaster by the President, the State agency shall cooperate with the Federal Coordinating Officer (FCO) of the Federal Emergency Management Agency (FEMA) and the CNMI Disaster Control Officer. Initial planning shall include the location of certification services at any FEMA one-step centers that are established.
- C. Eligibility for Temporary Food Assistance.
1. Gross income limits. A household with an annual gross income equal to or more than four times the NAP gross income eligibility standard for households its size will not be eligible for temporary food assistance. The gross annual income will be based on either its past or current tax year.
 2. Shared living accommodations. Because of the effect a disaster may have on living accommodations, it is common that more than one food stamp household share the same shelter. Applicant groups or individuals sharing common living quarters but applying separately shall be certified as separate households under these procedures when:
 - a. The household resided at the time of the disaster within the geographical limits of the area authorized for disaster procedures. A household residing in a shelter which is providing all its meals will not be eligible for temporary food assistance.

- b. The household is responsible for the purchasing of food to prepare meals for home consumption and is not being provided all of its meals from a disaster relief organization or a shelter.
3. Income eligibility. A household whose monthly income after a reduction, termination or diversion of income as a result of the disaster is less than or equal to the monthly gross income limit for the household's size shall meet the income eligibility requirement of the program. Reduction in or termination of income means an interruption of earnings or other income as a direct result of the disaster. For example, the disaster has caused the place of employment to close, a reduction of work days, an inaccessibility to work location, or a loss of or destruction of paychecks or other income negotiable instruments. Diversion of income means money spent for unusual expenses incurred as a result of a disaster, such as money spent to replace or repair property damaged in a disaster or for medical or funeral expenses or temporary housing expenses.
4. Resource eligibility. A household whose accessible liquid resources is less than or equal to the NAP resource limit for the household's size and circumstance shall meet the resource eligibility requirement of the program. Examples of inaccessible liquid resources include, but are not limited to, savings accounts in financial institutions which have been closed due to disaster conditions or other liquid resources that the household is unable to reach.
5. Non-financial eligibility requirements. Non-financial eligibility requirements are suspended during the period when disaster procedures are in effect.

D. Application Processing.

1. Certifying agency. The State agency shall determine the eligibility of each applicant for emergency food assistance during a disaster. NAP certification personnel as well as volunteers and other State agency personnel designated by the State agency may determine eligibility of affected households. A disaster relief agency may determine the eligibility of applicant households. Any such disaster relief agency must be designated by the State agency and approved by FNS.
2. General standards.
 - a. The application process includes completing and filing a short form self-declaration application form, being interviewed, and providing limited verification as specified in paragraph 7 below.

b. The State agency shall act promptly on applications. The State agency shall provide eligible households that complete the emergency assistance application process an opportunity to participate the same day unless restrictions such as curfews make it impossible for the State agency to meet this standard. In those situations, households determined eligible shall be provided an opportunity to participate no later than the close of the business of the day following the date the application was filed.

3. Application form for emergency food assistance.
 - a. The application for emergency food assistance shall include:
 - i. The name of the head of the household and the members of the household and the permanent and temporary address of the household.
 - ii. The total gross income of all household members received or anticipated to be received during the period which coincides with the period authorized by FNS for emergency food assistance and which is or will be accessible to the household.
 - iii. The total actual or estimated disaster related expenses, provided the expense occurs or is expected to occur during the period authorized by FNS for emergency food assistance.
 - iv. The total amount of liquid resources accessible to the household at the time of application.
 - v. A description in understandable terms and in prominent and boldface lettering of the civil and criminal provisions and penalties for violations, and informing the household of post disaster reviews which will determine the correctness of disaster certifications.
 - vi. The signature of a responsible member of the household or authorized representative attesting to the fact that the household does reside in the disaster area, the household is in need of immediate food assistance, the information on the application form is correct, and that this constitutes a general release of information authorization for post disaster reviews. An authorized representative shall be designated in writing by the head of household, spouse, or another responsible member of the household to act on behalf of the household in making application for emergency food assistance.

