

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



**COMMONWEALTH REGISTER
VOLUME 27
NUMBER 08**

September 22, 2005

COMMONWEALTH REGISTER

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NUMBER 08

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Division of Environmental Quality..... 24994



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 01-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
DECLARED READINESS for **TROPICAL STORM CONDITION III** for the islands
of **SAIPAN** and **TINIAN** effective **02:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the
Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts
into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it
is directed that operational portions of the CNMI Emergency Operations Plan be executed,
effective **02:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, and **TINIAN** so
long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta", written over a circular stamp or seal.

JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 001

DATE: August 30, 2005
TIME: 2:30 P.M.

HERE IS THE LATEST INFORMATION ON TYPHOON NABI 14W AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.3 DEGREES NORTH AND LONGITUDE 149.8 DEGREES EAST, OR ABOUT 365 MILES SOUTHEAST OF AGRIHAN, 330 MILES SOUTHEAST OF PAGAN, 270 MILES EAST OF SAIPAN, 280 MILES EAST OF TINIAN, AND 320 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST-NORTHWEST AT 13-MILES PER HOUR. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 12 TO 24 HOURS.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON LATER TODAY.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS DECLARED TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND TROPICAL STORM WARNING FOR THE ISLAND OF ROTA AS OF 2:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, AND SAIPAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 02-2005

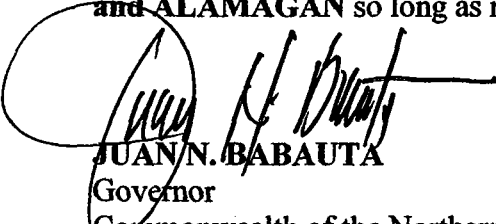
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** effective **05:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **05:30 P.M., AUGUST 30, 2005**, on the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 002

DATE: August 30, 2005
TIME: 5:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 4:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 151 DEGREES NORTH AND LONGITUDE 149.1 DEGREES EAST, OR ABOUT 340 MILES SOUTHEAST OF AGRIHAN, 300 MILES SOUTHEAST OF PAGAN, 280 MILES SOUTHEAST OF ALAMAGAN, 225 MILES EAST OF SAIPAN, AND 230 MILES EAST OF TINIAN, AND 370 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS. TROPICAL STORM NABI 14W WILL MAINTAIN ITS CURRENT SPEED WITH A GRADUAL TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON TONIGHT. TROPICAL STORM FORCE WINDS EXTEND OUTWARD UP TO 90 MILES.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND UPGRADED TROPICAL STORM WARNING TO TROPICAL STORM CONDITION III FOR THE ISLAND OF ROTA, AGRIHAN, PAGAN, AND ALAMAGAN AS OF 5:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, SAIPAN, ALAMAGAN, AGRIHAN, AND PAGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 03-2005

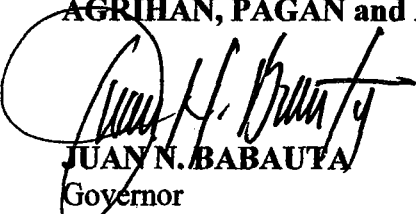
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
DECLARED READINESS and has **UPGRADED TROPICAL STORM CONDITION III**
to **TROPICAL STORM CONDITION II** for the islands of **SAIPAN** and **TINIAN**, and
maintains **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN,**
PAGAN and **ALAMAGAN** effective **08:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern
Mariana Islands' Emergency Operations Plan, the declaration automatically puts into
execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is
directed that operational portions of the CNMI Emergency Operations Plan be executed,
effective **08:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN, TINIAN, ROTA,**
AGRIHAN, PAGAN and **ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TROPICAL STORM NABI 14W
BULLETIN NO. 003

DATE: August 30, 2005
TIME: 8:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 7:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS LOCATED NEAR LATITUDE 15.1 DEGREES NORTH AND LONGITUDE 148.5 DEGREES EAST, OR ABOUT 315 MILES SOUTHEAST OF AGRIHAN, 275 MILES SOUTHEAST OF PAGAN, 250 MILES SOUTHEAST OF ALAMAGAN, 185 MILES EAST OF SAIPAN, 190 EAST OF TINIAN, AND 230 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS...TROPICAL STORM NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 65 MPH. NABI WILL CONTINUE TO STRENGTHEN....

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W. GOVERNOR JUAN N. BABAUTA HAS UPGRADED TROPICAL STORM CONDITION III TO TROPICAL STORM CONDITION II FOR THE ISLANDS OF SAIPAN AND TINIAN AND MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF ROTA, AGRIHAN, PAGAN AND ALAMAGAN AS OF 8:30 P.M. THIS EVENING ACCORDING TO NATIONAL WEATHER SERVICE, TIYAN, GUAM TROPICAL STORM NABI 14W WILL INTENSIFY INTO A TYPHOON BY EARLY TOMORROW MORNING.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN AND SAIPAN, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ROTA, ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 04-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **UPGRADED TROPICAL STORM CONDITION II** to **TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **TYPHOON CONDITION II** for the island of **ROTA**, and **TYPHOON CONDITION III** for the islands of **AGRIHAN**, **PAGAN** and **ALAMAGAN** effective **11:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **11:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, **TINIAN**, **ROTA**, **AGRIHAN**, **PAGAN** and **ALAMAGAN** so long as required by the emergency situation.

Handwritten signature of Juan N. Babauta in black ink.

JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 004

DATE: August 30, 2005
TIME: 11:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS UPGRADED TO TYPHOON NABI 14W AND WAS LOCATED NEAR LATITUDE 14.6 DEGREES NORTH AND LONGITUDE 147.9 DEGREES EAST, OR ABOUT 325 MILES SOUTH-SOUTHEAST OF AGRIHAN, 280 MILES SOUTH-SOUTHEAST OF PAGAN, 250 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 150 MILES EAST-SOUTHEAST OF SAIPAN, 155 EAST OF TINIAN, AND 185 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 14 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS... TYPHOON NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE **75 MPH**. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**. GOVERNOR JUAN N. BABAUTA HAS UPGRADED **TROPICAL STORM CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND **TYPHOON CONDITION II** FOR THE ISLAND OF ROTA, AND **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 11:30 P.M.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE **RESIDENTS OF TINIAN, SAIPAN AND ROTA**, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 05-2005

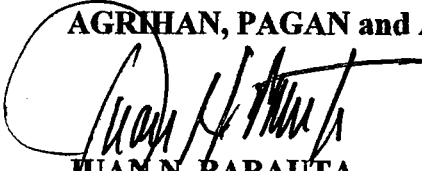
DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **UPGRADED TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the island of **ROTA**, and **MAINTAINS TYPHOON CONDITION III** for the islands of **AGRIHAN**, **PAGAN** and **ALAMAGAN** effective **02:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN** and **ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 005

DATE: August 31, 2005
TIME: 2:30 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 A.M. THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR LATITUDE 15.0 DEGREES NORTH AND LONGITUDE 147.5 DEGREES EAST, OR ABOUT 290 MILES SOUTH-SOUTHEAST OF AGRIHAN, 240 MILES SOUTH-SOUTHEAST OF PAGAN, 215 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 120 MILES EAST-SOUTHEAST OF SAIPAN, 125 MILES EAST OF TINIAN, AND 165 MILES EAST-NORTHEAST OF ROTA. **TYPHOON NABI 14W** IS MOVING WEST AT 14-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS, THIS GENERAL MOTION WILL CONTINUES WITH A SLIGHT TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 75 MPH. **NABI 14W** WILL COTNINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**, GOVERNOR **JUAN N. BABAUTA** HAS MAINTAIN **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND HAS UPGRADED **TYPHOON CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLAND OF ROTA, AND MAINTAIN **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN, AND ALAMAGAN AS OF 2:30 A.M. THIS MORNING.

GOVERNOR **JUAN N. BABAUTA** IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, AND ROTA TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIHAN SHOULD CONTINUE TO MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 06-2005

DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN, TINIAN and ROTA** and **UPGRADED TYPHOON CONDITION III** to **TYPHOON CONDITION II** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **10:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **10:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta".

JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 009

DATE: August 31, 2005
TIME: 10:30 A.M.

HERE IS THE LATEST INFORMATION ON TYPHOON NABI 14W AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 A.M. THIS MORNING, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.5 DEGREES NORTH AND LONGITUDE 146.3 DEGREES EAST, OR ABOUT 230 MILES SOUTH OF AGRIHAN, 185 MILES SOUTH OF PAGAN, 155 MILES SOUTH OF ALAMAGAN, 45 MILES NORTHEAST OF SAIPAN, 60 NORTHEAST OF TINIAN AND 120 MILES NORTHEAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 10 MILES PER HOUR., DURING THE NEXT 12 HOURS.... TYPHOON NABI 14W IS EXPECTED TO TURN WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 85 MPH. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 12 HOURS.

BECAUSE OF THE CONTINUING THREAT OF TYPHOON NABI 14W, GOVERNOR JUAN N. BABAUTA MAINTAINS TYPHOON CONDITION I FOR THE ISLANDS OF SAIPAN, TINIAN AND ROTA, AND UPGRADE TYPHOON CONDITION III TO TYPHOON CONDITION II FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 10:00 A.M. THIS MORNING.

DAMAGING WINDS ARE IMMINENT OR OCCURRING. NORTH WINDS 40 TO 50 MPH BECOMING NORTHEAST AND INCREASING TO TYPHOON FORCE 65 TO 75 MPH WITH GUSTS TO 100 MPH IN THE MORNING...THEN SHIFTING TO THE SOUTHEAST IN THE AFTERNOON. WINDS WILL SHIFT TO SOUTHWEST TONIGHT AND GRADUALLY DECREASE TO 30 TO 40 MPH AS TYPHOON NABI 14W MOVES WEST OF THE MARIANAS.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, ROTA, TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF TYPHOON NABI 14W AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CONTINUE TO CLOSELY MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TYPHOON NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

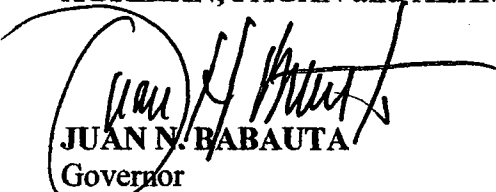
EMERGENCY DECLARATION NO. 07-2005 DATE: 9/01/05

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "ALL CLEAR CONDITION" for the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN effective 5:00 A.M., SEPTEMBER 01, 2005; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be terminated, effective 5:00 A.M., SEPTEMBER 01, 2005, on the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 016

DATE: September 01, 2005
TIME: 5:15 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT **05:00 A.M** THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR **LATITUDE 16.9 DEGREES NORTH AND LONGITUDE 142.2 DEGREES EAST**, OR **250 MILES WEST-NORTHWEST OF SAIPAN, 245 MILES WEST-NORTHWEST OF TINIAN, 265 MILES NORTHWEST OF ROTA, 230 MILES WEST-SOUTHWEST OF ALAMAGAN, 230 MILES WEST-SOUTHWEST OF PAGAN...AND 250 MILES WEST-SOUTHWEST OF AGRIHAN.**

TYPHOON NABI 14W IS MOVING **WEST-NORTHWEST** AT **13 MPH**. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 24 HOURS. **MAXIMUM SUSTAINED WINDS ARE 120 MPH** AND CONTINUE TO INTENSIFY OVER THE NEXT 24 HOURS.

BECAUSE **TYPHOON NABI 14W** IS MOVING AWAY AND NO LONGER CONSIDER A THREAT TO OUR AREA, GOVERNOR **JUAN N. BABAUTA** HAS DECLARE "**ALL CLEAR CONDITONS**" FOR THE ISLANDS OF **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN AND ALAMAGAN** AS OF **4:30 A.M.** THIS MORNING.

AS A RESULT OF THE ALL CLEAR CONDITION, **ALL GOVERNMENT EMPLOYEE** ARE TO **REPORT BACK TO WORK THIS MORNING (THURSDAY, SEPTEMBER 01, 2005)**

GOVENOR **JUAN N. BABAUTA** IS STILL REMINDING THE RESIDENTS TO TAKE CAUTION AGAINST HEAVY RAINFALL AND POSSIBLE FLOODING ALONG ROADWAYS AND IN LOW-LYING AREAS, AND HAZARDOUS SURF CONDITIONS ALONG COASTAL AREAS.

THIS WILL BE THE FINAL BULLETIN ON TYPHOON NABI 14W UNLESS CONDITION CHANGE.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:


**COMONWEALTH UTILITIES CORPORATION
LACK OF POWER AUGUST 2005.**

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on July 18, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. In addition, Engine Numbers 3, 4 and 8 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Reports for Power Plant I dated August 3, 2005 and August 17, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

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

The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of this authority for the first ninety (90) days of the State of Disaster Emergency shall be transmitted to the presiding officers of the Legislature as soon as practicable.


JUAN N. BABAUTA

Dated this 17th Day of August 2005.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:

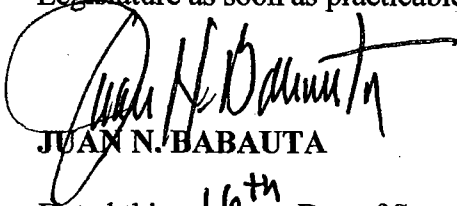
**COMONWEALTH UTILITIES CORPORATION
LACK OF POWER SEPTEMBER 2005.**

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on August 17, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. Although Engine Number 8 is now online and in full operation after undergoing emergency replacement of its foundation bolts, Engine Numbers 3 and 4 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Report dated September 14, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

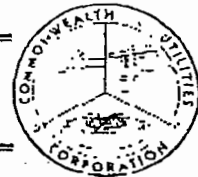
I further find that this Declaration is necessary to insure the continued provision of power to critical CNMI public health and public safety facilities, the continued provision of electricity to our schools, homes, and work places, and the continued operation of our water and wastewater systems. This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

The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005, the Declaration of State of Disaster Emergency dated August 17, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of my authority during the State of Disaster Emergency will be transmitted to the presiding officers of the Legislature as soon as practicable.


JUAN N. BABAUTA

Dated this 16th Day of September 2005.

**GENERATION STATUS
AS OF SEPTEMBER 14, 2005**



Power Plant	Design MW	Available MW	Restriction %	Std. Run hours for PMI	Run hours to-date	Overdue hours	Remarks
PP I							
D/E 1	7.27	6.5	89.4	36000	60,170	24,170	Overdue for 36,000 hrs. PMI
D/E 2	7.27	6.5	89.4	4,000	8,018	4,018	Overdue for 4,000 hrs. PMI
D/E 3	7.27	0.0	0.0	12000	20,701	8,701	Down due to crankpin seizure (8/1/05)
D/E 4	7.27	0.0	0.0	36000	44,690	8,690	Down due to crankpin seizure (7/16/05)
D/E 5	13.04	10.0	76.7	12000	26,188	14,188	Overdue for 12,000 hrs. PMI
D/E 6	13.04	10.0	76.7	4000	5,974	1,974	Overdue for 4,000 hrs PMI
D/E 7	13.04	10.0	76.7	12000	26,200	14,200	Overdue for 12,000 hrs PMI
D/E 8	13.04	10.0	76.7		118		Operational
Total	81.24	53					
PP II							
D/E 1	2.5	1.6	64.0				Operational
D/E 2	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 3	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 4	2.5	0.0	0.0				Completion of power packs on progress
D/E 5	2.5	0.0	0.0				Operational (off-line for inspection 9/14/05)
D/E 6	2.5	0.0	0.0				Governor problem (elect'l. limit switch)
Total	15.0	1.6					
PP III							
D/E 1	1.5	0.0	0.0				Not operational
D/E 2	1.5	0.0	0.0				Not operational
D/E 3	1.5	0.0	0.0				Not operational
Total	4.5	0					
PP IV							
D/E 1	3.50	0.00	0.0				Down / Crankshaft problem
D/E 2	2.50	2.00	80.0				Operational
D/E 3	2.50	1.80	72.0				Operational
D/E 4	2.50	2.00	80.0				Operational
D/E 5	2.50	2.10	84.0				Operational
D/E 6	1.00	0.00	0.0				Down \ Generator bearing problem
D/E 7	1.00	0.90	90.0				Operational
D/E 8	1.00	0.90	90.0				Operational
D/E 9	1.00	0.90	90.0				Operational
Total	17.50	10.60					
Grand Total	118.24	65.20					

Remarks:

ecgilboy

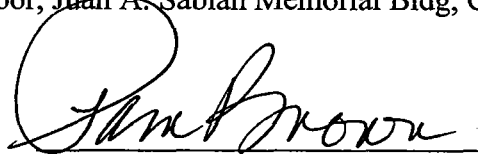
PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement a program to provide emergency short-term humanitarian aid to abandoned, unemployed alien workers. These regulations are promulgated as a necessary component of the administration of funds given to the Commonwealth by the United States Department of the Interior for Labor and Immigration Reform. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Commonwealth Register subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: The United States Department of the Interior has granted the Commonwealth Office of the Attorney General funds for the purpose of providing humanitarian aid to abandoned alien workers. Effective October 1, 2005 Karidat, Social Service, an agency that has been providing emergency relief to abandoned workers, will no longer be administering that program. Therefore, it is necessary to immediately adopt these regulations to eliminate a lapse in providing short-term emergency assistance to persons in crisis due to abandonment and who are unable to provide adequate food or shelter for themselves.

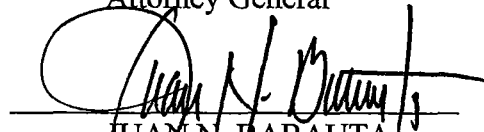
INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

Submitted by:


PAMELA BROWN
Attorney General

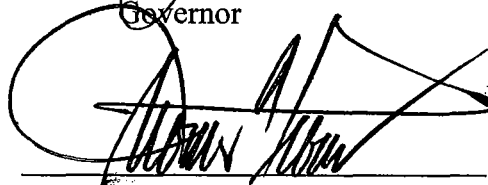
9/9/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

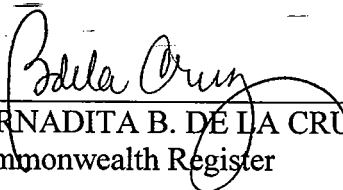
9/9/05
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

9/12/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/12/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9th day of September 2005


PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Office of the Attorney General is adopting rules and regulations governing the provision of short-term humanitarian aid to abandoned alien workers.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

These emergency regulations govern how, and to whom, short-term emergency financial assistance may be provided from funds received from the United States Department of the Interior for that purpose, and from other sources.

Brief Summary of the

Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of funds given to that office by the United States Department of the Interior for the purpose of providing financial assistance to abandoned, unemployed alien workers.
- (2) Establish criteria for eligibility for relief.
- (3) Establish the amount and length of time for which relief is available, and conditions that may accompany the granting of relief.

For Further

Information Contact:

Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations:**

None

Dated this 14th day of September 2005.

Submitted by:

A handwritten signature in cursive script, appearing to read "Pamela Brown".

PAMELA BROWN
Attorney General

HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

I. These Regulations establish and govern the provision of short-term humanitarian aid to alien workers who have been abandoned by their employers and who have been unable to secure new temporary or permanent employment. Exclusive jurisdiction over this program is vested in the Attorney General or her or his designee. The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible aliens and their employment status and in facilitating implementation of the program.