7. Verification.

- a. To expedite the certification for emergency food assistance, the State agency shall waive the verification required by the ongoing NAP and use the procedures specified herein. The household's identity and residence at the time of the disaster shall be verified. Examples of acceptable verification which the household may provide include, but are not limited to, a driver's license, work or school I.D., voter registration card or birth certificate. In addition, residence in the disaster area may be verified by rent receipts and utility bills. The State agency recognizes that some applicants may have lost all of their personal papers and it may be necessary to check sources such as telephone books or city directories to determine residence.
- b. The household has the primary responsibility to provide documentary evidence to verify its identity and residency. The State agency may use a collateral contact as a source of verification only if the household identity and residency cannot be verified in accordance with (a) above. Benefits, however, shall not be delayed beyond the delivery standards described in this section if the required verification cannot be obtained in a timely manner.

III. DETERMINING HOUSEHOLD ELIGIBILITY

- A. Accounting Period. The eligibility of households submitting an application for emergency food assistance shall be based on household circumstances for a period coinciding with the length of time FNS has authorized as the food distribution period to meet the emergency food needs of affected households. For example, if FNS authorizes the period beginning on the 5th of February and ending the 5th of March for disaster food distribution and a household files an application for emergency food assistance on the 10th of February, the household's eligibility shall be determined by considering the household's circumstances from the 5th of February to the 5th of March.
- B. Determining Resources. Households applying for temporary emergency assistance shall have their eligibility determined by considering only liquid resources which are accessible to the household at the time of application.

C. Determining Income.

1. Anticipating income. The State agency shall take into account the actual income received or anticipated to be received by the household during the disaster assistance period authorized by FNS. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. Household income shall mean all accessible income from whatever source as specified in the ongoing NAP.
2. Diversion of income. The State agency shall also allow households a deduction for diversion of income for disaster-caused expenses, provided the household's loss or diversion of income occurs or is expected to occur during the period authorized by FNS for emergency food assistance. A diversion of income is money spent or anticipated to be spent by the household for disaster-related expenses incurred as a result of the disaster. These type of expenses are those essential to the household's immediate welfare. The amount allowed must be paid or anticipated to be paid by the household during the authorized period. Unusual expenses resulting from a disaster shall include:
 - a. The cost of replacing or repairing household goods, clothing and food which has been damaged or destroyed;
 - b. The cost of replacing or repairing property which is essential to the employment or self-employment of a household member;
 - c. The cost of temporary shelter when a household is forced to leave its normal residence as a result of a natural disaster; and
 - d. The cost of medical or funeral expenses for an individual who was a household member at the time the disaster occurred.
3. Reimbursements. Reimbursements from a person or organization outside of the household to cover those expenses in Paragraph 2 above shall be excluded as income and counted as resources in the calendar month received unless specifically excluded from consideration as a resource by other Federal laws.
4. Benefits. Households who meet the eligibility criteria shall be provided one month or one half month of the food distribution guide rate for its household size, depending on the period authorized by FNS for emergency food assistance and food items available. The CNMI Food Service Office shall be directly responsible for the distribution, accountability and reporting of commodities utilized during emergency operations.

D. Certification Period.

1. The State agency shall establish a definite period of time within which households shall be eligible to receive emergency food assistance. This period shall conform to the period authorized by FNS for emergency food assistance, either a half or full month. For example, if FNS declares the disaster assistance period to be from the 2nd of November to the 16th of November and a household applies for temporary emergency assistance on the 10th of November, the household's certification period shall begin November 2nd and end November 16th. Emergency food assistance would be issued for a half-month period.
2. No emergency foods shall be authorized or issued after the expiration of the certification period for which such emergency food assistance was authorized by FNS. However, if an authorization period is extended by FNS beyond the original designation, certified households who have already received emergency foods shall be provided additional foods corresponding to the extended period if they still meet the disaster eligibility criteria. A household applying for recertification must again submit an application and be interviewed. At recertification, the State agency shall follow the same verification procedures specified in Paragraph C7 above. If an extension is granted, the State agency shall issue a press release notifying households that the emergency food assistance period has been extended. The press release shall advise households of where they may apply for additional emergency foods and the date by which a household must file an application to receive extended benefits.

E. Certification Notices.

1. The written notification requirements of the ongoing NAP shall be waived. The State agency shall orally advise applicant households of the disposition of their application. If an application is approved, the household shall be advised of their food distribution guide rate and the period the food benefits are intended to cover. If the application is denied, the State agency shall explain the basis for the denial.
2. The State agency shall issue eligible households an identification (ID) card marked with the wording "disaster" as proof of eligibility. The State agency shall issue a new "disaster" card during each separate occurrence of a disaster.

IV. OTHER RELATED ACTIVITIES

- A. Transition to the Ongoing NAP. Households provided emergency food assistance and which are subsequently determined eligible for the ongoing NAP shall have their NAP benefits adjusted. The State agency shall calculate the benefits to be issued under the ongoing NAP as follows:

1. ~~The number of days which overlap the disaster certification~~ period and the certification period for the ongoing NAP shall be determined.
2. The number of days determined in Number 1 above shall be subtracted from the number of days in the month in which the disaster certification period and the regular certification period overlap.
3. The amount of the coupon allotment to be issued under the ongoing NAP program shall be pro-rated over the number of days in the month of overlap to determine daily benefits.
4. The daily benefits determined in Number 3 above shall be multiplied by the number of days determined in Number 2 above. This amount shall be the NAP benefits under the ongoing NAP during the month of overlap.
5. For example, a household is certified for emergency food assistance from April 26 through May 10. The same household is eligible for the ongoing NAP in May. May has 31 days. There are 10 days of overlap between emergency food assistance period and ongoing NAP certification period. The NAP coupon benefits for May, the month of overlap, for the household shall be computed as follows:
 - a. Amount of monthly NAP coupon benefits to the household divided by 31 (days in May).
 - b. Daily benefit determined in Step a. above multiplied by 21 (31 - 10 = 21 days).
 - c. The product derived in Step b. above shall be the household's regular NAP benefits for May.

B. Current NAP Participants.

1. Households currently certified in the ongoing NAP shall be automatically eligible for emergency food assistance if they live within the designated disaster area but they shall be required to complete a disaster application form for record-keeping purposes.
2. Household certified under the ongoing NAP who report changes as required during the application process for emergency food assistance shall be referred to the ongoing NAP.

C. Controls to Minimize Duplicate Participation During Disasters. The State agency shall incorporate the same system of identifying duplicate participants in the ongoing NAP in its disaster certification process.

D. Reporting.

1. The State agency shall report on Form FNS 292, Report of Commodity Distribution for Disaster Relief the total number of persons certified for emergency food assistance and the CNMI Food Service Office shall report on Form FNS 155, the amounts of commodities distributed for disaster relief. Both reports shall be submitted by the State agency to WRO as soon as possible but no later than the 45th day following the designated disaster period.
2. In addition, the Federal Coordinating Officer of the Federal Emergency Management Agency shall be provided a report, on an as needed basis, which includes the estimated emergency food assistance cost, number of applications received and number of applications approved.
3. Additional information on emergency food assistance and participation shall be provided to WRO upon request.