II. Definitions:

- a. *Abandoned*: A person is considered abandoned if her or his employer has left the jurisdiction or ceased business operations and any of the following circumstances exist;
 1. without fully compensating the worker(s) in full for all hours worked, or
 2. without following the procedures to be followed under the Alien Labor Rules and Regulations and employment contract for termination of employees due to reduction in force or cessation of business activity, and worker repatriation, or
 3. without providing to the worker (s) one-way airfare to the point of hire, or
 4. if the employer provided food and/or housing, without providing for adequate food and shelter for the worker(s) for a reasonable period of time following cessation of the business activity.
- b. *Alien worker*: A person whose most recent entry into the Commonwealth was for purposes of employment under Immigration Regulation 706 (K), or any person who falls within the definition of "Nonresident Worker" as defined in the Nonresident Workers Act, 3 CMC § 4412(i).
- c. *Humanitarian Aid*: Short-term assistance provided to an alien worker for food, other necessities, and shelter.
- d. *Voucher*: A monetary instrument issued by the Office of the Attorney General Humanitarian Aid Fund, not to exceed a sum certain, that identifies the person in whose favor the voucher is issued, that may be used for the purchase of food, other necessities, or housing. Vouchers are non-transferable and shall expire 30 days from their date of issuance. Vouchers may not be redeemed for cash or used for purchase of items other than food, other necessities, or housing.

III. The Fund:

There is a Fund administered by the Office of the Attorney General for the purpose of providing short-term humanitarian aid to abandoned alien workers. Expenditures from the Fund shall be made on a first-come-first served basis. The money in the fund shall come from sources identified by the Attorney General and shall not be

subject to reappropriation. Disbursements may be made by voucher redeemable at a specified location or locations, or may be made by cash or check.

IV. Eligibility determination:

Eligibility for humanitarian aid is based on need. The alien worker must show by proof acceptable to the Attorney General their status and eligibility for humanitarian aid. The Attorney General may perform such additional investigation into the worker's circumstances as is necessary to verify the status and request, and may ask the worker to provide such documents as may be necessary to a fair determination of eligibility. The Attorney General may require proof that the worker has actively been seeking work but has been unable to become employed.

V. Amount and conditions of grant:

The Attorney General may grant a worker not to exceed an aggregate total of \$200.00 for food, necessities, and housing allowance. The Attorney General may condition receipt of the aid upon the worker's promise to reimburse the Fund for moneys received in the event the worker becomes reemployed, or upon the worker's assignment of rights to an administrative or judicial award up to the amount of the humanitarian aid provided to the worker. Any such repayments shall be without interest.

Humanitarian aid is available only for emergency assistance.

The Attorney General may provide actual meals and/or lodging instead of a disbursement to the worker from the fund if warranted by the circumstances.

VI. Termination of Eligibility:

Humanitarian aid is available only one time, and only for a 30-day period from the first award. An application for aid is not subject to renewal.

VII. Other Eligible Persons:

The Attorney General may designate other persons eligible for humanitarian aid because of circumstances occurring outside the labor laws, such as foreign students abandoned by their sponsors, or other unusual circumstances as may from time to time arise. While the humanitarian aid program is intended primarily for short-term emergency assistance to alien workers, nothing shall prohibit the Attorney General from designating other persons or groups of persons as eligible for assistance based on need.

VIII. Miscellaneous:

1. Humanitarian aid may be denied to a person making a false statement or representation in connection with an original application or renewal application for humanitarian aid.
2. A person receiving similar assistance from another provider is not eligible for aid from the Office of the Attorney General.
3. A worker must attempt to become lawfully employed and thereby eliminate their need for aid.
4. Humanitarian aid may be denied to a person who, after receiving aid, uses the funds provided for purposes other than food and necessities and shelter.

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS IMPLEMENTING P.L. 11-66 (3 CMC § 4701 et seq.).

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement P.L. 11-66 (3 CMC § 4701 et seq.) These regulations are promulgated pursuant to the authority given in 3 CMC § 4702, and the transfer of responsibility for Immigration matters to the Attorney General by Executive Order 03-01. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Registrar of Corporations, subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: P.L. 11-66 creates a fund administered by the Attorney General to provide payments of uncollected administrative awards and for repatriation of alien workers who have been abandoned by their employers. During the first quarter of this year three employers of alien workers ceased operations and stranded a large number of alien workers in the Commonwealth without a means for them to repatriate. One company also owes workers a substantial amount in unpaid wages. The burden fell to the Commonwealth to use the fund created by P.L. 11-66 to return workers to their places of recruitment. The large demand placed on the fund by these recent events has demonstrated the need to clarify how the fund is to be administered in order to provide relief to the largest number of people and resolve uncertainties regarding the operation of the fund.

INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

Submitted by:


PAMELA BROWN
Attorney General

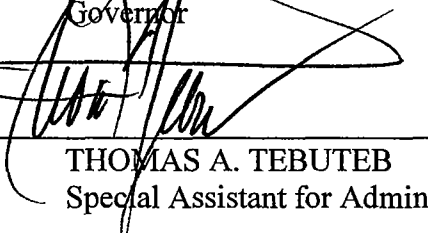
8/29/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

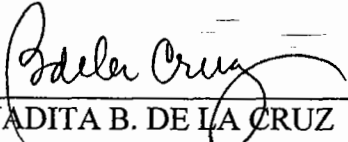
8/30/05
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

9/1/05
Date

Filed and Recorded by:

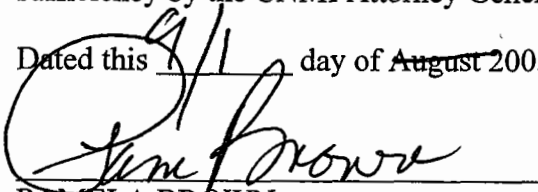


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/1/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9/1 day of August 2005



PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS IMPLEMENTING

P.L. 11-66 (3 CMC § 4701 *et seq.*).

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, *et seq.* The Office of the Attorney General is adopting rules and regulations to implement P.L. 11-66, the Nonresident Workers Relief Act.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

The emergency implement the Nonresident Workers Relief Act by defining terms and eligibility for relief, establishing the amount of payments, and by stating time limits and restrictions on requests for relief.

Brief Summary of the Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of the fund created by P.L. 11-66, 3 CMC § 4701 *et seq.*
- (2) Provide that workers must be unemployed in order to claim relief under the Act, and must execute an assignment of rights in favor of the Commonwealth in the event unpaid wages or repatriation funds are collected on behalf of the worker.
- (3) Provide that the amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.
- (4) Provide a 5-year time limit for claiming relief, and prohibit a worker who has received an award from reentering the Commonwealth for any reason for 180 days.

For Further

Information Contact:

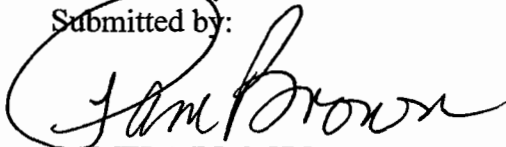
Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

P.L. 11-66, as codified in 3 CMC § 4701 *et seq*, Executive Order 03-01 regarding the transfer of Immigration-related duties from the Secretary of Labor and Immigration to the Attorney General.

Dated this 9/1 day of ~~August~~ 2005.

Submitted by:



PAMELA BROWN
Attorney General

**NOTISIAN PUBLIKU POT ENSIGIDAS NA REGULASION SIHA
YAN NOTISIAN INTENSION PARA U MA'ADOPTA
AREKLAMENTO YAN REGULASION SIHA POT PARA U
MA'ENFUETSA I LAI PUBLIKU 11-66
(3 CMC SEKSIONA 4701 *et seq.*).**

ENSIGIDAS: I Commonwealth I Sankattan Siha Na Islas Marianas, gi Ofisinan I Abugâdu Henerât (AGO) masodda' na papa I lai 1 CMC Seksiona 9104(b), na I enteres publiku a gâgâgao para I mapâsan I regulasion siha pot para u ma'enfuetsa I Lai Publiku 11-66 (3 CMC Seksiona 4701 *et seq.*). Este na regulasion siha man ma'establesi sigun I aturidât ni ma'entrega gi hâlom 3 CMC Seksiona 4702, yan I matransferin I responblidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01. I Abugâdu Henerât a sodda mâs na I enteres pu

RASON I ENSIGIDAS: I Lai Publiku 11-66 a fatitinas I ma'atministreha na fundu ginen I Abugâdu Henerât para u probeniyi âpas I ti man marikokohi na premiun atministrasion yan para I dipottasion I estrangheru siha ni man ma abandona ni mu'empleleha siha. Durânten I fine'nina na quarter gi este na sâkkan tres na man empleleha estrangheru siha ma na pâra I operasion I bisnis niha ya ma'abandona kantidâha na estrangheru siha gi hâlom I Commonwealth sen hâfa na ditension pot dipottasion Guaha un kompania lakkue a didibe' I empleao-ña siha la'meggai na âpas suetdu. Todu este siha na problema man popodong gi Commonwealth ni para u ma'usa I man ma'establesi na fundu gi Lai Publiku 11-66 para u mabira tatte' I estrangheru siha amânu nai man ma'enlista para u fan macho'chu'. I tutât gâstum este siha na sinesedi gof tatkilo ya enao na manisisita para u ma na klâru hâfa taimanu para u ma'atministreha I fundu yanggen para u maprobeniyi ayudu para I mâs tatkilo' na tutât taotao ya u masâiba I ti man siguru na operasion I fundu.

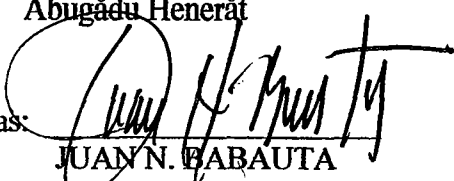
INTENSION PARA U MA'ADOPTA: I intension I Abugâdu Henerât para u adopta este siha na Ensigidas na Regulasion siha sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2). Des pues na, an hâyi enteresao na petsona siña muna halom tinige' opinion siha pot este ensigidas na rekomendasion siha para as Pamela Brown, I Abugâdu Henerât, osino as Kevin A. Lynch, Ayudânten I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950.

Ninahalom as:

PAMELA BROWN
Abugâdu Henerât

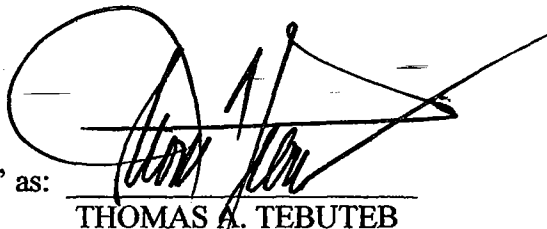
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Kinonfotme as:



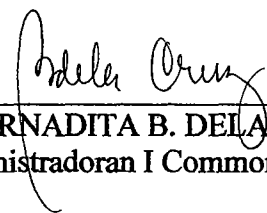
JUAN N. BABAUTA
Gubietno

9/22/05
Fecha



Marisibe' as: THOMAS A. TEBUTEB
Espisiât Na Ayudânte Para I Atministrasion

Fecha

Pine'lo yan Rinikot as: 
BERNADITA B. DELA CRUZ
Rehistradoran I Commonwealth

9/22/05
Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I Ensigidas Na Regulasion siha ni man che'che'ton esta man ma'ina yan ma'apueba pot para u fotma yan ligât suficiente ginen I Ofisinan I Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi _____, 2005.

PAMELA BROWN
Abugâdu Henerât

NOTISIAN PUBLIKU

MAN MAPROPONE NA ENSIGIDAS NA REGULASION SIHA MA'ENFUETSA I LAI PUBLIKU 11-66 (3 CMC Seksiona 4701 *et.seq.*).

Este na amendasion ma'establesi ni para u konsiste ni Administrative Procedures Act, I CMC Seksiona 9101, *et.seq.* I Ofisinan I Abugâdu Henerât ma'adodopta I areklamento yan regulasion siha para u enfuetsa I Lai Publiku 11-66, I Nonresident Workers Relief Act.

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para u enfuetsa I Nonresident Relief Act, lai 3 CMC Seksiona 4701 *et seq.* ginen I lai 3 CMC Seksiona 4702 yan I matransferin I responsabilidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01.

Kada'da' Na Finiho

Yan Diniseha:

I ensigidas na enfuetsamenten I Nonresident Workers Relief Act a dififina I palabrâ siha, yan I kuâlifikaon I ayudu, ma'establelesi I tutât I âpas, yan u mamensiona I tiempo yan I pribision I man gâgâgao ayudu.

Kada'da' Na Mensâhe

Pot I Man Mapropone

Na Regulasion siha: Este I ensigidas na regulasion siha man ma'establesi para; uma

1. Entrega I Abugâdu Henerât responsabilidadât para I atministrasion pot I ma'establesin fundu ginen I Lai Publiku 11-66, 3 CMC Seksiona 4701 *et seq.*
2. Probeniyi na I man machochochu' ti ma'empleleha yanggen para u ma'ayuda papa I Akto, ya debi di u fan laknos assignment of rights ni a supopotta I Commonwealth pot asunton I ti man ma'apâpâsi na suetdu yan I dipottasion salâpe an marikohi para I empleao siha.
3. Probeniyi na I tutât I âpas debi di u akto na tutât I premiun atministrasion dumaña yan I âpas ticket batkonaire para I dipottasion, gi I tutât ti debi di u upus \$3,000.00

4. Probeniyi na I singko años na tiempo para I ginagaon ayudu, ya u probidu I macho'cho'chu' ni a risibe' I premiuna para u hálom talo' gi Commonwealth para maseha háfa na rason gi hálom sientto-ochienta (180) diha siha.

Para Mås

Infotmasion Ágang: Si Kevin A. Lynch, Ayudánten I Abugádu Henerát, gi Ofisinan I Abugádu Henerát, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950. Numirun Tilifon (670) 664-2341 (voice) osino (670) 664-2349 (fax).

**Annok I Man Achule'
Yan/pat Man Inafekta
Na Lai, Areklamento,
Regulasion, yan Otden**

Siha: Lai Publiku 11-66, ni makodigu gi 3 CMC Seksiona 4701 *et seq.*, Executive Order 03-01 ni tineteka I matransferin I responibilidadat I asuntón I Imigrasion ginen I Sekretarion I Labor yan Immigrasion para I Abugádu Henerát.

Mafecha gi este fine'nina na ha'áne gi Septiembre, 2005.

Ninahalom as:

PAMELA BROWN
Abugádu Henerát

**-ARONGOL TOULAP REEL GHITIPWOTCHOL ALLÉGH KKAAL ME
ARONGOL AGHIYEGHIL IGHA EBWE FILLÓÓY ALLÉGH KKA EBWE
ATOTOOLONG P.L. 11-66 (3 CMC táilil 4701 et seq.).**

GHITIPWOTCHOL: Commonwealth Téel falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap (AGO) e schungi bwe faal 1 CMC táilil 9104(b), bwe llól tipeer toulap bwe rebwe mweiti ngáli fféerúl allégh igha rebwe ayoora P.L. 11-66 (3 CMC táilil 4701 et seq.) allégh kkaal nge e akkaté bwelle bwáng ye toowow mereel 3 CMC táilil 4702 me alusul bwángil immigration ngáli Sów Bwungúl Allégh sáangi akkúleyal Sów Lemelem 03-01. AGO ebwal schungi bwe tipeer toulap bwe rebwe tabweey fillóól allégh kkaal llól eliigh (30) rállil yaal arongowow, me bwelle igha allégh kkaal ebwe schéeschéél ammwello llól Register of Corporations, kkapasal igha ebwe alughulughulo mereel Sów Lemelem, me ebwe fischeló llól ebwughúw ruweigh (120) rááilil.

AWEWEEL GHITIPWOTCHOL: P.L. 11-66 e ayoora fundo ye e toowow mereel Sów Bwungúl Allégh Lapalap igha ebwe ayoora óbwóssul administrative awards me assáfalil schóóy angaang kka aramasal lúghúl ikka samwoolur e lighitiiló mwirimwiril. Ótol first quarter llól rágh yeel élésháy employers kka samwoolur schóóy angaang e ayuwuló yaar angaang me re ssogh schóóy angaang kka aramasal lúghúl rebwe asáfaliir ló wóól falúweer. Eyoor kkompania ye esáál kke óbwósuur layúr schóóy angaang. Weires yeel nge a lo ngáli Commonwealth bwe ebwe yááli salaapi ye e fféer sáangi P.L. 11-66 iye ebwe asefáaliir schóóy angaang kka aramasal lúghúl ló wóól falúweer bwelle recruitment. Llapal salaapi ye ekke tittingór bwelle reel mwóghútúl yeel nge ebwe affatewow ebwe faisúl yaar mwóghút ágheli salaapi yeel igha ebwe alisiir aramas kkaal me aghatchúwuló meeta kka ese welepakk bwelle reel fundo.

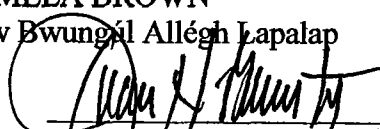
AGHIYEGHIL FILLÓ YEEL: Aghiyeghil Sów Bwungúl Allégh Lapalap bwe ebwe fillóóy ghitipwotchol Allégh kkaal bwelle 1CMC talil 9104 (a)(1) me (2). Schéeschéél, schóókka eyoor mángemángiir nge rebwe ischilong reel Pamela Brown, Sów Bwung, me ngáre Kevin A. Lynch, Sów Alillisil Sów Bwung, Bwulasiyool Sów Bwungul Allegh, Aruwowal pwo, Juan A. Sablan Memorial Bldg, Capitol Hill, Seipél MP 96950.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Rál

Alúghúlúgh sáangi:



JUAN N. BARAUTA
Sów Lemelem

9/22/05

Rál

Mwir sáangi:



THOMAS A. EBEUBEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Commonwealth Register

Ral

ARONGOL TOULAP
POWMOL GHITIPWOTCHOL ALLEGH KKAAL IYE EBWE AYOORALONG
ALLEGHUL TOULAP 11-66 (3 CMC TALIL 4701 et seq.).

Lliwel yeel nge ebwe akkate bwelle reel Administrative Procedure Act, 1 CMC talil 9101, et seq. Bwulasiyool Sów Bwungúl Allégh nge ebwe fillóóy allegh kkaal bwe ebwe ayoora Alléghúl Toulap 11-66, ammwelil schóóy angaang kkaal (Nonresident Workers Relief Act.).

Akkatéél bwángil: Bwulasiyool Sów Bwungúl Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl ammwelil schóóy angaang kka aramasal lúghúl, 3 CMC talil 4701 et seq. sáangi 3 CMC talil 4702 me alusul mwóghútúl immigration ngáli Sów Bwungúl Allégh Lapalap sáangi Akkuleyal Sów Lemelem 03-01.

Aweweel pomwol lliwel: Ghitipwotchol atotoolong reel Ammwelil schóóy angaang kka aramasal lúghúl iye ebwe aweweey yaal term me aghatchú fillongol, atotoolong llapal salaapi, me abwáári ótol aighúghúl me restriction sangi tigorol relief.

Akkateel akkááw bwángil allegh: Ghitipwotchol Allégh kkaal nge ebwe akkaté bwelle ebwe:

- (1) Ngalleey Sów Bwungúl Allégh bwángil reel ebwe mwóghut agheli fundo ye e toowow mereel P.L 11-66, 3 CMC talil 4701 et seq.
- (2) Ayoorallong bwe schóóy angaang kka aramasal lughul nge rese kke angaang igha rebwe tingorol relief sangi allegh yeel, me rebwe alleghelo bwangil iye toowow mereel Commonwealth ngare rese obwossuur me assefalil salaapi ikka re bwughi sangi yaal angaang.
- (3) Ayoorallong llapal obwos ye ebwe scheescheel llapal yaal administrative award fengal me meel air fare, iye ebwal toolong llapal iye essobw luulo eliigh sangaras (3000.00).
- (4) Ayoora otol limoow raagh (5-year time limit) reel tingorol relief, me ayuulo schooy angaang kka raa bwughil award meigha re sefallong llo Commonwealth bwelle meeta llo ebwughuw waliigh (180)raalil.

Sáangi allégh ye 1 CMC talil 2153, iye a lliwel mereel Alléghúl Toulap 10-50, alléghúl ghitipwotchol yeel nge raa takkal amweri fischiy me allégheló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ llól _____ 2005

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Aramas ye ubwe faingi:

Kevin Al. Lynch, Sow Alillisiil Sow Bwungul Allegh Lapalap, Bwulasiyool Sow Bwung, Aruwowal pwo, Juan A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950. (670) 664-2341 (voice) me ngare (679) 664-2349 (fax).

Akkateel akkaaw bwangil allegh: P.L.11-66, iye raa alleghelo lloil 3 CMC talil 4701 et seq, akkuleyal Sow Lemelem 03-01 bwelle reel alullusul ngare mwoghutul Immigration ye e ghil ngali yaal angaang mellol Secretary of Labor me Immigration ngali Sow Bwungul Allegh Lapalap.

Rallil ye _____ lloil _____ 2005

Isaliyallong:

PAMELA BROWN
Sow Bwungul Allegh Lapalap

REGULATIONS IMPLEMENTING P.L. 11-66

I. Definitions:

- a. *Administrative award*: An administrative award is a finding or order issued by the Department of Labor, Division of Administrative Hearings stating that an employer is financially liable to a current or former employee as a result of a cause of action arising from the employment relationship.
- b. *Air fare*: Air fare is the cost of air transportation for the alien worker from the Commonwealth to the point of recruitment.
- c. *Unemployed*: An alien worker is unemployed if he or she is not subject to a contract approved by the Director of Labor or his designee and does not have an application for a work permit pending with the Department of Labor.

II. Administration:

The Office of the Attorney General has primary responsibility and authority for the administration of the Commonwealth Nonresident Worker Relief Act of 1999, P.L. 11-66, 3 CMC § 4701 *et seq.* (the Act). The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible nonresident workers and their status and in facilitating implementation of the Act.

III. Eligibility and amount of payment:

To be eligible for funds and air fare under the Act the worker must be unemployed. If an application for a work permit is pending with the Department of Labor when the worker requests relief, the worker must resign by written notice provided to the Department and the prospective employer. If a worker is on Temporary Work Authorization (TWA) awaiting relief under the Act, the TWA will expire upon the issuance of the repatriation ticket.

The alien worker must execute an assignment of rights in favor of the Commonwealth government to any amounts collected on behalf of the worker. The assignment of rights shall be on a form and in a manner proscribed by the Attorney General. The form shall also provide that any amounts collected by the Commonwealth in excess of the amounts spent for repatriation and payment of the administrative award shall be remitted to the worker, provided the worker notifies the Attorney General of the worker's address in his or her home country.

The amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.

IV. Time limits:

- a. To be eligible for relief under the Act the alien worker must make a claim for payment and repatriation within five (5) years from the date of the Administrative Order granting the administrative award. For persons eligible for relief under this regulation who have been granted administrative awards but have not requested relief, the five-year period shall commence on the date of adoption of this regulation. Claims made after expiration of the five-year period shall be barred except for good cause shown to the Attorney General.

- b. An alien worker who avails of relief pursuant to the Act shall not be permitted to reenter the Commonwealth for any reason for 180 days from the date of departure.

V. Restrictions:

- a. Employers and employees are not eligible for reimbursement under the Act for airfare provided to repatriated workers.
- b. Exclusive jurisdiction to resolve disputes arising under the Act or these Regulations is vested in the Attorney General by virtue of the Attorney General's authority to administer the Immigration laws.



Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs
Office of the Secretary

Caller Box 10007
Saipan, M.P. 96950



**NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENTION
TO ADOPT AMENDMENTS TO EXISTING MANUAL OF OPERATIONS
GOVERNING THE NUTRITION ASSISTANCE PROGRAM**

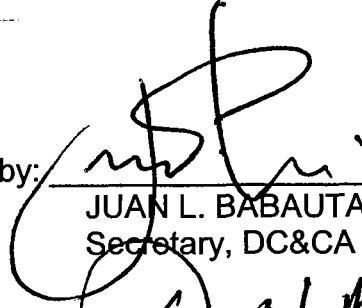
EMERGENCY: The Secretary of the Department of Community and Cultural Affairs finds that, pursuant to 1 CMC § 9104(b), the public interest requires the adoption of Emergency Regulations, upon concurrence by the Governor, to implement changes to the existing MANUAL OF OPERATIONS governing the Nutrition Assistance Program (NAP). The proposed Amendments would create a greater degree of security against counterfeiting or other misuse of Nutritional Assistance Food Stamp Coupons. The Secretary further finds that the public interest requires adoption of these amendments within fewer than thirty (30) days notice for the reasons stated below. These amendments in the MANUAL OF OPERATIONS shall become effective upon publication, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

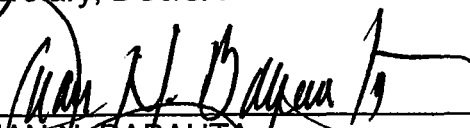
REASON FOR EMERGENCY: The counterfeiting and other fraudulent misuse of Nutritional Assistance Food Stamp Coupons has become more frequent and sophisticated in nature. In order to protect unsuspecting vendors and the banks who redeem these coupons, it is necessary to change the physical look of the coupons and to institute additional requirements to insure that only coupons issued to eligible participants of the Nutritional Assistance Program are used at the stores of authorized retailers.


CONTENT: Attached to this Notice of Emergency are the amendments to the Manual Of Operations.

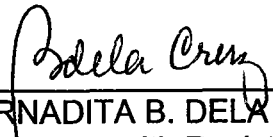
INTENT TO ADOPT: The Secretary intends to adopt these amendments to the existing regulations, requirements, policies and procedures contained in the Nutritional Assistance Program Manual Of Operations as permanent regulations, requirements, policies and procedures pursuant to 1 CMC § 9104(a)(1) and (2), and therefore publishes in the Commonwealth Register this notice of opportunity to submit comments. If necessary, a Hearing will be provided. Comments on the amendments to the Nutritional Assistance Program Manual Of Operations may be sent to: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

AUTHORITY: The Secretary is authorized to promulgate these regulations pursuant to 2 CMC § 5522(a).

Issued by:  8/29/05
 JUAN L. BABAUTA
 Secretary, DC&CA
 Date

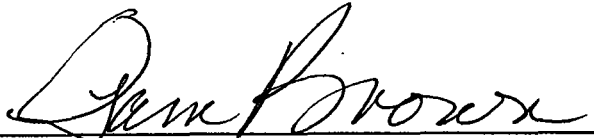
Concurring by:  8/29/05
 JUAN N. BABAUTA
 Governor
 Date

Received by:  8/29/05
 THOMAS A. TEBUTEB
 Special Assistant for Administration
 Date

Filed and Recorded by:  8/29/05
 BERNADITA B. DELA CRUZ
 Commonwealth Register
 Date

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 29th day of August, 2005.


 PAMELA BROWN
 Attorney General

Public Notice
Department of Community and Cultural Affairs

**EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS**

Citation of Statutory Authority: Pursuant to Article X, Section 8 of the Commonwealth Constitution and 1 CMC § 2553(j) and 1 CMC § 2557.

Short Statement of Goals and Objectives: To insure the use of only legitimate Food Stamp coupons by NAP authorized recipients.

Brief Summary of The Amendments: Nutritional Assistance Program Manual of Operations is amended to provide that NAP Food Stamp Recipients when redeeming coupons must do the following; 1) present a valid photo I.D. 2) present a valid Food Stamp Identification card. 3) Print the Photo I.D number and Food Stamp I.D. card number along with printing and signing their name on the back of each coupon. All this must be done in the presence of the vendor cashier.

For further Information Contact: The Nutritional Assistance Program at 235-9889.

Citation of Related and/or Affected Statutes, Regulations and Orders: NAP Manual of Operations Chapter VIII

EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS

Nutritional Assistance Program Manual of Operations Chapter VIII Section (K)(4) is hereby amended to read as follows:

4. Use of Identifications Cards. The **Adult Head of Household** or its Authorized Representative shall present his Nutrition Assistance Program Identification Card and a Photo Identification, and on the back of each coupon, print the NAP I.D. card number & Photo I.D. number and their name and then sign each coupon in the presence of the cashier for the Authorized Retailers when exchanging **Nutrition Assistance Program Coupons** for eligible food and other eligible items enumerated on item K.2 and 3 above. The Adult Head of Household or its Authorized Representative shall also present his Nutrition Assistance Program Identification Card and a Photo Identification when performing Recertifications at Certification Unit, and picking up benefits at the designated Issuance Agent Location.

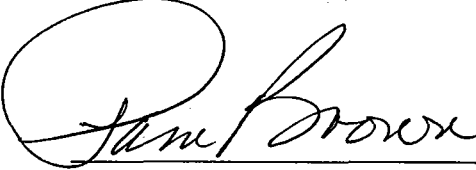

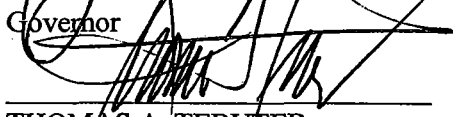
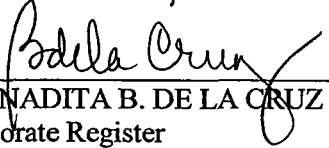
To be added to the NAP Manual of Operations Chapter VIII is the following:

- L. All NAP Program Coupons issued on or before August 31, 2005 must be redeemed at NAP authorized retailers on or before August 31, 2005.

PUBLIC NOTICE

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General, notifies the general public of proposed amendments to Immigration Regulations §§706 and 707. It is the intent of the Attorney General to adopt such amendments, proposed on an emergency basis in May of 2005 pursuant to 1 CMC §9104(a)(1) and (2), as permanent. This publication of the proposed amendments in the Commonwealth Register provides notice and opportunity for comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendments to Pamela Brown, Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950 or by fax at (670) 664-2349 during the thirty (30) day period immediately following the publication of these proposed amendments.

Submitted by:	 PAMELA BROWN Attorney General	<u>8/19/05</u> Date
Concurred by:	 JUAN N. BABAUTA Governor	<u>8/22/05</u> Date
Received by:	 THOMAS A. TEBUTEB Special Assistant for Administration	<u>8/23/05</u> Date
Filed and Recorded by:	 BERNADITA B. DE LA CRUZ Corporate Register	<u>8/23/05</u> Date

Pursuant to 1CMC §2153, as amended by Public Law 10-50, amendments attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 19 day of August 2005.


PAMELA BROWN
Attorney General

PUBLIC NOTICE
PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

**Citation of
Statutory Authority:**

The Office of Attorney General is authorized to promulgate regulations for entry and deportation of aliens in the Commonwealth of the Northern Marianas pursuant to Executive Order 03-01 and 3 CMC § 4312(d).

**Short Statement of
Goals and Objectives:**

The Attorney General finds that it is in the public interest to amend Immigration Regulations §§706K, 706P and 707 to require that all non-resident workers entering the Commonwealth of the Northern Mariana Islands to work in establishments licensed to serve alcohol be at least twenty-one (21) years of age. Specifically, the Attorney General finds that the employment of non-resident workers under the age of 21 in alcohol establishments has created problems for both criminal and immigration enforcement authorities, has led to inexperienced workers entering the CNMI, and is not consistent with the efficient enforcement of the liquor laws.

The Attorney General further finds that the current Immigration Regulation §706P is not sufficiently defined as falling outside of the Non-resident Workers Act and is therefore not effective in its present form.

The Attorney General further finds that it is in the public interest that Immigration Regulation §707 be amended to include reference to an "Overseas Employment Certificate" or OEC. An OEC is an official document issued by the Government of the Philippines to workers applying for employment abroad. The Attorney General finds that, in the case of Filipino workers, this certificate can be the best evidence of the worker's identity, employment eligibility, and job category.

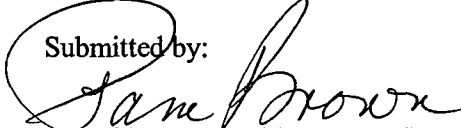
**For Further
Information Contact:**

Ian M. Catlett, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2366 or facsimile (670) 234-7016.

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

The proposed amendments affect or are related to Immigration Regulations Sections 706 and 707.

Dated this 19 day of August 2005.

Submitted by:

PAMELA BROWN
Attorney General

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

I Ofisinan I Abugâdu Henerât, gi Commonwealth I Sankattan Siha Na Islas Marianas, a notifikika I publiku henerât pot I man mapropone na amendasion siha gi Regulasion Imigrasion Seksiona 706 yan 707. I intension-ña I Abugâdu Henerât para u adopta I man ma'amenda, I mapropone gi ensigidas na manera gi Mâyu 2005 sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2), petmanente. Este na publikasion I man mapropone na amendasion gi Rehistradoran I Commonwealth a probeniyi notisia yan opotunidât para u guaha opinion siha. Yanggen nisisârio, u maprobeniyi inekungok publiku. Todu I man interesao na petsona siña u mana fan hâlom tinige' opinion siha pot I man mapropone na amendasion guatto as Pamela Brown, I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina Segundo na bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi (670) 664-2349 durântén I trenta (30) diha siha na tiempo imidiâmente tinitiyi I publikasion este man mapropone na amendasion siha.

Ninahâlom:

PAMELA BROWN
Abugâdu Henerât

Fecha

Kinonfotme as:

JUAN N. BABAUTA
Gubietno

9/22/05

Fecha

Marisibe' as:

THOMAS A. TEBUTEB
Espisiât Nâ Ayudânte Para I Atministrasion

9/22/05

Fecha

Pinelo' yan
Marikot as:

BERNADITA B. DELA CRUZ
Rehistradoran I Koporasion

9/22/05

Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I amendasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan suficiente ligat ni Ofisinan I Abugadu Henerat I CNMI.

Mafecha gi este mina _____ na ha'ane gi Agostu 2005.

PAMELA BROWN
Abugadu Henerat

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establese regulasion siha para I entrâda yan dipottasion I estrangheru siha gi Commonwealth I Sankattan Siha Na Islas Marianas sigun I Executive Order 03-01 yan I lai 3 CMC Seksiona 4312 (d).

Kada'da' Na Mensâhe

Pot I Finiho yan

Diniseha siha:

I Abugâdu Henerât masodda' na I enteres publiku para u ma'amenda I Regulasion Imigrasion Seksiona 706 K, 706P yan 707 para u ma'otden todû I hotnalerun Estrangheru siha ni man hâhâlom gi Commonwealth I Sankattan Siha Na Islas Marianas ni para u fan macho'chu' gi I man malisensia na bisnis ni man man bebende maneska na debi di u bente-uno (21) años na idât. Spesifikâtmente,

I Abugâdu Henerât a sodda' na I ma'emplea na estrangheru siha ni papa I idât bente uno (21) años gi bisnis siha ni man man bebende maneska ma na guaguaha prublema siha para I kriminât yan aturidât enfuetsamenten imigrasion, muna fan ekspirinsao siha na hotnaleru ya man hâhâlom gi CNMI, ya ti man konsiste ni enfuetsamenten I lai siha gi bândan maneska. I Abugâdu Henerât masodda' mâs na I presente na Regulasion Imigrasion Seksiona 706P ti madefina sufisiente na popodong gi sanhiyong I Non-Resident workers Act ya enao na ti efektibu gi presente na fotmasion.

I Abugâdu Henerât masodda' mâs na gaige gi I enteres publiku na I Regulasion Imigrasion Seksiona 707 na u ma'amenda ya u enklusu I refiriensian I "Overseas Employment Certificate" osino OEC. I OEC, ofisiât na dokumento ni malaknos ginen I gubietnamenton I Filipinas para I hotnaleru siha ni man aplilika para u fan ma'emplea gi otro tâno'. I Abugâdu Henerât a sodda' na, gi I kaosan I hotnalerun Filipina siha, este na setifiku siña un maolek na ebidensian I aidentifikasion I hotnaleru, kuâlifikaon empleao, yan I katigorian cho'chu'.

Para Mås

Infotmasion Ågang: Si Ian M. Catlett, Ayudånten I Abugådu Heneråt, gi Ofisinan I Abugådu Heneråt, Numirun Tilifon (670) 664-2366 osino Facsmile gi (670) 664-7016.

**Annok I Man Achule'
Yan/pat Inafekta Na
Lai, Areklamento,
Regulasion yan Otden**

Siha: I man mapropone na amendasion siha a afekta osino man achule' yan I Regulasion Imigrasion Seksiona 706 yan 707.

Mafecha gi este mina _____ na ha'åne gi Agosto 2005.

Ninahålom as:

PAMELA BROWN
Abugådu Heneråt

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707:

Regulasion Imigrasion Seksiona 706K ma'amenda pot para u taitai:

Petmisun Entrádan Hotnalerun Estrangheru – I estrangheru ni humáháloom gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI) pot para u pofotma tempuláron na setbisiu osino hotnát ni masetifika na kuálifikao na estrangherun hotnaleru ginen I Dipáttamenton I Hotnát siña ma'entrega petmisun entráda kumo kinonfotme ni Lai Publiku 3-66, fuerra di maseha háyi na estrangheru papa I bente-uno (21) años na idát debi di u ma'aprueba para u háloom papa este na seksiona para u facho'chu' gi I malisensia na bisnis ni man man bebende maneska.

Regulasion Imigrasion Seksiona 706P ma'amenda pot para u taitai:

Petmisun Entrádan Espisiát na Manera siha – masedi I estrangheru papa I espisiát na manera siha para u saga ligát ya u facho'chu' háloom I Commonwealth sen más aturisasion papa I lai Commonwealth. I gumugu'ot I petmisu papa este na seksiona madespensa ni probension siha gi Non-Resident Act (3 CMC sect. 4411 et.seq.). Este na petmisu debi di u marinueba kada sakkan sigun I disision I Ofisinan Abugádu Henerát. Siña madiroga este na petmisu yanggen masodda' ni Abugádu Henerát na I espisiát na manera papa I petmisu ni malaknos ti eksiste esta.

Regulasion Imigrasion Seksiona 707 ma'amenda pot para u taitai:

Areklamenton Aturisasion Para Aplikasion Entráda.

- A. Aplikasion siha para I Aturisasion I Petmisun Entráda debi di u mana fan háloom gi Ofisinan I Imigrasion. Todu I aplikasion yan I dokumenton supottasion siha humuyong iyun I Ofisinan I Imigrasion. I aplikasion siha debi di u ma'arekla gi entre siette (7) diha siha ni todú I man aplikátble na nisisidát siha. I Aturisasion I Petmisun Entráda siempre man mafitma solamente ni Ofisiát Imigrasion fuerra di I Petmisun Entrádan Kada'da' Na Tiempo Bumisnis. Todu I dokumento siha debi di u fan mafitma papa I Penan I Chatmanhula.
- B. I Man Nisisário siha na Dokumeto Yanggen Para u Mapolu' gi Rihistradora.
1. Kabáles na Aplikasion
 2. Kopian Setifikun Finañágu ni masetifika,
 3. Maseha háfa na dokumento makonsidera ni I Ofisiát Imigrasion ya u

nisisário para u ma'apueba na dokumenton supottasion I katigorian aplikasion entráda, a enklulusu, I disision I Abugádu Henerát, I Overseas Employment Certificate (OEC) malaknos ni Gubietnamenton I Filipinas para I aplikánte.

- C. I ápas I aplikasion debi di u madipositu guatto I CNMI Treasurer an u polu I nisisário na dokumento siha gi Rehistradoran. Ti siña manana'lo tatte' I ápas aplikasion guatto gi aplikánte. I aplikasion siña u mahañágue guatto I Ofisinan I Imigrasion. Yanggen para un tugi'e' chek tugi'e' I CNMI Treasurer.
- D. Ti siña man ma'aksepta I aplikasion siha ginen I estrangheru siha yanggen man gaige gi hálom CNMI pot rason na man gaige sa pot man gai'kaosa gi Labor, Imigrasion osino asunton ligát siha. Lao, yanggen esta masátba I asunto, siña I estrangheru man aplika ni petmisun entráda, a riñueba osino tulaika I estao-ña.