E. Monitoring and Post Audits.

1. The State agency shall implement and maintain proper controls over the certification of disaster victims for emergency food assistance while disaster operations are in effect.
 - a. Household information shall be maintained in an orderly fashion clearly documenting the certification and food distribution actions by the State agency and the CNMI Food Service Office.
 - b. State agency management shall closely monitor the disaster program, identifying problem areas for immediate corrective action. These include, but are not limited to, problems with crowd control, work flow, physical facilities, media information, and prevention of duplicate benefits.
2. The State agency shall conduct a post review of disaster certification activities, selecting and reviewing ten percent of positive case actions and all negative cases.
 - a. The universe for active cases shall include all households who received emergency food assistance. The review of active cases shall include a case record review, an interview with the participant, verification of information and a determination of eligibility for disaster assistance.
 - b. Negative cases shall include all households whose application for disaster assistance was denied. The review shall include a case record review; a field investigation if required; and an analysis of errors.

c. ~~The State agency~~'s Evaluation Unit shall conduct the above described reviews.

3. The State agency shall utilize the case review information to formulate and implement corrective actions to improve disaster certification procedures. The State agency shall establish claims against any household that received more emergency food assistance or ongoing NAP benefits during a month of overlap than it was entitled to receive.

DISTRIBUTION GUIDE RATE

<u>ITEM</u>	<u>COMMODITIES *</u>	<u>PER PERSON MONTHLY</u>
1.	Rice	10.0 lbs.
2.	Flour	2.0 lbs.
3.	Macaroni	1.0 lb.
4.	Milk, Evap.	8.4 lbs. (10 cans)
5.	Butter	1.0 lb.
6.	Cheese	1.0 lb.
7.	Shortening	1.0 lb.
8.	Corn Syrup	1.0 lb (1 bottle)
9.	Peanut Butter	1.0 lb.
10.	Egg Mix	1.1 lb. (3 pkgs.)
11.	Meat	3.6 lbs. (2 cans)
12.	Vegetables	2.0 lbs. (2 cans)
13.	Fruits	3.6 lbs. (2 cans)
14.	Juice	6.2 lbs. (2 cans)

* AS AVAILABLE

Filed this 12th day of
June 19 84.
Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands
[Signature]

PUBLIC NOTICE

ADOPTION OF DEPARTMENT OF
PUBLIC SAFETY PERSONNEL RULES AND REGULATIONS

The Department of Public Safety of the Commonwealth of the Northern Mariana Islands, in accordance with ICMC Division 2, Chapter 10 §2507 shall adopt Rules and Regulations regarding activities over which the Department has jurisdiction.

Notice is hereby given that the Department of Public Safety adopted such Rules and Regulations as published, without change, on Commonwealth Register Vol. 6, No. #5 on May 15, 1984.

These adopted regulations are available for public inspections at the Office of the Chief of Police, or Director of Public Safety office and copies may be obtained from the Attorney General's office pursuant to law.

[Signature]

Felix B. Cabrera
Director of Public Safety

Date: 6/12/84

Filed this 12th day of

June 19 84.

NUTISIAN PUPBLIKU


Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

MA'ADOPTAN AREKLAMENTO SIHA
PARA I EMPLHAON I DIPATTAMENTON PULISIA

I Dipattamenton Pulisia gi Notte Marianas, sigun gi dibision i LCMC 2, kapitulu 10 numiru 2507 u adopta areklo osea areklamento pot aktebidat siha ni ninana'i i dipattamento aturidat para u pula' osino u applika i lai.

Sigun gi nutisia ni malaknos na i Dipattamenton Pulisia ha adopta areklo osea areklamento siha taimanau ha' i mapupblika-ña sin hafa na tinilaika gi Commonwealth Register Lepblo 6, numiru 5 gi Mayu dia 15, 1984.

Este siha i manma'adopta na areklamento mana'guaguaha pot para u ma'ina ni pupbliku kosaki u fanmamatinas rikumendasion guatu gi ofisinan i Ma'gas Pulisia pat i Direktot i Pulisia yan siña ha' lakkue' mañule' hao kopia gi ofisinan Abugadu sigun gi ginaggagao gi lai.


Felix B. Cabrera
Direktot Pulisia

Fecha: 6/12/84