**ARONGORONGOL TOULAP
POMWOL LLIWEL NGÁLI ALLÉGHÚL IMMIGRATION 706 ME 707**

Commonwealth Téél falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap ekke arongaar toulap reel pomwol lliwel kkaal ngáli Alléghúl Immigration Talil 706 me 707. Mángemángil Sów Bwungúl Allégh bwe ebwe fillóoy lliwel kkaal, pomwol yeel igha re ghitipwotchol ótol Móózo 2005 bwelle reel 1 CMC táilil 9104 (a)(1) me (2), ebwe schééschéél. Akkatéél lliwel kkaal mellól Commonwealth Register e ayoora ammataf me bwángil aghiyegh. Ngáre e welepakk, arongorongol toulap imwu rebwe ayoora. Alongeer schóókka eyoor mángemániir nge emmwel rebwe ischilong reel Pamela Brown, Sów Bwungúl Allégh Lapalap, Bwulasiyool Sów Bwung, Aruwowal pwó, Juab A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950 me fax reel (670) 664-2349 ótol eliigh (30) rállil yaal akkatééwow powmol lliwel kkaal.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl allégh Lapalap

Rál

Alúghúlúgh sáangi:

JUAN N. BABAUTA
Sów Lemelem

Rál

Mwir sáangi:

THOMAS A. TEBUTEB

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Corporate Register

Rál

Sáangi allágh ye 1 CMC táilil 2153, iye aa lliwel mereel Allághúl Toulap 10-50, lliwel kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungól Allógh Lapalap

Rállil ye _____ llól Agosto 2005.

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

**ARONGORONGOL TOULAP
POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL
IMMIGRATION TÁLIL 706 ME 707**

Akkatéél bwángil: Bwulasiyool Sów Bwungul Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl atotoolong me asáfalil aramasal lúghúl kka relo llo Commonwealth Téél falúwasch Marianas bwelle akkúleyal Sów Lemelem 03-01 me 3 CMC talil 4312(d).

Aweweel pomwol lliwel: Sáangi allégh ye 1 CMC talil 9104 (b), Sów Bwungúl Allégh Lapalap e schungi bwe llól tipeer toulap bwe rebwe fillóoy Alléghúl Immigration kkaal Tálil 706K, 706P me 707 igha ebwe yááyá ngáli alongeer schóól angaang kka aramasal lúghúl ikka re toolong llól Commonwealth Téél falúwasch Marianas rebwe angaang llól bwuley ye eyoor yaal lisensial áschí bwe rebwe ngálleer llól ruweigh me eew (21) rághil. Schééschéél, Sów Bwungúl Allégh Lapalap e schungi bwe schóól angaang kka aramasal lúghúl ikka re lo faal ruweigh mè eew (21) ikka re lo llo leliyel aschi re ayoora féfféer nggów me bwángiir immigration, iye re schungi bwe schóóy angaang mellól CNMI, nge rese tabweey alléghúl áschí.

Sów Bwungúl Allégh Lapalap ebwal schungi bwe alléghúl immigration kka ighila tálil 706P nge ese féerú alléghúl ngáre aramasal lúghúl me ese ghi fisch mwóghútúl ighila.

Sów Bwungúl Allégh Lapalap ebwal sóbwósóbwóló yaar schungi tipeer toulap bwe alléghúl immigration Tálil 707 rebwe fillóoy igha rebwe atoowowu mille “Overseas Employment Certificate” me ngáre OEC. Mille OEC nge schééschéél dokkomento ye e toowow mereel Gobennol Philippine ngaliir schóóy angaang kka re tittingór (apply) angaang mewóól akkááw falúw. Sów Bwungúl Allégh Lapalap e schungi, Schéél alúghúlúgh yeel nge ekke bwaári weleposol ngáre kkapasal schóóy angaang, fillongol angaang, me job category.

Reel ammataf faingi: Ian M. Catlett, Sów Alillisil Sów Bwungú Allégh, Bwulasiyool Sów Bwungúl Allégh, tilifoon (670) 664-2366 me facsimile (670) 234-7016.

Akkatéél bwángil akkááw allégh: Pomwol lliwel kkaal nge ebwe mwóghút me ngáre e ghilighil ngáli Alléghúl Immigration Tálil 706 me 707.

Rállil ye _____ llól Agosto 2005.

Isaliyallong: _____
PAMELA BROWN
Sów Bwungúl Allégh

ARONGORONGOL TOULAP

Alléghúl Immigration Tálil 706K iye aa ssiwel bwe rebwe árághi:

Lisensial schóóy angaang kka aramasal lúghúl – Schóóy lúghúl kka re toolong CNMI bwe tempiróriyo bwe rebwe alillis me féérú labor ikka raa certified bwe rekke angaang sangi Depattamentool Labor nge emmwel bwe rebwe ngálleer lisensial atotoolong bwelle reel Alléghúl Toulap No. 3-66, ese mmwel aramasal lúghúl kka faal, ruweigh me eew (21) rághil rebwe alúghúlúghúúr rebwe atolongoor faal tálil ye ubwe féérú angaang mellól bwuley ye eyoor lisensial bwe ubwe amwóghútú áschi.

Alléghúl Immigration Tálil 706P iye re fillóóy bwe rebwe árághi:

Lisensial atotoolong ye ghi welepakk – lisensial aramasal lúghúl kka re faal mwóghútúghút ye e ghi welepakk igha ebwe allégh yaal ebwe lootiw me angaang llól Commonwealth me essóbw yoor bwángil alléghúl Commonwealth. Schóókka eyoor yaar lisensia ikka re lo faal tálil yeel nge re exempted sáangi alléghúl schóóy angaang kka aramasal lúghúl (3 CMC talil 4411 et seq.). Lisensia yeel nge emmwel rebwe apiyówuta kkada ráágh me amwaschúúló sáangi schungiyeer sów bwungúl allégh bwelle mwóghút ye e ghi welepakk faal lisensia ye e toowow iye ese melaw lo.

Alléghúl Immigration Tálil 707 iye aa ssiwel bwe rebwe árághi:

Bwángil Entry Application Procedure:

- A. Schéél tingór reel Bwángil lisensial atotoolong nge ebwe isisilong reel Main Office llól Immigration. Alongal schéél tingór me dokkomentol nge ebwe toowow bwe yaal Bwulasyool Immigration. Schéél nge ebwe fféérló llól fisuuw (7) ráálil iye ebwe tabweey alongal tittingór kka e fil. Bwángil Lisensial atotoolong nge re mákkey sáangi Immigration Officer saabw reel Short-Term Business Entry Permits. Alongal dokkomento nge ebwe alúghúlúghúló faal penalty of perjury.

B. Dokkomento kka ebwe ammwello:

1. Schéel tittingór kka a takkaló,
2. Kkopia alúghúlúgh reel birth certificate:
3. Alongal dokkomento nge e allégh sáangi Immigration Officer bwelle ebwe ffat schéel tittingór entry classification, ebwal toolong, bwángil sów bwungúl Allégh, schéel alúghúlúgh ngáli schóoy angaang kka lúghúl (OES) iye e toowow mereel Gobennol Philippine ngáli applicant.
4. One and one quarter inch (1-1/4") frontal photograph e wewee schagh ngáre e schótchól me e bwesch me ngáre e kkoloot.

C. Méél schéel tingór yeel nge ebwe isisilong llól CNMI Treasurer bwe ebwe Ammwelghatchdokkomentool. Óbwós yeel nge ese mmwel rebwe asáfáli. Schéel Tingór nge emmwel ubwe mail. Salaapi (checks) nge ebwe mwete ngáli Treasurer mellol CNMI.

D. Alongeer schóoy lúghúl kkaal nge ressóbw alisi yaar tingór (applications) mellól Commonwealth ikka re lollo bwelle igha eyoor yaar fitighogho mellól Labor, immigration me ngáre legal matter. Bwal eew, ngáre schagh ffataló mwóghútúghút, schóoy lúghúl aa mmwel rebwe tingór (apply) lisensial atotoolong, fféer sefál me ssiwelil kkapasal ngáre e alúghúlúghúlóme labor, immigration me ngáre legal matter.

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTION 706 and 707:

Immigration Regulation §706K is amended to read:

Nonresident Worker Entry Permit – An alien who is coming temporarily to the CNMI to perform temporary service or labor who has been certified as an eligible nonresident worker by the Department of Labor may be granted an entry permit in accordance with Public Law No. 3-66, except that no alien under the age of twenty-one (21) shall be approved for entry under this section to perform work of any kind in an establishment licensed to serve alcohol.

Immigration Regulation §706P is amended to read:

Special Circumstances Entry Permit- permits an alien under special circumstances to legally remain and work in the Commonwealth without further authorization under Commonwealth law. A permit holder under this section is exempted from the provisions of the Non-Resident Workers Act (3 CMC §4411 et seq.). This permit shall be subject to annual renewal at the discretion of the Office of the Attorney General. This permit may be revoked upon a finding by the Attorney General that the special circumstances under which the permit was issued no longer exist.

Immigration Regulation §707 is amended to read:

Authorization For Entry Application Procedure.

- A. Applications for Authorization for Entry permits shall be submitted to the Main Office for Immigration. All applications and supporting documents become the property of the Office of the Immigration. Applications shall be processed within seven (7) days of compliance with all applicable requirements. Authorization For Entry permits will be signed only by the Immigration Officer except for Short-Term Business Entry Permits. All documents shall be filled out under penalty of perjury.
- B. Necessary documents for filing:
1. A completed application form,
 2. Certified copy of birth certificate,
 3. Any document deemed by the Immigration Officer to be necessary to substantiate the applicant's entry classification, including, at the discretion of the Attorney General, an Overseas Employment Certificate (OEC) issued by the Government of the Philippines to the applicant.
 4. One and one quarter inch (1-1/4") frontal photograph in either black and white or color.
- C. The application fee shall be deposited with the CNMI Treasurer by filing the necessary documents. The fee is non-refundable. Application may be made by mail. Checks must be made to "Treasurer of the CNMI".

- D. Applications shall not be accepted from aliens present in the Commonwealth whose presence is permitted solely because they have a pending labor, immigration or legal matter. However, once said matter is decided, the alien may apply for an entry permit, renewal or change of status if the alien prevailed in the labor, immigration or legal matter.

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Saipan, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tel: 670.664.2209 fax: 670.664.2211

PUBLIC NOTICE OF PROPOSED REGULATIONS
WHICH ARE AMENDMENTS TO THE REGULATIONS OF
THE COMMONWEALTH TELECOMMUNICATIONS COMMISSION

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Telecommunications Commission ("CTC"), intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CTC intends to adopt them as permanent, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b))

AUTHORITY: The CTC is required by the Legislature to adopt rules and regulations regarding those matters over which the CTC has jurisdiction, including its internal affairs. (4 CMC § 8313(b)(6); 4 CMC § 8301, *et seq.*, Public Law 12-39).

THE TERMS AND SUBSTANCE: The Regulations provide clear legal authority for the CTC to meet "virtually", rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's Open Meetings Act, 1 CMC § 9901, *et seq.* Typically one or more Commission members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Regulations define the virtual meeting and set out the requirements for public participation.

These Regulations shall be amendments to the CTC Regulations. These amendments add to the Regulations of the CTC, the attached **new Section 1-700 (Meetings)**.

THE SUBJECTS AND ISSUES INVOLVED: There are independent, but related, reasons for the promulgation of these regulations.

1. The Regulations provide procedures for the CTC to conduct its meetings when one or more of the Commissioners is not physically present. This is necessary because of the Commission's dispersed geographical representation (multiple islands) and the difficulties of travel in bad weather, as well as the complexities of the travel schedules of the Commissioners. The Regulations allow one or more of the Commissioners to call in

to the announced meeting place, a practice common in the business world.

2. The Regulations also provide procedures that conform to the CNMI's Open Meetings Act to insure that any member of the public may attend a CTC meeting and hear and view everything that every CTC Commissioner can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Commissioners are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Commissioners see and hear.

3. The Regulations also provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin boards – one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.


4. The Regulations also provide that the Commission's regular meetings shall ordinarily be the third Thursday of every month.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to CTC Acting Director Adam Turner, *Attn: New CTC Regs*, Box 505049, Capitol Hill, Saipan MP 96950 or fax 670.664.2211 or email to director@nmctc.com with the subject line "New CTC regs". Comments are due by November 30, 2005. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

Proposed regulations approved by the CTC on November 16, 2004, and

Submitted by:

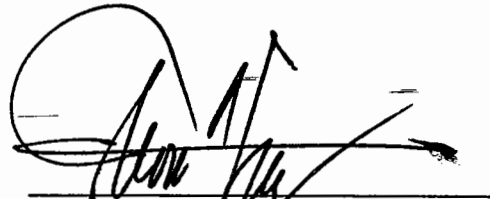


JOSEPHINE DLG MESTA
Secretary, CTC




Date

Received by:


THOMAS A. TEBUTEB
Governor's Special Assistant for Administration

9/22/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Registrar

9/22/05
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 22nd day of Sept, 2005.



PAMELA S. BROWN,
Attorney General

0 CTC NOPR Meetings Oct 2005.wpd

COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
KOMISION TELECOMMUNICATION I COMMONWEALTH

Norman T. Tenorio, Kabesiyo
Caller Box 505049, Capitol Hill, Saipan MP 96950
(Fine'nina na Bibienda gi Building Honorable Juan A. Sablan)
Numirun Tilifon: 670-664-2209 Fax 670-664-2211

**NOTISIAN PUBLIKU POT I MAN MAPROPONE NA REGULASION SIHA
NI MAN MA'AMENDA I REGULASION I KOMISION TELECOMMUNICATION I
COMMONWEALTH**

MA'INTENSION I AKSION PARA U MA'ADOPTA ESTE SIHA MAN MAPROPONE NA REGULASION SIHA: I Komision Telecommunication (CTC) gi Commonwealth I Sankattan Siha Na Islas Marianas, ma'intensiona para u ma'adopta i man mapropone na regulasion siha ni man che'che'ton petmanente, sigun i areklamenton i Akton Areklamenton Atministrasion, 1 CMC Seksiona 9104 (a). I Komision Telecommunication I Commonwealth ma'intensiona para u ma'adopta petmanente, ya man nãã'i' trenta (30) diha siha na notisia pot i intension. Siempre efektibu i regulasion siha dies (10) diha siha despues di i inadoptasion. (1 CMC Seksiona 9105 (b))

ATURIDÁT: I Komision Telecommunication I Commonwealth (CTC) ma'otden ni Lehislatura para u ma'adopta i areklamento yan regulasion siha ni tineteka eyu siha na asunto ni responsibilidad, a enklulusu i asunton sanhalom. (4 CMC Seksiona 8313 (b)(6); 4 CMC Seksiona 8301, et seq., Lai Publiku 12-39).

REGULASION YAN I SUSTANSIAN-NIHA: I Regulasion siha maprobeniyi mäs klãru na ligåt aturidåt para i Komision Telecommunication I Commonwealth na para u fan hunta "Konfiriensian Ilektrisdåt" ("virtually") adimäs hu gaige petsonåt, tatkomo u ma'atiende ni pumalu siha na taotao anai ma anunsia i lugåt i hunta, papa i Akton i CNMI pot Mababan I Hunta, 1 CMC Seksiona 9901, et. seq. Seso tenga uno pat mäs na membrun komision hu atiende ginen i konfiriensian tilifon, ni gai spika gi anai ma hunta i dinaña. I regulasion madefina i konfiriensian ilektrisdåt ya ma na guaha nisisidåt siha para i patisipaon i publiku.

Este na regulasion debi di u ma'amenda para i Regulasion i Komision Telecommunication I Commonwealth. Este na amendasion ma'omenta i Regulasion siha gi Komision Telecommunication I Commonwealth ni man che'che'ton na nuebu na Seksiona 1-700 (Hunta siha).

I PUNTO YAN ASUNTO SIHA NI MAN TINETEKKA: Man independente, lao ti man achule', pot rason para u ma'establesi este na regulasion siha.

1. I Regulasion siha maprobeniyi areklamento siha para i Komision Telecommunication I Commonwealth para u makondukta i huntan-niha yanggen uno osino mäs na membrun komisina siha ti man gaige petsonåt. Nisisário este pot rason na guaha membrun i komisina

ma prisensta otro siha na tano' gi isla-ta siha ya guaha-na besis nai bumaba i tiempo, parehu

ha' yan i sifaalan i batkon aire para i Komisina siha. I Regulasion siha a sesedi uno osino mas na membrun komisina para u ma'agang i lugat i hunta, este na prinaktika sesso gi bisnis i tano' .

2. I Regulasion siha a probeniyi lakkue areklamento anai siha makonfotma i Akton i Binaban i Huntan i CNMI para u ma'insura na maseha hayi na petsona siha ma'atiende para u ma'ekungok yan ina todú i hafa i membrun komisina mahuhungok yan i'ina, fuerra di ayu siha i man mapetmiti sikretu na pribilehu sigun i lai. Yanggen uno osino mas na membrun komisina man a'agang gi tilifon, i petsona ni ha atetiende debi di u na setbi i speakerphone anai siha u fan a'hungok gi sagan i hunta. Yanggen makondukta i hunta gi Internet, i mu atetiende debi di u manasetbe Computer anai siha u fan a'hungok yan a'li'e' yan i pumalu komisina.
3. I Regulasion siha a probeniyi lakkue para u guaha Computer anai siha makondukta i hunta yanggen masusedi ya gai annoko i tiempon-niha. Parehu ha' este yan i gasetan i computer, yanggen un petsona ha infotma i mensahe, ya i otro u oppe' gi birada, guaha na besis nai tinaka diha siha osino gi ora, estaki munayan i asunto.
4. I Regulasion a probeniyi lakkue na i regulat na hunatan komisina debi di u mahunta gi tetseru na Huebis kada mes.

DIREKSION YANGGEN PARA U MAPOLU YAN MAPUPBLIKA: Este siha I Man Mapropone na Regulasion debi di u mapupblika gi Rehistradoran i Commonwealth gi seksionan i man mapropone ya nuebu anai ma'adopta (1 CMC Seksiona 9102 (a)(1)) ya i notisia debi di u malaknos gi kombiniente na lugat siha gi civic center yan ofisinan gobietnamento siha gi kada distritun senadot siha, todú i dos Engles yan i lengguáhen prinsipat ni Natibu, Chamorro yan Refaluwasch. (1 CMC Seksiona 9104 9(a)(1)).

YANGGEN PARA UN NA GUAHA OPINION SIHA: Nahalom osino mail i opinion siha guatto as Adam Turner i Acting Director gi Komision Telecommunication I Commonwealth, Atension: Nuebu Na Regulasion Komision Telecommunication I Commonwealth, gi Box 505049, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi 670-664-2211 osino email guatto gi director@nmictc.com ni matitilu "Nuebu Na Regulasion Komision Telecommunication I Commonwealth". Uttimo i opinion siha gi Nobiembre 30, 2005. Pot fabot nahalom i opinion yan mensahe kinontra siha. (1 CMC Seksiona 9104 (a)(1))

I Man Mapropone Na Regulasion siha man ma'aprueba ni Komision Telecommunication I Commonwealth gi Nobiembre 16, 2004, ya

Ma Nahalom as: _____
JOSEPHINE DLG. MESTA

Fecha

Sekretaria,
Komision Telecommunication I Commonwealth

Marisibe' as: _____
THOMAS A. TEBUTEB
Espiãt Na Ayudãnten i Atministrasion i Gobietno

_____ Fecha

Pinelo' yan Rinikot as: _____
BERNADITA B. DELA CRUZ
Rehistradoran i Commonwealth

_____ Fecha

Sigun i lai 1 CMC Seksiona 2153 (e) (i inapruedan i Abugãdo Henerãt ni regulasion siha ni para u ma'establesi pot para u fotma) yan 1 CMC Seksiona 9104 (a)(3) (ma'aprueda ni Abugãdo Henerãt) i man mapropone na regulasion siha man che'che'ton esta man ma'ina yan ma'aprueda pot para u fotma yan ligãt sufisiente ni Abugãdo Henerãt ya debi di u mapublika (1 CMC Seksiona 2153 (f) (publikasion i areklamento yan regulasion siha)).

Mafecha gi este mina _____ na ha'ãne gi _____, 2005

PAMELA BROWN
Abugao Henerãt

**Commonwealth of the Northern Marianas Islands
Commonwealth Telecommunications Commission**

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Seipel, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tilifoon: 670. 664.2209 fax: 670. 664. 2211

**ARONGORONGOL TOULAP REEL POMWOL ALLÉGH KKAAL IKKA
SSIWELI ALLÉGHÚL COMMONWEALTH TELECOMMUNICATIONS
COMMISSION**

AGHIYEGHIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:

Commonwealth Téél falúw kka falúwasch, Commonwealth Telecommunications Commission (“CTC”), e mángi bwe ebwe schééschéél fillóóy pomwol allégh kka e appasch, sáangi mwóghútúl Administrative Procedure Act, 1 CMC táilil 9104(a). CTC nge e mángi bwe ebwe schééschéél fillóóy, me essóbw luuló eliigh(30) rallil yaal arongowow. (Id.) Allegh kkaal nge ebwe schééschéél allégheló llól seigh(10)rááilil mwiril yaal filló. (1CMC talil 9105 (b))

BWÁNGIL: Schóóy allégh nge re tittingór bwe CTC ebwe fillóóy allégh kkaal bwelle mwóghút ye CTC eyoor bwángil reel, ebwal toolong internal affairs. (4 CMC táilil 8313 (b)(6); 4 CMC táilil 8301, et seq., Alléghúl Toulap 12-39).

ALLÉGH KKAAL ME AWEWEEL: Allégh kkaal nge ebwe ayoora bwáng ye e ffat alléghúl ngáli CTC reel ebwe fil ngáli “virtually”, mmwal igha ipighil aramas, ngáre schagh amweyút re tabweey mwiisch me bwuley ye re fili, sáangi CNMI Open meeting Act, 1 CMC talil9101, et seq. Schééschéél nge escháy me ngáre fitimal mwiischil Commission nge emmwel ebwe kkapas llól telephone conference, fengál me speaker phone igha re fili bwe mwiisch ebwe lo iye. Allégh kkaal nge ekke affata ghatchúl mwiisch me isisiwow yááyál kkaal ngáliir alillisil toulap

Allégh kkaal nge ebwe ssiwel ngáli Alléghul CTC. Ssiwel kkaal nge ebwe schu ngáli Alléghúl CTC, Talil kka e ffe 1-700 (Mwiisch kkaal), aweewe reel akkaté kkaal.

ALLÉGH ME AWEWE KKA E FIL FENGÁL: Eyoor independent, nge e weewe fengál, kkapasal akkatéél allégh kkaal.

1. Allégh kkaal nge e ayoora mwóghútúghútúl CTC reel ebwe atéew mwiisch igha escháy me ngáre fitimal Commissioners ikka ipighil rese lo. Milleel nge e welepakk bwelle igha re lo wóól akkááw falúw (multiple islands) me nggówal raal ótol yaar fáráágh, me bwal ótol weiresil yaar Commissioners fáráágh. Allégh kkaal nge emmwel bwe escháy me ngáre iyo meleir Commissioners rebwe failong bwe rebwe ira iya igha ebwe lo mwiisch iye, Fasúl féfféer me wóól falúw tóttómwógh.

2. Allégh kkaal nge e bwal ayoora mwóghut-ye ebwe alúghúlúghúw CNMI's Open Meetings Act igha ebwe affata bwe inaamwo iyo meleir membroot toulap nge ebwe tabweey mwiischil CTC me amweri fischiy, kkapasal alléghúl igha executive ese tabweey mwiisch me akkáaw allégh e fil reel confidential me proprietary material. Ngáre escháy me iyo meleir Commissioners rekke mwaliili fengál wóól tilifoon, aramas kkaal nge rebwe connect sáangi tilifoon me ngáre emmwel bwe rebwe ásáling mereel speaker phone mellól kkwóto. Ngáre mwiisch yeel e tooto mereel internet, schóókka relo nge ebwe yoor yaal access ngáli computer igha ebwe weri me rongorong meeta Commissioners re weri me rongorong.
3. Allégh kkaal e bwal ayoora yaal access computer igha ebwe computerized mwiisch kkaal igha ebwe lááláay mwóghútúl. Milikkaal nge e weewe schagh computer bulletin board-escháy ebwe isisilong yaal message, escháy ebwe appalawal mwirilóól, emmwel ebwe fitoow ráal me fitoow oora, me sóbwósóbwóló, ngáre schagh ssiwelil text-based aa ffataló nge aa akkayuulo.
4. Allégh kkaal e bwal ayoora bwe ótol yaar mwiisch Commissioners nge ebwe aluuwal weipis llól maram.

AFAL REEL AISIIS ME AKKATÉEWOW: Pomwol Allégh kkaal nge ebwe atotoolong llól Commonwealth Register llól Tálil la re pomwoli me allégh kka re fillóoy ikka e ffé (1 CMC Tálil 9102 (a)(1) me arongorong yeel ebwe aisis ghatch llól civic center me llól Bwulasiyool local government mellól alongal senatorial district, e weewe schagh llól Amerikónu me llól kkapasal Refalúwasch me Remeraalis. (1 CMC Tálil 9104 (a) (1))

ISISILONGOL MÁNGEMÁNG: Afanga me bwughiiló yóómw mángemáng reel CTC Acting ngáli Adam Turner, Attn: Allághúl CTC kka e ffe, Box 505049, Capitol Hill, Seipél MP 96950 me fax reel 670.664.2211 me ngáre email ngáli director@nmctc.com ngáli kkapasal "New CTC regs". Aghiyegh nge essóbw luuló Nobembre 30, 2005. Óutu ghal soong ów isisilong yáami data, ghuley'ami me ngáre aingiingil. (1 CMC Talil 9104 (4)(a)(2))

Alúghúlúghúl pomwol allégh kkaal sáangi CTC Nobembre 16, 2004, me

Isaliyáallong:

JOSEPHINE DLG MESTA
Sekkeretóriyol, CTC

Rál

Mwir sáangi:

THOMAS A. TEBUTEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi: _____
BERNADITA B. DELA CRUZ
Commonwealth Registrar

Rál _____

Sáangi allágh ye 1 CMC Tálil 2153 (e) (alúghúlúghúl AG reel allégh kka ebwe akkatééwow) me 1 CMC tálil 9104 (a)(3) (bwughi alúghúlúghúl AG) pomwol allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap me ebwe akkatééló (1 CMC tálil 2153 (f) (akkatéél allégh kkaal)).

Rállil ye _____ llál _____, 2005.

PAMELA S. BROWN,
Sów Bwungól Allégh Lapalap

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Proposed Amendment to Regulations:

Add to the Regulations of the Commonwealth Telecommunications Commission Part 1, the following new Section 1-700 (Meetings):

Section 1-700 Meetings

This section is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and 4 CMC § 8138(b)(6)(i) (promulgating administrative regulations).

- a. In general.
 - i. The Commission shall act at its meetings, or as otherwise provided in these Regulations.
 - ii. The Commission shall make provision for the virtual attendance of Commissioners, if a Commissioner so requests.
 - iii. Meetings shall be noticed as required by law.
 - iv. A copy of meeting materials distributed to the Commissioners shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.
- b. Time. The time for the regular meetings of the Commission shall be the third Thursday of every month at 6:00 p.m., except as otherwise permitted or provided by law.
- c. Location.
 - i. Meetings shall be held at such place as the Chair may determine unless otherwise provided by the Commission, and the location shall be properly noticed to the public.
 - ii. The Commission may meet virtually, and any Commissioner may attend a meeting virtually.
 - iii. When the Commission meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any

person attending shall have the same access to the meeting as each attending Commissioner at the site. Typically this will include use of a speaker phone for a conference call meeting.

- iv. Votes of Commissioners may be received by electronic means and announced at a meeting.
- d. Rules. Meetings of the Commissioners shall be conducted according to Robert's Rules of Order, most recent revision, unless:
 - i. otherwise specified in these Regulations; or
 - ii. the Rules are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.
- e. Regular Meetings. Regular meetings shall be held as determined by the Commission's Regulations and as additionally determined by the Commission.
- f. Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Commission.
- g. Executive Session. Ordinarily the Commission's meetings shall be open to the public. The Commission may meet privately, in Executive Session, for the following purposes:
 - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
 - (2) To discuss pending or potential litigation or investigations;
 - (3) To discuss aspects of the Commission's business affairs that are confidential and/or proprietary by law;
 - (4) To address a matter that may give rise to a conflict of interest, or an appearance of a conflict, in the absence of the Commissioner(s) related thereto; and
 - (5) To address other matters permitted by law.
- h. Virtual discussions.
 - i. The Commission may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given so that a person seeking to review the discussion as

it happens shall have substantially the same access to the discussion as each participating Commissioner.

- ii. Typically such a discussion shall be by electronic bulletin board open to the view of the public.
 - iii. Such discussion shall be noticed according to these Regulations and shall comply with CNMI law regarding open meetings.
 - iv. The Commission shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
- i. **Accessibility.** The Commission shall comply with the accessibility requirements required by law and may, upon a person's request accommodate other special needs relating to sight, sound, language or location.
- j. **Definitions.** For the purposes of this Section, the following definitions shall apply:
- i. **ELECTRONIC MEANS** includes telephone, video-conference, electronic-telecommunications-mediated written, aural and/or video means, including, but not limited to, mediated through the internet, and/or email.
 - ii. **REAL TIME** or real-time means immediately before, during and/or after, as in "as it happens".
 - iii. **VIRTUAL** or **VIRTUALLY** when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 FAX: (670) 664-1115

**PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO THE AMENDED RULES AND REGULATIONS
FOR THE OPERATION OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LOTTERY**

The Secretary of Finance hereby gives notice to the general public that the Department of Finance is proposing to amend the Amended Rules and Regulations for the Operation of the CNMI Lottery, as originally published in the Commonwealth Register, Volume 22, No.6, June 20, 2000, Commonwealth Register, Volume 24, No. 8, August 21, 2002 and Commonwealth Register, Volume 25, No. 8, September 18, 2003, and as amended by the Rules and Regulations for the Operation of the Commonwealth of the Northern Marianas Lottery as adopted in the Commonwealth Register, Vol. 26, No. 4, April 23, 2004. This amendment is made pursuant to the Department's authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §9305, 1 CMC §9306, the Commonwealth Administrative Procedure Act, 1 CMC §9101 *et. seq.*, and Executive Order 94-3.

The purpose of these amendments are enacted to implement, interpret, prescribe and clarify the policies and procedures required to implement, regulate and supervise the operation of the CNMI Lottery. These Rules and regulations shall have the force and effect of law.

The proposed regulations may be inspected at, and copies obtained from the Secretary's Office, EDP Bldg., Capitol Hill, Saipan, MP. 96950. The proposed regulations are published in the Commonwealth Register.

The Secretary of Finance is soliciting comments on this proposed amendment to the Amended Rules and Regulations for the Operation of the CNMI Lottery from the general public. Anyone interested in commenting on this proposed amendment may do so in writing. Comments may be addressed to the Secretary of Finance, Department of Finance, P.O. Box 5234 CHRB, Saipan, MP. 96950. All comments must be received within 30 days from the date of this notice published in the Commonwealth Register.

Certified By:

Fermin M. Atalig
Secretary of Finance
Department of Finance

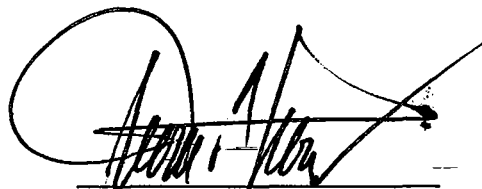
Date: 9/14/05

Filed By:

Bernadita B. Dela Cruz
Commonwealth Register

Date: 9/22/05


Received By:


Thomas A. Tebuteb
SAA, Office of the Governor

Date: 9/22/05

Pursuant to 1 CMC §2153, as amended by P.L. 10-50, the regulations attached hereto have been reviewed and approved by the CNMI Attorney General.

Dated this 22nd day of September 2005.


Pamela Brown
Attorney General

**NOTISIAN PUBLIKU POT I MAN MAPROPONE NA
AMENDASION SIHA PARA I MAN MA'AMENDA NA
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
LOTTERY GI COMMONWEALTH I SANKATTAN SIHA NA ISLAS
MARIANAS**

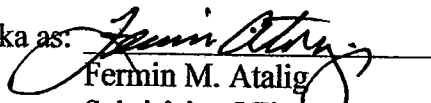
I Sekretarion I Finance man nãã'i' notisia para I publiku henerat na I Dipattamenton I Finance man propopone para u amenda I Man Ma'amenda Na Areklamento yan Regulasion siha Para I Operasion I Lottery gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI), ni mapublika originat gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, gi Rehistran I Commonwealth, Baluma 24, Numiru 08, gi Agostu 21, 2002 yan Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septiembre 18, 2003, ya ni inamenda ni I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery anai ma'adopta gi Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abril 23, 2004. Este na amendasion mafatinas sigun I aturidat yan oden I dipattamento ni mamensiona gi Commonwealth Code a enklulusu lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Seksiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 *et seq.*, yan Executive Order 94-3.

I propositun este na amendasion man ma'otdena para u ma'enfuetsa, ma'sangan, ma'otden yan maklaruyi I areklamento yan manera I manisisita para u ma'enfuetsa, gubietna yan maneha I operasion I CNMI Lottery. Este na Areklamento yan Regulasion siha debi di u gai fuetsa yan efektibu gi Lai.

I man mapropone na regulasion siha ma'ina gi, ya I kopia siha siha u fan machule' gi Ofisinan I Sekretario, gi EDP Bldg., giya Capitol Hill, giya Saipan, MP 96950. I man mapropone na regulasion siha man mapublika gi Rehistran I Commonwealth.

I Sekretarion I Finance man gãgãgao opinion siha pot I man mapropone na amendasion para I man ma'amenda na Areklamento yan Regulasion siha para I Operasion I CNMI Lottery ginen I henerat publiku. Maseha hãyi enteresao munahalom opinion pot I man mapropone na amendasion siha munahalom gi tinige'. Siha mahanãgue' I opinion siha guatto gi Sekretarion I Finance, gi P.O.Box 5234 CHRB, giya Saipan MP 96950. Todu I opinion siha debi di u marisibe' gi halom trenta (30) diha siha anai mafecha este na notisia ni para u mapublika gi Rehistran I Commonwealth.

Masetifika as:


Fermin M. Atalig
Sekretarion I Finance
Dipattamenton I Finance

Fecha:

9/20/05

Pinelo' as: Bernadita B. Dela Cruz
Bernadita B. Dela Cruz
Rehistradoran I Commonwealth

Fecha: 9/22/05

Marisibe' as: Thomas A. Tebuteb
Thomas A. Tebuteb
SAA, Ofisinan I Gubietno

Fecha: 9/22/05

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I regulasion siha ni man che'che'ton man ma'ina yan ma'aprueba ni Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi Septiembre, 2005.

Pamela Brown
Abugâdu Henerât

DIPÀTTAMENTON I FINANCE
MAN MAPROPONE NA AMENDASION SIHA PARA I
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
(CNMI) LOTTERY

Annok I Aturidât I Lai: I Man mapropone na amendasion siha para I areklamento yan regulasion siha para I operasion I CNMI Lottery man ma'establesi sigun, lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Sekiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 et.seq., yan Executive Order 94-3.

Mensâhen Finiho yan Diniseha:

Para u amenda I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery, anai mapublika gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Kada'da' Na Mensâhe Pot I Areklamento Siha:

I areklamento yan regulasion siha a probeniyi I otden yan manera para u ma'enfuetsa yan ma'otden yan mancha I operasion I CNMI Lottery. Este na areklamento siempre lokkue a omentâyi nuebu na huegun lottery mâs matungoña I Marianas Sports Lottery. Este na areklamento yan regulasion siha siña ma'amenda, matulaika osino madiroga pot para u propiu ni I Dipàttamenton I Finance I CNMI.

Para Mâs Infotmasion Ågang:

Si Fermin M. Atalig, I Sekretârion I Finance, gi Numirun Tilifon 664-1100 yan numirun I facsimile 664-1115.

Annok I Man Achule' Yan/pat Inafekta na Lai, Regulasion yan Otden siha:

I CMC Seksiona 9301, et. seq; Rehistran I Commonwealth Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Ninahalom as: *Fermin M. Atajig*
Fermin M. Atajig
Sekritarion I Finance

9/21/05
Fecha

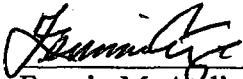
**ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGH ME
AMMWELIL MWÓGHÚTÚGHÚTÚL LOTTERY MELLÓL
COMMONWEALTH TÉEL FALÚWASCH MARIANAS**

Samwoolul Finance ekki arongaar toulap bwe Depattamentool Finance ekki pomwoli bwe ebwe liweli Allégh kka e ssiweló reel Mwóghútúl CNMI Lottery, iye raa fasúl atéew llól Commonwealth Register, Volume 22, Numero. 6, Alimaté 20, 2000, Commonwealth Register, Volume 24, Numero. 8, Eluwel 21, 2002 me Commonwealth Register, Volume 24, Numero. 8, Maan 18, 2003, me a ssiwel mereel Allégh kkaal reel Mwóghútúl Lottery mellól Commonwealth Téel falúwasch Marianas iye aa filló mellól Commonwealth Register, Volume 26, Numero 4, Sééta 23, 2004. Lliwel yeel nge e fféer sáangi Bwángil Depattamento me afalafal iye aléghélégheéló mellól Commonwealth Code ebwal toolong, me ese bwal aighúgh ngáli, 1 CMC Tálil 9303, 1 CMC 9306, Ammwelil Commonwealth Administrative Procedure Act, 1 CMC 9101 et seq., me Akkúleyal Samwool 94-3.

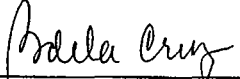
Bwulúl lliwel kkaal ikka re alléghúwuló igha rebwe ayoora, sów aweewe, ischil me affata allégh kkaal me mwóghútúghút ye ebwe mweiti ngáli atotoolongol, alúghúlúgh me amweri fischiy mwóghútúl CNMI Lottery. Allégh me Ammwel kkaal nge rebwe ghítipwotchuw me mwóghut sáangi allégh.

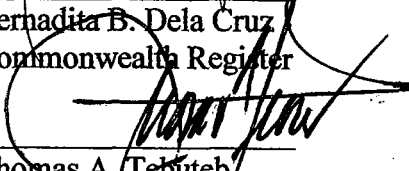
Pomwol allegh kkaal nge emmwel rebwe amweri fischiy mereel, me emmwel rebwe bwughil kkopial mereel Bwulasiyool Sekkretóriyo, EDP Bldg., Capitol Hill, Seipel, MP. 96950. Pomwol allégh kkaal ikka raa atéew llól Commonwealth Register.

Samwoolul Finance ekki tittingór mángemáng reel pomwol lliwel yeel ngáli Allégh kka e ssiwel reel Mwóghútúl CNMI Lottery mereer toulapeer aramas. Schóókka eyoor mángemángiir reel pomwol lliwel yeel nge emmwel rebwe ischilong, mángemáng nge emmwel rebwe afanga ngáli Samwoolul Finance, Depattamentool Finance, P.O. Box 5234 CHRB, Seipél, MP. 96950. Alongal mángemáng nge rebwe bwughil llól eliigh (30) raalil mwiril schagh yaal arong yeel akkaté mellól Commonwealth Register.

Alúghúlúgh sáangi: 
Fermin M. Alalig
Samwoolul Finance
Depattamentool Finance

9/22/05
Rál

Ammwel sáangi: 
Bernadita B. Dela Cruz
Commonwealth Register

Mwir sáangi: 
Thomas A. Tebuteb
SAA, Bwulasiyool Sów Lemelem

9/22/05
Rál

9/22/05
Rál

Sáangi allégh ye 1 CMC, iye aa lliwel mereel P.L. 10-50, allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ Ilól Maan 2005.

Pamela Brown
Sów Bwungúl Allégh Lapalap

DEPARTAMENTOOL FINANCE
POMWOL LLIWEL NGÁLI AMMWEL ME ALLÉGHÚL REEL MWÓGHÚTÚL
LOTTERY MELLÓL COMMONWEALTH TÉÉL FALÚWASCH MARIANAS

Akkatéél bwángil: Pomwol liwel ngáli Allégh me Ammwelil reel Mwóghútúl CNMI Lottery ikka raa atééw bwelle, me ese aighúgh ngáli, 1 CMC Tálil 9305, 1 CMC Tálil 9306, Commonwealth Administrative Procedure Act, 1 CMC Tálil 9101 et seq., me Akkúleyal Sów Lemelem 94-3.

Aweweel pomwol liwel: Rebwe lliweli Allégh kkaal reel Mwóghútúl CNMI Lottery, iye a akkatééwow mellól Commonwealth Register, Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register, Vol. 26, No. 4, Seeta 23, 2004.

Aweweel pomwol allégh: Allégh me Ammwel kkaal e ayoora mwóghutúl atotoolong me alléghúw me amweri fischiy mwóghútúl CNMI Lottery. Allégh kkaal nge ebwal ayoora eew urul lottery ye e ffe iye re ghal ira bwe Marianas Sports Lottery. Allegh kkaal nge emmwel rebwe siweli, mwóghútúl me ngáre fféer sefál bwelle e alléghewow mereel CNMI Depattamentool Finance.

Reel ammataf faingi: Fermin M. Atalig, Samwoolul Finance, Numorol tilifoon 664-1100 me facsimile numoro 664-1115.

Akkatéél bwángil akkááw allégh: 1 CMC Tálil 9301 et seq; Commonwealth Register Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register Vol. 26, No. 4, Séetá 23, 2004.

Isaliyallong:

Fermin M. Atalig
Samwoolul Finance

Rál

Marianas Lottery - SPORTS LOTTERY

Section 1 Purpose and Disclaimer

- (1) Purpose: These rules establish the procedures and requirements for playing Marianas Sports Lottery, a lottery game operated by the Marianas Lottery.
- (2) Disclaimer: Marianas Sports Lottery is not associated with, sponsored, or authorized by any sports league or agency.

Section 1.1 Definitions

For the purposes of Section 1, the following definitions apply unless the context requires otherwise:

- (1) **“Entry Form”** means a play program used by a player to choose the dollar amount to be wagered, the number of events selected, and the player’s chosen option for each event selected.
- (2) **“Event”** means a game or a special play that a player may select.
- (3) **“Favorite”** means the likely winning team of a game as indicated on the official program.
- (4) **“Game”** means a game between two teams.
- (5) **“Game ticket”** or **“ticket”** means a computer-generated, printed paper issued by the Marianas Lottery as a receipt for the events selected and the options chosen by a player and includes, but is not limited to, the following data: The name “Marianas Sports Lottery”, the purchase date, events selected, the option chosen for each selected event, the cost of the ticket, the identifying number for the specific play program, and a serial number.
- (6) **“Official program”** means the Lottery’s list of games with point spreads and special plays, including the options for each event a player may select for a particular play program.
- (7) **“Official Marianas Sports Lottery results”** means the Lottery’s list of the final outcomes of the events scheduled for a given play program, showing the results for each event.
- (8) **“Play Program”** means the form listing the games for which there is an option to play. Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.
- (9) **“Playoff Special”** means a Marianas Sports Lottery game based on the outcomes of games played during the “playoffs” of a particular sport to determine its champion for a particular year.
- (10) **“Point spread”** means the number of points used to balance the possible outcome of an event, giving equal chance for each event’s success.
- (11) **“Prize category”** means a division of the prize pool identified by a specific number of events selected by a player.
- (12) **“Quick Pick”** means the random selection by a Marianas Lottery on-line terminal of events played on a ticket and an option for each event selected.
- (13) **“Special play”** means an activity that occurs within a game, including, but not limited to, fumbles, interceptions, sacks, three-pointers, and home runs.

(14) "Total points" means the total number of the points scored by both teams.

(15) "Underdog" means the likely losing team of a game as indicated on the official program.

Section 1.2 Marianas Sports Lottery Description

(1) **General:** Marianas Sports Lottery is a Lottery game based on the outcome of a game or special play. During the Sports Lottery season, the Lottery will make available an official program, which lists the events for that play program. For each game listed, the official program will indicate the favorite and the underdog and include a point spread. The point spread is added to the underdog score which is then compared to the favorite's score to determine the outcome of a game. The team with the highest score is the winner. The Lottery's point spread appearing on the official program is the only point spread applicable to Marianas Sports Lottery. A game may have no winner should the sum of the point spread plus the underdog score is equal to the favorite's score. The Marianas Lottery may also include for certain games an Over/Under event. The player selects either the Over option or the Under option. The Over selection is correct should the total points scored exceed the number listed in the program, The Under selection is correct should the total points scored be less than the number listed in the program. There is no winner should the total points match the number listed in the program.

(2) **Player Selections:** A player is required to select at least three events on the official program but may select 4, 5, 6, 7, 8, 10, 12, or a maximum of 14 events.

(3) **Lottery Selections:** The Lottery will list a minimum of three events up to a maximum of fifty events each week. The Director reserves the right to determine which events will be listed in the official program and whether to apply a point spread.

Section 1.3 Play Dates and Times

Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.

Section 1.4 Cost of a Ticket

The cost of a ticket is determined by the amount of money a player chooses to wager. The minimum wager is \$1 per ticket. The Marianas Lottery reserves the right to not accept any wager for any particular event.

Section 1.5 Ticket Purchase, Characteristics, and Restrictions

(1) **General:** A Marianas Sports Lottery ticket may only be purchased from a Lottery retailer during the Marianas Sports Lottery season.

(2) **Age of Player:** A player must be at least 18 years of age to purchase a Marianas Sports Lottery ticket.

(3) **Ticket Characteristics:** A game ticket is the only proof of Marianas Sports Lottery game play, including the selections made by a player. The submission of a winning ticket to the Lottery is the sole method for claiming a prize. An entry form or a copy of a game ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase, the selections made by a player, or otherwise represent an opportunity to win a prize.

Section 1.6 Cancellation of Tickets

(1) **General:** A player may cancel a Marianas Sports Lottery game ticket by returning the ticket to the Lottery on the day of purchase prior to the time wagers are disabled before the first event listed on the ticket. After this time, the ticket cannot be canceled.

(2) **Refund:** In the event that Section 1.6, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket.

Section 1.7 Payment Of Prizes; Ticket Validation Requirements; time

Same as Marianas Lottery

Section 1.8 Odd of Winning and Prize Payout

1) Prizes for each Play Program shall be determined and awarded on the following basis:

Match	Odds	Payout	Prize per \$1 Played
3 of 3	8	4	0.500
4 of 4	16	8	0.500
5 of 5	32	15	0.469
6 of 6	64	25	0.391
7 of 7	128	50	0.391
8 of 8	256	100	0.391
10 of 10	1024	200	0.195
12 of 12	4096	400	0.098
14 of 14	16384	1000	0.061

Amount per play program will be subject to a maximum payout of \$50,000.00 per play program. Should the total prizes paid exceed the maximum payout, the prize payout will be prorated based on the total payout for each ticket divided by the total payout determined without regard to the maximum payout.

Section 1.9 Determination of Winners

(1) **Favorite:** To be a winning selection, the favorite must defeat the underdog by more points than the point spread.

(2) **Underdog:** To be a winning selection, the underdog must win the game or lose by fewer points than the point spread.

(3) **General:** To win, all of a player's event selections must match the final outcomes in the Lottery's official Sports Action results. For example, no prize shall be awarded to players who match 3 of 4 event selections, 5 of 7 event selections, or 11 of 14 event selections.

(4) **Official Event Results:** The scores and results for an event become official and final for the purpose of playing Marianas Sports Lottery when the Lottery enters the results in the Lottery's central computer

system for purposes of validating winning tickets. Once the results are entered, the Lottery shall not recognize any changes, including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the professional sports league or organization overseeing the game that changes the outcome of a special play.

Section 1.10 Game Cancellation, Postponement, or Termination

Game Cancellation, Postponement, or Termination

- (1) **Game Cancellation:** If a game is officially canceled prior to the start, or during the course of play, the Director will authorize a refund equal to the cost shown on the player's ticket.
- (2) **Game Postponed:** If a game is officially postponed prior to the start, or during the course of play, play on a Marianas Sports Lottery ticket, which includes that game, may continue until the rescheduled starting time for the game.
- (3) **Game Terminated after Play Has Started:** If a game is officially terminated after play has started and the results of that game are declared as official and final by the sports ruling body, the Lottery will adopt those results. Results include the final score of the game and any special plays within that game.

Section 1.11 Playoff Specials

Playoff Specials

- (1) The Marianas Lottery shall provide to the Director of Finance the rules and prize payout structure of any Playoff Special games prior to offering the game to the public. The Director of Finance must approve the game prior to its sale to the public.

Section 1.12 Fees

Fees

- (1) The annual fee shall be prorated based on the ratio of the number of days the Sports Lottery is available for sales to the number of days in the year.
- (2) The Marianas Lottery shall provide to the Director of Finance a listing of the number of days the Sports Lottery will be available for sale.

Section 1.13 Maximum Jackpot

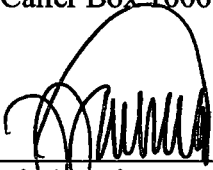
The maximum amount paid out for any one play program shall be limited to \$50,000

PUBLIC NOTICE

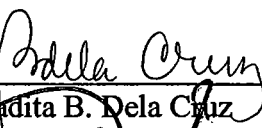
**PROPOSED AMENDMENT TO THE RULES AND REGULATIONS
GOVERNING THE ADMINISTRATIVE PROCEDURE OF THE
COMMONWEALTH FIRE SAFETY CODE**

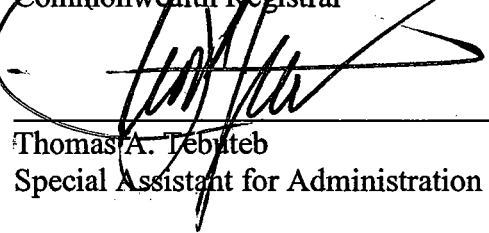
The Department of Public Safety, Fire Division's Fire Prevention Section, hereby proposes to amend the rules and regulations that will govern the administration, implementation, and enforcement of the Fire Safety Code of the Commonwealth of the Northern Mariana Islands. Public Law No. 11-56, to include all sections in the Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association. The rules and regulations to be promulgated are authorized pursuant to section 7304 of Public Law No. 11-56, "Commonwealth Fire Safety Code Act of 1998".

All written comments and/or recommendation regarding the amended rules and regulations are to be submitted within thirty (30) days after the date of this publication in the Commonwealth Register to Department of Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan's Building, Caller Box 10007, Saipan, and MP 96950.

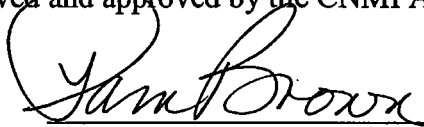
Certified By:  _____
Francis S. Taimanao
Acting Director of Fire
Date: 9/21/05

Approved By:  _____
Santiago F. Tudela
Commissioner of Public Safety
Date: 9/21/05

Filed By:  _____
Bernadita B. Dela Cruz
Commonwealth Registrar
Date: 9/21/05

Received By:  _____
Thomas A. Tebitob
Special Assistant for Administration
Date: 9/21/05

Pursuant to 1CMC§2153 as amended by PL 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

 _____
Pamela Brown, Attorney General
Date: 9/21/05


PUBLIC NOTICE

AMENDMENT TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATIVE PROCEDURE OF THE COMMONWEALTH FIRE SAFETY CODE

Citation of Statutory Authority:	To amend the rules and regulations pursuant to the Commonwealth Fire Safety Code, Public Law No. 11-56.
Short Statement of Goals and Objectives:	To amend the rules and regulations to provide uniform standards as mandated by the Commonwealth Fire Safety Code, Public Law No. 11-56.
Brief Summary of the Proposed Regulations:	To safeguard to a reasonable degree life and property from the hazards of fire and explosions arising from storage, handling and use of hazardous substances, materials and devices, and from any conditions hazardous to life and property in the use or occupancy of any buildings and premises.
Citation of Related and/or Affected Statutes, Rules, and Regulations:	Public Law No. 11-56, Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association.
For Further Information Contact:	Acting Director of Fire Francis S. Taimanao, Fire Division. Telephone numbers 664-9003/9004 or facsimile number 664-9009. Mailing Address: Caller Box 10007, Saipan, MP, 96950

Dated this 20th day of September ~~August~~ 2005.

Submitted by:

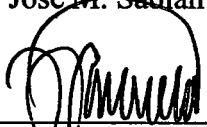

Santiago F. Tudela
Commissioner of Public Safety


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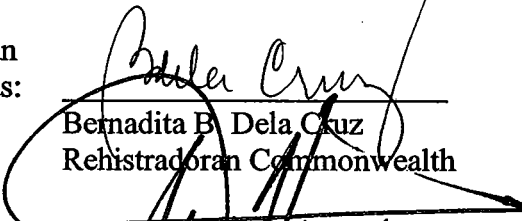
**MAN MA' AMENDA NA ARECKAMENTO YAN REGULASION I PARA U
GOBIETNA I KONDISION YAN MANERAN COMMONWEALTH FIRE
SAFETY CODE**

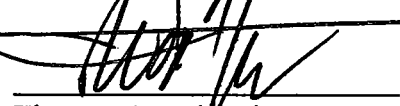
I Dipatamenton Public Safety, Fire Division Fire Prevention na seksiona, ginen este na propopne para u ma' amenda I areklamento yan regulasion I para u gubientna administrasion, implementasion, yan maenfuetsan I Fire Safety Code Commonwealth I Sankattan siha no Islan Marianas, Lai Publiku No. 11-56, para u enklusu todú I seksiona siha put Uniform Fire Code yan Areklamento ni pinepblikan International Conference of Building Official yan I San Lagu na Fire Chief's Association. I areklamento yan regulasion ni para u jama cho'gue ginen inaturisan Seksiona 7304 gi Lai Publiku No. 11-56 "Commonwealth Fire Safety Code Act of 1998".

Todu I manmatuge' siha na komentu / rekomendasion put I manmapropopne siha na arekamento yan regulasion u fanma satmiti halom trenta (30) dias despues di mapublika este na nutisia ge Rehistran Commonwealth para guatu gi Dipatamenton Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan Building, Caller Box 10007, Saipan, MP 96950.

Sinettfikka as:  9/21/05
Francis S. Taimanao Fecha
Dirktot, DPS Fire Division

Mabreba as:  9/21/05
Santiago F. Tudela Fecha
Commissioner of Public Safety

Ma file yan Rinekod as:  9/21/05
Bernadita B. Dela Cruz Fecha
Rehistradoran Commonwealth

Rinisibi as:  9/21/05
Thomas A. Tebuteb Fecha
Special Assistant for Administration

Sigun 1 CMC papa seksiona 2153 ni inamenda ni Lai Publiku 10-50, I areklamento yan regulasion ni chechetton guine esta manmarisibi yan apreba ginen Ofisinan Attorney General giya CNMI.


Pamela Brown Fecha
Attorney General

**MAN MAPRÓPONE NA AMENDASION PARA I AREKLAMENTO
YAN REGULASION SIHA NI GINIBEBIETNA I AREKLAMENTON
ADMINISTRASION POT I COMMONWEALTH FIRE SAFETY
CODE**

Annok I Aturidát I Lai:	Para u ma'amenda I areklamento yan regulasion siha sigun I Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhen Finiho yan Diniseha:	Para u ma'amenda I areklamento yan regulasion siha para u maprobeniyi <u>uniform standards</u> ni ma'otden ni Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhe pot I Man Mapropone na Regulasion siha:	Para u protehi I resonáple siha na piniligrun lina'la' yan propiedát ginen kimason pat pákpak bâm ginen soku yan I mapachan I man piligro siha na matiriát yan kosas, yan maseha háfa ni man na'ma'ñao na kondision kontra lina'la' yan propiedát kumo ma'usa yan guaha gi hálom maseha amino na fasilidát yan uriya.
Annok I Man Achule' yan/pat Inafekta na Lai, Areklamento , yan Regulasion siha:	Lai Publiku Numiru 11-56, <u>Uniform Fire Code</u> yan <u>Standards</u> ni mapublika ginen <u>International Conference</u> pot <u>Building Official</u> yan I <u>Association Western Fire Chiefs'</u>
Para Mâs Infotmasion Ágang si:	I Acting Director gi Fire as Frances S. Taimanao, gi Dibision Fire. Numirun Tilifon 664-9003/9004 osino facsimile 664-9009. Na hánao gi mailing address: Caller Box 10007, Saipan, MP 96950.

Mafecha gi este mina _____ na ha'áne gi Agostu 2005.

Ninaháлом as:


Santiago F. Tudela
Commissioner gi Sináfun Publiku

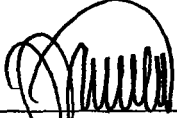
ARONGORONGOL TOULAP

**POMWOL LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM
ADMINISTRATIVE PROCEDURE MELLÓL COMMONWEALTH FIRE
SAFETY CODE**

Depattamentool Public Safety, Fire Division's Fire Prevention Section, ekke pomwoli bwe ebwe fillóoy allégh kkaal igha ebwe lemelem administrative, atotoolongol, me mwóghut ágheli Fire Safety Code mellól Commonwealth Téél Falúwasch Marianas. Alléghúl Toulap ye No. 11-56, igha ebwe atolongow alongal tánil kka llól mille Uniform Fire Code me Allegh kka e akkaté sáangi International Conference llo Building Officials me Western Fire Chief's Association. Allégh kkaal nge ebwe akkatééwow me re mweiti sáangi talil ye 7304 llól Alléghúl Toulap ye. 11-56, "Commonwealth Fire Safety Code Act sáangi 1998".


Alongal ischil mángemáng me/ aghiyegh bwelle reel ssiwelil allegh kkaal nge ebwe atotoolong llól eliigh (30) ráalil ngáre schagh aa allégheló mellól Commonwealth Register ngáli Depattamentool Public Safety, Fire Division, Fire Prevention Section, Jose Sablan's Building, Caller Box 10007, Seipel, me MP 96950.

Alúghúlúgh sáangi:


Francis S. Taimanao
Acting ngali Samwoolul Fire Division


9/21/05
Rál

Allégh sáangi:


Santiago F. Tudela
Samwoolul Public Safety

9/21/05
Rál

Ammwel sáangi:


Bernadita B. Dela Cruz
Commonwealth Registrar

9/22/05
Rál

Mwir sáangi:

Thomas A. Tebuteb
Sów Alillisil Sów Lemelem

9/22/05
Rál

Sáangi allégh ye 1CMC tánil 2153 iye aa ssiweló mereel Alléghúl Toulap 10-50, allégh kkaal ikka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Pamela Brown, Sow Bwungul Allegh Lapalap

Rál

ARONGORONGOL TOULAP

**LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM ADMINISTRATIVE
PROCEDURE MELLÓL COMMONWEALTH FIRE SAFETY CODE**

Akkatéél bwángil: Rebwe fillóoy allégh kkaal bwelle reel Commonwealth Fire Safety Code, Alléghúl Toulap ye 11-56.

Aweweel pomwol lliwel: Rebwe fillóoy allégh kkaal igha rebwe ayoora Uniform Standards iye e towoow mereel Commonwealth Fire Safety Code, Alléghúl Toulap ye. 11-56.

Aweweel pomwol allégh: Rebwe ammwela fischiy reel mwóghútúl melaw me bwuley mereel kkapasal angat me meeta kka e ghal llesch mellól leliyel isiis, akkamwaschul me yáyáál meeta kka e ammesagh, matiriyód me peirágh kkaal, me sáangi weires kka emmwel ebwe toori malawal aramas me falúw ye re yááli me yááyá ngáli iimw me bwuley kkaal.

Akkatéél bwángil akkááw allégh: Alléghúl Toulap ye. 11-56, Uniform Fire Code me Allégh kka e toowow mereel International Conference mellol Building Officials me Western Fire Chief's Association.

Reel ammataf faingi: Acting ngali Samwool reel Fire Francis S. Taimanao, Fire Division. Numerool tilifoon 664-9009. Mailing Addres: Caller Box 10007, Siepel, MP, 96950

Rállil ye _____ llól Agosto 2005.

Isaliyallong:



Santiago F. Tudela
Samwoolul Public Safety

Section 1000. Authority:

The Department of Public Safety Fire Division, Fire Prevention Section shall have the legal authority to enforce laws and regulations promulgated pursuant to the authority of Public Law 11-56, "Commonwealth Fire Safety Code" and all other adopted codes and standards.

Section 1001. Purpose:

The purpose of these rules and regulations is to govern the administration, implementation of governing Public Law 11-56, "Commonwealth Fire Safety Code."

Section 1002. Cooperation with other agencies;

- A. Other government agencies involved in reviewing plans for a new building and/or renovation of an existing building, or construction of underground and above ground storage tanks for flammable liquid and combustible liquid shall inform the applicant/business owner to obtain clearance from Fire Prevention Section in writing of such plans which pertain to Fire Safety in nature.
- B. Officials of other government agencies involved in permitting and/or Licensing of the following activities mentioned in section 1010, shall ensure clearance from the Fire Prevention Section is obtained prior to issuing permits and/or license.

Section 1003. Existing Buildings:

- A. The Fire Chief or his representative from the Fire Prevention Section shall have the authority to inspect existing building if he/she believes an imminent danger exist or has reason to believe that it is an unsafe building.
- B. At anytime a complaint is received by the Fire Division, Fire Prevention Section regarding a building having hazardous or unsafe conditions, The Fire Director or his designee may request to the owner to inspect the premises.

Section 1004. Unsafe Structures:

- A. Any building, dwelling, or structures found unsafe will be given notice of abatement. This notice will serve as a temporary closure of building and or operation until such time deficiencies rendering it unsafe is rectified.

Section 1005. Certificate of Fire:

- A. Any person whose house, property, or business establishment is damaged by fire will be given 3 working days prior to picking up Certificate of Fire report from the Fire Prevention office. This document will be sufficient for justification in requesting assistance from any organization.

- B. The office of Fire Prevention Section will not issue investigation report to any person without written permission from the Commissioner of Public Safety and/or Director of Fire. It will be the responsibility of the client to obtain approval from the Commissioner of Public Safety and/or Director of Fire before any report, other than certificate of Fire report, to be released.

Section 1006. Fireworks:

- A. It shall be unlawful for any person or business to distribute, store, or sell Class "C" Fireworks without a valid permit from the Fire Prevention Office.
- B. It shall be unlawful for any person or business to store, use, or sell Class "B" fireworks without approval from the Governor's office. After approval from the governor, office of Fire Prevention Section must be advised regarding such activities.

Section 1007. Fire Hydrant:

- A. It shall be unlawful for any person to use or draw water from any fire hydrants without proper written permission from the Director of Fire. Any person found will be cited for tampering with fire appurtenances.
- B. Any person who wish to use or draw water from a fire hydrant must obtain permit from the Fire Division. They will also be required to obtain clearance from the Commonwealth Utilities Corporation prior to obtaining permit from Fire Division.
- C. It shall be the responsibility of Fire Division to perform periodic maintenance on fire hydrants to determine serviceability, water pressure during peak and regular hours, landmark hydrants so that locating it would not be a problem during night or inclement weather. Any hydrants found with major damage shall be reported to proper agency for repair or removal.
- D. Any person or motorist responsible for damaging any hydrants will be liable for the cost of repairing the hydrant or for a new replacement.

Section 1008. Inspections For New Permits

I. First Inspection

- A. The Inspector shall conduct the inspection, if code compliance has been obtained, the permit will be processed. There is no charge for this First Inspection, it is included in the permit fee which payment must be received by the Commonwealth of the Northern Marianas Island (CNMI) Treasury, before permit is issued (see Issuance of permit schedule).
- B. If code compliance has not been obtained, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code, and, providing adequate time between inspection, dependent on the hazard and danger created by the

violations and the complexity of the work to be done, but generally, within 15 to 30 days or as felt adequate by the business owner, a schedule for "First Reinspection" date and time, to verify code compliance. Note: First Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).

- C. In all cases, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit and First Reinspection fees shall be payable to the CNMI Treasury, before the permit is issued (see Inspection Fee and Fees for Issuance of Permits schedules).
- B. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger create by the violation and the complexity of work to be done, but generally, within 15-30 days or as felt appropriate by the business owner, schedule a Second Reinspection date and time, to verify code compliance. Note Second Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).
- C. In all case, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report from(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit, First and Second Reinspection fee must be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of permits Schedules).
- B. If code compliance has not been obtained on the Third Inspection or the Second Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to done, but generally, within 1-15 days or as felt appropriate by the business owner, schedule a Third Reinspection date and time, to verify code compliance. Note: Third Reinspection will be at a fee double the Second Reinspection fee and payable to the CNMI Treasury, when code compliance is obtained and before permit is issued. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).

- C. In all case, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit. First, Second, and Third Reinspection fees must be shall be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of Permit Schedules). Note: Third Reinspection shall be at a fee double the Second Reinspection fee. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).
- B. If code compliance has not been obtained by the Fourth Inspection or Third Reinspection, the reinspection will continue in the fashion as previous inspection until compliance with the fire code has been obtained.
- C. In all cases, inspection report(s) shall be filled out the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

Section 1009. Unannounced Inspections for Existing Permit Holders

Unannounced inspections may conducted by any designated official of the Department of Public Safety Fire Division Fire Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The Fire Division's intention is to protect the integrity of its fire prevention program; to take reasonable measures to ensure that fire code compliance is continually maintained and not just occasionally on or about permit renewal date or on notice of inspection possibility; and to address citizen concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violations found if necessary; obtain all signatures indicated on the report form(s); and issue a copy of the report(s) to the person responsible for the premises and, fines. No inspection fee shall be imposed in this case.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a first inspection fee; and identify for the person responsible for the premises, specific violations of the applicable code and, dependent of the hazard and danger created by the violations and the complexity of the work to

be done, but generally, it is shall be the discretion of the inspector to impose the time frame for next inspection.

- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued upon the second inspection or first reinspection. If violations are encountered.
- D. Payments of fines must be paid to the CNMI Treasury 30 days of the first reinspection. If permit renewal date should fall within the 30 days, fines, and the regular permit fee shall all be due upon request for permit renewal.

II. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on the violations found; impose first reinspection fee; and inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.
- B. If code compliance has not been obtained by the second inspection or the first reinspection, the inspector shall issue a citation, fines depending on the violation(s) of the applicable code; impose a first reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally to be determined by the inspector, schedule a second reinspection date and time to verify compliance.
- C. Payment of fines, First Inspection and First Reinspection fees must be paid to the CNMI Treasury within 30 days of First Reinspection. If permit renewal date should fall within the 30 days, fines, first Inspection and First Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- D. In all cases, an inspection report shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a second reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines.
- B. If code compliance has not been obtained by the third inspection or the second reinspection, the inspector shall impose a second fee; providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done to be determined by the inspector,

schedule a third reinspection date and time to verify compliance; and issue a citation, a fine based on the fine fee schedule.

- C. The inspector should mention the possibility of permit being revoked and cessation of business operations. The fines issued at this point will be added to those already issued.
- D. Payment of fines, First Inspection, First and Second Reinspection fees must be paid to the CNMI Treasury within 30 days of Second Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First and Second Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a third reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and cessation of business operations.
- B. Payment of fines, First Inspection, First, Second Third Reinspection fees must be paid to the CNMI Treasury within 30 days of Third Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First, Second and Third Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- C. If code compliance has not been obtained by the fourth inspection or the third reinspection, the inspector shall impose a third reinspection fee; issue the person responsible for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operations due to a revoked permit; and place a sign at the entry points of the establishments stating, in effect, closure by order of the Department of Public Safety Fire Division Fire Prevention Section, and the reason(s) for closure.
- D. The business owner shall not resume business operations until hazards have been abated; a fourth reinspection is conducted and applicable code compliance has been obtained, it shall be the business owner's responsibility to call the Fire Prevention Section to coordinate the date and time of fourth reinspection; all fines, first inspection, first, second, third and fourth reinspection fees are paid, submitting receipts of payment as proof of payment; and an authority from the Fire Prevention Section has removed all posted signs and tags from the establishment.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the form(s); and a copy given to the person responsible for the

premises. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1010. Unannounced Inspections For Others Regulated by the UFC.

Unannounced inspections may be conducted by any designated official of the Department of Public Safety Fire Division, Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The D.P.S Fire Division, Prevention Section's intention is to protect the integrity of its Fire Prevention Program; to take reasonable measures to ensure that all fire code compliance is continually maintained and not just occasionally on or about Business License clearance date or on notice of inspection possibility; and to address concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating the owner, operator, occupant, and premises or other person responsible for that which is regulated by the applicable code, are in compliance with code. No inspection fee will be required.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a First Reinspection fee; and identify for the owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, specific violation of the code and, dependent on the hazard and danger created by the violations and complexity of the work to be done, but generally within 15-30 days, schedule a First Inspection date and time to verify code compliance. NOTE: First Reinspection will be at a fee in accordance with Section 1013 under "First Reinspection."
- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued after the second reinspection or depending on the violation involved.
- D. In all cases, proof of fee payment or receipt shall be presented to the Fire Prevention Office before the Second Inspection or First Reinspection is conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, and premises or other responsible for that which

is regulated by the applicable code, are in compliance with the code. Fee in accordance with Section 1013 under "First reinspection" shall be imposed.

- B. Payment of fines and First Reinspection fees must be received by the CNMI Treasury, within 30 days after the First Reinspection was conducted. If involved is a business, and Business License clearance date should fall within the 30 days, fines and First Reinspection fees shall all be due upon request for Business License clearance.
- C. If code compliance has not been obtained on the Second Inspection or the First Reinspection, the inspector shall issue a "Warning of Violation", depending on violation of the applicable code; imposed a Second Reinspection or Third Inspection fee and, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and complexity of the work to be done, but generally, within 10-15 days, schedule a Third Reinspection date and time to verify code compliance.
- D. In all cases, Inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, or person responsible for the premises or other person responsible for that which is regulated by the applicable code, are in compliance with the applicable fire code;
- B. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; schedule a Third Reinspection date and time to verify compliance, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days; and issued a citation, a fine based on the Fine Fee Schedule.
- D. If involved is a business, the inspector should mention the possibility of business license being revoked and cessation of business operation. (See Section 1013 for fines for each violations of the applicable code).

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, is/are in compliance with the code.
- B. If involved is a business, and code compliance has not been obtained by the Fourth Inspection or the Third Reinspection, the inspector shall issue the person responsible

for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operation due to hazards; and place a sign of establishment stating, in effect, closure by order of the DPS Fire Division Prevention Section and the reason(s) for closure.

- D The business owner shall not receive Business License clearance from the DPS Fire Division Prevention Section nor resume business operation until hazards have been abated; a Fourth Reinspection is conducted and applicable code compliance has been obtained (business owners are responsible to contact DPS Fire Division Prevention Section to coordinate the date and time); all fine payable to CNMI Treasury have been recieved, and an authorized DPS Fire Division Prevention Section Official has removed all posted signs and tags from the establishment.
- E. In all cases, proof of payment or receipts must be presented to the Fire Prevention Section before any inspection could be conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and copy given to the person responsible for that which is regulated by the code. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1011. Inspections For Permit Renewal

I. First Inspection

- A. The Inspector shall conduct the inspection. If applicable code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violation if necessary; obtain all signatures indicated on the report form(s); and issue a copy of report(s) to the person responsible for the premises and, if applicable, inform the same that repeat violations that encountered in future inspection may result in fines. There is no charge for this First Inspection, it is included in the permit fee which must be received, along with fines, by the Commonwealth Northern Mariana Island (CNMI), Treasury, before permit is renewed (see issuance of Permit Schedule).
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code; issued a citation, fines depending on violation if necessary; and, providing adequate time between inspection, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days, schedule a First Reinspection date and time, to verify code compliance.

First Reinspection fee and fines shall be payable to the CNMI, Treasury when code compliance is obtained and before permit is issued (see Inspection Fee Schedule)

- C. Citations normally will not be issued on the First Inspection. When routine violation of the applicable fire code are encountered, citations will generally be issued upon the Second Inspection or First Reinspection, if violations are encountered.

Exception: Citation issued for violations which present imminent life hazards such as trespassing in a closed area, smoking in closed or restricted areas, failure to obey the lawful orders of a fire inspector, faulty equipment or procedures, repeated violations of a similar nature will not required prior notice.

- D. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on violations if necessary; impose a First Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspection may result in fines.

- B. Payment of fines, First Reinspection fee and regular permit fee must payable to the the CNMI, Treasury before permit is renewed (see Inspection Fee and Fees for the Issuance of permit schedule.

- C. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall issue a citation, a fine depending on the violation of the applicable code; impose a First Reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of work to be done, but generally, within 1-15 days, schedule a Second Reinspection date and time, to verify compliance. Note Second Reinspection fees will the double First Reinspection fee (see Inspection Fee Schedule). Continued violations encountered upon Second Reinspection may result in citation, fines based on violation(s).

- D. In all case, inspection report shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Second Reinspection fee; inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.

- B. Payment of fines, First Reinspection and Second Reinspection fees, and regular permit fee must be received by the CNMI Treasury, before permit is renewed (see Inspection Fee Schedule and Fine Schedule).

- C. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; providing adequate time for compliance between inspections dependent on the hazard and danger created by the violation, but generally, within days, schedule a Third Reinspection date and time to verify compliance; and issue a citation, a fine based on the violation.
 - D. The inspector should mention the possibility of permit being revoked and cessation of business operation. The fine(s) issued at this point will be added to those already issued. Note Third Reinspection fee shall be double the Second Reinspection Fee (see inspection Fee schedule).
 - E. In all cases, the inspection report(s) shall be filled out by the inspector, signed by all parties indicating on the report form(s); and a copy given to the person responsible for the premises.
- IV. Fourth Inspection or Third Reinspection.**
- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Third Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and/or cessation of business operations.
 - C. Payment of fines, First, Second and Third Reinspection fees, and regular permit fee must be received by the CNMI, Treasury before permit is renewed.

Section 1012. Permits;

General; Any person, firm, or corporation who plans to engage in any of the following activities listed below, shall obtain permit from the Fire Division Fire Prevention Section. Prior to issuance of any permit, an application for permits and other necessary documents required by the Fire Prevention section must be submitted for review and scheduling of inspection if deemed necessary. Fees for each activity shall be payable to the

TYPE OF PERMIT	FEE	DURATION	CODE SECTION
Aerosol Products To store or handle an aggregate quantity of level 2 or level 3 aerosol products in excess of 500 lbs. net wt	\$20.00	Annually	UFC ARTICLE 88
Aircraft Refueling Vehicles To operate aircraft refueling Vehicles.	\$20.00	Annually	UFC ARTICLE 24
Aircraft Repair Hangar	\$20.00	Annually	UFC

To use any structure as an aircraft Hangar for Servicing or repair aircraft.			ARTICLE 24
Asbestos Removal To conduct asbestos-removal operations.	\$20.00	Annually	UFC ARTICLE 87
Automobile Wrecking Yark To operate an automobile wrecking yard.	\$20.00	Annually	UFC ARTICLE 34
Bowling Pin or Alley Refinishing To conduct a bowling pin refinishing or bowling alley resurfacing operation involving use and application of flammable liquids or materials.	\$10.00	Each Occurance	UFC ARTICLE 26
Candles and Open Flame Devices in Assembly areas To use open flame or candles in connection with Assembly areas, dining areas of restautants or Drinking establishments.	\$20.00	Annually	UFC ARTICLE 25
Carnivals and Fairs To conduct a carnival or fair (plans of grounds Required) To conduct a concession booth.	\$10.00 \$10.00	Each Occurance Each Occurance	UFC ARTICLE 25
Cellulose Nitrate Film To store, handle, use or display	\$20.00	Annually	UFC ARTICLE 33
Cellulose Nitrate Storage or Handling To store or handle more than 25 lbs.	\$20.00	Annually	UFC ARTICLE 27
Christmas Trees To use natural or resin-bearing cut trees in Public Areas.	\$10.00	Each Occurance	UFC APPENDIX IV-B
Combustible Fiber To store or handle more than 100 cu. Ft (exception: exterior storage of hay, straw, and similar agricultural materials).	\$20.00	Until Revoked	UFC ARTICLE 28
Combustible Materials To store more than 2500 cu. Ft. gross volume of Cumbustible empty packing cases, boxes, barrels or Similar containers, or rubber or cork. or other Similarly combustibile material.	\$20.00	Annually	UFC ARTICLE 11
Commercial Rubbish-Handling Operation To operate a commercial handling operation	\$20.00	Annually	UFC ARTICLE 11
Compressed Gases If compressed gases is in excess of amounts listed in UFC Table 105-A. Note: Additional requirements and exceptions in UFC Articles 74, 80, and 82. To store, transport on site, dispense, use or handle To install, repair, abandon, remove, place temporarily out of service, close or substantially modify a compress gas system.			UFC ARTICLE 74, 80, and 82.
Corrosive-Any amount	\$20.00	Annually	
Flammable-More than 200 cu. Ft. (except cryogenic fluids and liquified petroleum gas.			
Highly Toxic-any amount	\$20.00	Annually	
Inert- More than 6,000 cu. Ft.	\$20.00	Annually	
Oxidizing (including oxygen)-More than 500 cu. Ft.	\$20.00	Annually	
Pyrophoric- Any amount	\$20.00	Annually	
Radioactive- Any amount	\$20.00	Annually	
Toxic- Any amount	\$20.00	Annually	
Unstable (reactive)- Any amount	\$20.00	Annually	

<p>Underground storage tank used for fueling motor Vehicles by any means other than the approved, Stationary on-site pumps normally used for Dispensing purposes.</p> <p>To install, construct, alter or operate tank vehicles, Equipment, tanks, plants, terminals, wells, fuel -dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed, or used.</p> <p>To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 gal. \$20.00 Each Occurance Over 10,000 gal. \$20.00 Each Occurance</p> <p>To change the type of contents stored in a flammable or combustible liquid tank to a material other than that for which the tank was designed and constructed.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 \$20.00 Each Occurance Over 10,000 \$20.00 Each Occurance</p>	\$20.00	Annually	
<p>Fruit Ripening Processes In heated rooms and ripening processes where Ethylene gas is introduced into the room to assist the Ripening process.</p> <p>To operate a fruit ripening process.</p>	\$20.00	Annually	UFC ARTICLE 46
<p>Fumigation or Thermal Insecticidal Fogging Note: see article 80 for additional requirements and Exceptions.</p> <p>To Operate a business of fumigation or thermal Insecticidal fogging or to maintain a fumigation room, vault or chamber in which a toxic or flammable fumigant is used.</p>	\$20.00	Annually	UFC ARTICLE 47
<p>Hazardous Materials To store, transport on site, dispense, use or handle Hazardous materials or to install, repair, abandon, Remove, place temporarily out of service, close or Substantially modify a storage facility or other area Regulated by UFC Article 80 when the hazardous Materials in use or storage exceed amounts listed in UFC Table 105-C. Note: The hazardous materials that exceeds the permit amount shall be used in determining the hazard classification. If more than one hazardous material involved, the material that fit within the highest hazard classification described herein shall be used. The measurement method used in the UFC for the respective Hazardous materials shall be applicable.</p> <p>Minor Hazard Solids: not to exceed 500# of permit amount. Liquid: not to exceed 55 gals. of permit amount.</p>	\$20.00 \$20.00	Annually Annually	UFC ARTICLE 80

Gases: not to exceed 200-cu. Ft. of permit amount.	\$20.00	Annually	
Moderate Hazard Solid: 501-5000 lbs. (excess of permit amount)	\$30.00	Annually	
Liquid: 56-550 gals. (excess of permit amount)	\$30.00	Annually	
Gases: 201-2000 cu. Ft. (excess of permit amount)	\$30.00	Annually	
Major Hazard Solid: 5001-25000 lbs. (excess of permit amount)	\$40.00	Annually	
Liquid: 551- 2750 gals. (excess of permit amount)	\$40.00	Annually	
Gases: 2001-10000 cu. Ft. (excess of permit amount)	\$40.00	Annually	
Extreme Hazard Solid: 25001 lbs. and over (excess of permit amount)	\$50.00	Annually	
Liquid: 2751 gals. and over (excess of permit amount)	\$50.00	Annually	
Gases: 10001 cu.ft. and over (excess of permit amount)	\$50.00	Annually	
Special Hazard Based on type of occupancy, size, location, quantity and degree of hazard.	\$100.00	Annually	
Hazardous Production Materials To store, handle or use in group H, Div. 6 occupancy	\$20.00	Annually	UFC ARTICLE 51
High-Piled Combustible Storage To use any building or portion there of exceeding 2,500 sq.ft. for high-piled combustible storage (floor plan required)	\$20.00	Annually	UFC ARTICLE 81
Hot-Work Operations Permits are required for hot work including, but not limited to:			UFC ARTICLE 49
Public exhibitions and demonstrations where hot work is conducted.	\$20.00	Annually	
Use of portable hot-work equipment inside a Structure. Exception: Work that is conducted under a construction permit issued by the building official.	\$20.00	Annually	
Fixed-site hot-work equipment such as welding Booths.	\$20.00	Annually	
Hot-work conducted within a Hazardous fire area.	\$20.00	Annually	
Liquified Petroleum Gas To store, use, handle or dispense LP-gas Portable containers equal to or more than 125-gal. Aggregate water capacity but not more than 4,000 -gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.	\$20.00	Annually	UFC ARTICLE 82
Containers over 4,000 gals. aggregate water capacity or a container more than 2,000 gal. Water capacity.	\$20.00	Annually	
To Install or maintain LP-gas Portable containers equal to or more than 125-gals. Aggregate water capacity but not more than 4,000	\$20.00	Annually	

-gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.			
Containers over 4,000-gals. aggregate water capacity or a container more than 2,000-gals. water capacity. (Plans Required). Note: Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the Fire Chief or his authorized representative. Note: Installers shall maintain a record of installations for which a permit is not required by Section 105 and have such record available for inspection by the Fire Inspectors. Exception: Installation of a gas-burning appliance and replacement of portable cylinders.	\$20.00	Annually	
Liquid-or Gas-Fueled Vehicles or Equipment in Assembly Buildings. To display, compete or demonstrate liquid-or gas -fueled vehicles or equipment in assembly buildings.	\$20.00	Each Occurance	UFC ARTICLE 25
Lumber Yards To store lumber in excess of 100, 000 board feet.	\$20.00	Annually	UFC ARTICLE 30
Magnesium Working To melt, cast, heat treat, or grind more than 10 lbs. of Magnesium per working day.	\$20.00	Annually	UFC ARTICLE 48
Mall, Covered Permits shall be obtained to use a covered mall in the Following manner: To place or construct temporary kiosks, display Booths, equipment or the like in a mall. To use a mall as a place of Assembly To use open-flame or flame-producing devices To display any liquid or gas-fueled powered Equipment.	\$20.00 \$20.00 \$20.00 \$20.00	Each Occurance Each Occurance Each Occurance Each Occurance	UFC ARTICLE 35
Marinas To use open-flame devices for maintenance or repair of vessels, floats, piers or wharves To use portable barbecues, braziers or cooking Devices on vessels, floats, piers or wharves.	\$20.00 \$20.00	Annually Annually	UFC ARTICLE APPENDIX II-C
Motor Vehicle Fuel-Dispensing Stations To dispense flammable or combustible liquids, Liquefied petroleum gases or compressed natural gas at motor vehicle fuel-dispensing stations. (plans and specifications required) Note: Such operations shall include both public and private Accessible operations, automotive, marine fuel-dispensing stations.	\$20.00	Annually	UFC ARTICLE 52
Open Burning (not including barbecue) To conduct open burning	\$5.00	Annually or	UFC ARTICLE 11

(Joint approval with Division of Environmental Quality). Note: Open burnig is the burning of a bonfire, rubbish fire or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.		Each Occurance	
Organic Coatings To manufacture more than one gallon of organic Coating in a working day. Exception: Processes manufacturing nonflammable or water-Thinned coating and operations applying coating materials.	\$20.00	Annually	UFC ARTICLE 50
Ovens, Industrial Baking or Drying To operate an industrial baking or drying oven. Note: Industrial baking and drying which are heated with oil or gas fuel or which during operation contain flammable vaports from the products being baked or dried. (Plans of details and calculations required)	\$20.00	Annually	UFC ARTICLE 62
Parade Floats To use a parade float for public performance, Presentation, spectacle, entertainment, or parade each float.	\$10.00	Each Occurance	UFC ARTICLE 11
Repair Garages To use a structure as a place of business for servicing or repairing motor vehicles.	\$20.00	Annually	UFC ARTICLE 29
Rifle Ranges To establish, maintain or operate a rifle range. Note: Application must be referred to Police Division for approval	\$20.00	Annually	UFC APPENDIX II-D
Spraying or Dipping To conduct a spraying or dipping operation utilizing Flammable or combustible liquids or combustible Powders	\$20.00	Annually	UFC ARTICLE 45
Tire Storage (outdoor) To use an open area or portion thereof to store tires in excess of 1,000 cu.ft. (plans required)	\$20.00	Annually	UFC ARTICLE 11
Refrigeration Equipment A permit is required for regrideration unit or system installations having a refrigerant circuit containing more than 220 lbs. of group A1 or 30 lbs. of any other group refrigerant.(plans and specification Required) To install or operate a mechanical refrigeration unit or system.	\$20.00	Annually	UFC ARTICLE 63
Tent, Canopies, and Temporary Membrane Structures To erect or operate a tent or air-supported temporary Membrane structure or a canopy.(except for camping) Tent or air-supported membrane more than 200 sq.ft. Canopy over 400 sq.ft. Note: Permit not to exceed 180 days within a 12 month period.	\$20.00 \$20.00	Each Occurance Each Occurance	UFC ARTICLE 32

Section 1012. Fines for Violations of the Code.

UFC SECTION	OFFENSE	
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103.4.3.1	Noncompliance with Orders or Notices.	\$500.00
103.4.3.2	Noncompliance with Tags.	\$500.00
103.4.3.3	Removal and Destruction of Tags and Signs.	\$500.00

Where work for which a permit is required is started or proceeded prior to obtaining said permit, the following fines shall apply.

Facility Value	Fine
\$1 - \$500	\$10.00
\$501 - \$2,000	\$25.00
\$2,001 - \$25,000	\$100.00
\$25,001 - \$50,000	\$200.00
\$50,001 - \$100,000	\$500.00
\$100,001 - \$500,000	\$1,000.00
\$500,001 - \$1,000,000	\$5,000.00
\$1,000,001 - UP	\$10,000.00

All other violations are \$75.00 and court costs. Fines are forfeitable on first offense and mandatory appearance is required on second offense.

UFC SECTION	VIOLATIONS	FINE
Section 101	Failure to comply with nationally recognized standards.	\$50.00
Section 101.2	Violation of provisions for the administration of any and all laws relating to firesafety.	\$75.00
Section 103.2.1.1	Violation of provisions for the prevention of fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the suppression or extinguishment of dangerous or hazardous fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the storage, use and handling of hazardous materials,	\$50.00
Section 103.2.1.1	Violation of provisions for the installation and maintenance and regulation of fire escapes.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under constructions.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of exits.	\$50.00
Section 103.2.1.1	Violation of the provisions for the investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.	\$50.00
Section 105	Violation of provisions for permits.	\$50.00
Section 105.8	Failure to have a required permit	\$50.00
Section 901.1	Violation of provisions for fire department access and water supply.	\$50.00
Section 1001.1	Violation of provisions for fire protection systems and equipment.	\$50.00
Section 1101	Violation of provisions for general safety precautions	\$50.00
Section 1201.1	Violation of provisions for the maintenance of exits and emergency escapes.	\$50.00
Section 1301.1	Violation of provisions for reporting of emergencies, emergency plans and emergency procedures.	\$50.00
Section 2401.1	Violation of provisions for airports, heliports, helistops, and aircraft hangers (Authority having Jurisdiction).	
Section 2501.1	Violation of provisions for places of assembly.	\$50.00
Section 2601	Violation of provisions for the storage, uses and handling of flammable and combustible liquids and woodworking operations within bowling alleys and	\$50.00

	pin-refinishing rooms.	
Section 2701	Violation of provisions for cellulose nitrate plastics (pyroxylin) storage and handling.	\$50.00
Section 2801	Violation of provisions for the storage and handling of combustible fibers.	\$50.00
Section 2901	Violation of provisions for garages used for service or repair of motor vehicles.	\$75.00
Section 3001	Violation of provisions for woodworking plants and exterior lumber storage.	\$75.00
Section 3201	Violation of provisions for tents and temporary membrane structures having an area in excess of 200 sq. ft., and canopies in excess of 400 sq. ft..	\$75.00
Section 3301	Violation of provisions for the storage and handling of cellulose nitrate motion picture film (nitrate film).	\$75.00
Section 3401	Violation of provisions for automobile wrecking yards.	\$50.00
Section 3501	Violation of provisions for the temporary use of the common pedestrian area within a covered mall building for promotional, educational, assembly, sales or similar activities.	\$75.00
Section 3601.1	Violation of provisions for dry-cleaning plants and systems.	\$75.00
Section 4501.1	Violation of provisions for: 1. The application of flammable or combustible paint, varnish, lacquer, stain or other flammable or combustible liquid applied as spray by compressed air, airless, or hydraulic atomization, steam, electrostatic or other methods or means in continuous or intermittent process, 2. Dip tank operations in which articles or materials are passed through contents of tanks, vats or containers of flammable or combustible liquids, including coating, finishing, treatment and similar processes, and 3. The application of combustible powders by powder spray guns, electrostatic powder spray guns, fluidized beds or electrostatic fluidized beds.	\$75.00
Section 4601	Violation of provisions for fruit-ripening processes in heated rooms and ripening processes where ethylene gas is introduced into a room to assist the ripening process.	\$75.00
Section 4701	Violation of provisions for fumigation and thermal insecticidal fogging operations.	\$75.00
Section 4801	Violation of provisions for the storage, handling and processing of magnesium, including the pure metal and alloys of which the major part is magnesium.	\$75.00
Section 4901	Violation of provisions for welding and cutting operations.	\$75.00
Section 5001	Violation of provisions for processes manufacturing protective and decorative finishes or coating for industrial, automotive, marine, transportation, institutional, household or other purposes, including the handling of flammable or combustible liquids, combustible solids and dust. Exception: Processes manufacturing nonflammable or water-thinned coating and operations applying coating materials.	\$75.00
Section 5101	Violation of provisions for semiconductor fabrication facilities and comparable research and development areas classified as Group H, Division 6 Occupancies.	\$75.00
Section 5201	Violation of provisions for automotive, marine, and aircraft motor vehicle fuel-dispensing, including both public accessible and private operations. (UFC Standard 52-1)	\$75.00
Section 6101	Violation of provisions for oil-burning equipment other than internal combustion engines, oil lamps and portable devices such as blow torches, melting pots and weed burners.	\$75.00
Section 6201	Violation of provisions for the location, construction and operation of industrial baking and drying ovens which are heated with oil or gas fuel or	\$75.00

	which during operation contain flammable vapors from the products being baked or dried. (UFC Standard 62-1)	
Section 6301	Violation of provisions for refrigeration unit and system installation having a refrigerant circuit containing more than 220 pounds of Group A1 or 30 pounds of any other group refrigerant. Exception: The chief is authorized to exempt temporary or portable installation.	\$75.00
Section 6401	Violation of provisions for stationary lead-acid battery systems having a liquid capacity of more than 100 gallons used for facility standby power, emergency power or uninterrupted power supplies.	\$75.00
Section 7401.1	Violation of provision for storage, use and handling of compressed gases containers, cylinder, tanks, and systems. Including those gases regulated in UFC. Partially full compressed gas containers, cylinders and tanks containing residual gases shall be considered as full for the purposes of the controls required.	\$75.00
Section 7501	Violation of provisions storage, use and handling of cryogenic fluids. Partially full containers, having residual cryogenic fluids shall be considered as full for the purposes of the controls required. Exception: Fluids within an approved closed-cycle refrigeration system complying with the mechanical code are not regulated by Article 75.	\$75.00
Section 7601.1	Violation of provisions for prevention of dust explosions.	\$75.00
Section 7701.1	Violation of provisions for manufacture, possession, storage, sale, transportation and use of explosive materials. Exception: 1. The armed forces of the United States, Coast Guard or National Guard; 2. Explosive in forms prescribed by the official United States Pharmacopoeia; 3. The sale, possession or use of fireworks 1.4G (Class C common fireworks); 4. The possession, transportation, storage, and use of small arms ammunition when packaged in accordance with DOT packaging requirements; 5. The possession, storage, transportation and use of not more than 5 pounds of commercially manufactured sporting black powder, 20 pounds of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption; 6. The transportation and use of explosive materials by the United States Bureau of Mines and federal, state and local law enforcement and fire agencies acting their official capacities; 7. Special industrial explosive devices which in the aggregate contain less than 50 pounds of explosive materials; 8. The possession, transportation, storage and use of blank industrial power load cartridges when packaged in accordance with DOT packaging requirement; 9. When preempted by federal regulation; 10. The use and handling of fireworks 1.3G (Class B Fireworks) as set forth in Article 78.	\$75.00
Section 7801	Violation of provisions for fireworks and temporary storage, use and handling of pyrotechnic special effects materials use in motion pictures, television, and theatrical and group entertainment productions.	\$75.00
Section 7901.1	Violation of provisions for storage, use, dispensing, mixing and handling of flammable and combustible liquids. Exception: 1. As otherwise provided in other laws or regulation; 2. Alcoholic Beverages in retail sales or storage uses, provided the liquids are packaged in individual containers not exceeding 4 liters; 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales or storage uses when packaged in individual containers not exceeding 4 liters; 4. Storage and use of fuel tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and Mechanical Code. For abandonment of tanks, article 79 Shall apply; 5. Refrigerant liquids and refrigerant oils within an approved Closed-cycle refrigeration system complying with the mechanical code. See Article 63; 6. Storage and display of aerosol products, see article 88; 7. Materials which are solid at 100 °F or above; 8- storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5; 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.	\$75.00

Section 8001	Violation of provisions for the prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials and information needed by emergency response personnel. Exception: 1. The quantities of alcoholic beverages, medicines, foodstuffs and cosmetics, containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales occupancies are unlimited when packaged individual containers not exceeding 4 liters; 2. Application and release of pesticide products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacture's instructions and label directions.	\$75.00
Section 8101	Violation of provisions for building containing high-piled combustible storage. In addition to the requirements of Article 81, aerosol shall be in accordance with article 88, flammable and combustible liquids shall be in accordance with Article 79, and hazardous materials shall be in accordance with Article 80.	\$75.00
Section 8201	Violation of provisions for storage, handling, transportation of LP-gas and the installation of equipment pertinent to system for such uses.	\$75.00
Section 8401	Violation of provisions for the use of ribbon-type cellulose acetate and other safety film in conjunction with electric arc, xenon or other light source projection equipment which develops hazardous gases, dust or radiation and the projection of ribbon-type cellulose nitrate film, regardless of the light source used in projection.	\$75.00
Section 8501	Violation of provisions for permanent and temporary use of electrical appliances, fixtures, motors and wiring. Exception: Low-voltage wiring, such as communications and signal wiring.	\$75.00
Section 8701	Violation of provisions for buildings undergoing construction, alteration or demolition.	\$75.00
Section 8801.1	Violation of provisions for storage and retail display of aerosol products. Exception: Level 1 aerosols in cartons which are clearly marked to identify their classification level are not regulated by Article 88.	\$75.00
Section 9001.1	Violation of provisions for the <u>Uniform Fire Code Standards</u> referred to in various parts of this code, which are also listed in Section 9002 and published in volume 2 of this code, are hereby declared to be part of this code and are referred to in this code as a "UFC standard."	\$75.00
Section 9001.2	Violation of provisions of Standard of Duty established for the recognized standards listed in section 9003 is that the design, construction and quality of materials of building, structure, equipment, processes, and methodologies be reasonably safe for life, limb, health, property, and public welfare.	\$75.00
Section 9001.3	Violation of provisions of the recognized standards listed in section 9003 are recognized standards. Compliance with these recognized standards shall be prima facie evidence of compliance with the standard of duty set forth in section 9001.2.	\$75.00
U.F.C Appendix I-A	Violation of provisions for life-safety requirements for existing buildings, other than high-rise, which do not conform with the minimum requirements of the Uniform Building Code. Exception: Group U occupancies and occupancies regulated by Appendix I-B, and Group R Division 3 occupancies, except that Group R Division 3 occupancies shall comply with section 6.	\$75.00
U.F.C Appendix I-B	Violation of Provisions for life-safety requirements for existing high-rise buildings constructed prior to the adoption of appendix I-B and which house Group B Office or Group R, Division 1 occupancies, each having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access.	\$75.00
U.F.C Appendix I-C	Violation of provisions for signs to provide information to the occupants and fire department personnel to minimize confusion during emergencies. Standardized signs shall be provided in new and existing buildings that are	\$75.00

	four or more stories in height. Such signs shall be installed in stairways to identify each stair landing and indicate the upper and lower termination of the stairway.	
U.F.C Appendix II-A	Violation of provisions for safeguards to prevent the occurrence of fire and to provide adequate fire-protection facilities to control the spread of fire which might be caused by recreational, residential, commercial, industrial, or other activities conducted in hazardous fire areas.	\$75.00
U.F.C Appendix II-B	Violation of provisions for protection of flammable and combustible liquid tanks in locations subject to flooding.	\$75.00
U.F.C Appendix II-C	Violation of provisions for marina facilities.	\$75.00
U.F.C Appendix II-D	Violation of provisions for rifle ranges.	\$75.00
U.F.C Appendix II-E	Violation of provisions for Hazardous Materials Inventory Statement (HMIS) and Hazardous Materials Management Plans (HMMP) which are required by the chief pursuant to Article 80 shall be provided for hazardous materials. Exception: 1. Materials which have been satisfactorily demonstrated not to present a potential danger to public health, safety or welfare, base upon the quantity or condition of storage, when approved. 2. Chromium copper, lead, nickel and silver need not be considered hazardous materials for the purposes of Appendix II-E unless they are stored in friable, powder or finely divided state.	\$75.00
U.F.C Appendix II-F	Violation of provisions for the storage and dispensing of motor fuels into the fuel tanks of motor vehicles from protected aboveground tanks located outside buildings.	\$75.00
U.F.C Appendix II-G	Violation of provisions for secondary containment for underground tank system containing flammable or combustible liquids. Also see C.F.R. Title 40, part 280, and UFC section 8001.4.5.1 for additional requirements related to secondary containment tanks containing hazardous materials other than flammable and combustible liquids.	\$75.00
U.F.C Appendix II-H	Violation of provisions for site assessment for determining the potential fire or explosion risk from a leak, spill or discharge from an underground flammable or combustible liquid storage tank. Also, see UFC section 7901.7.4.	\$75.00
U.F.C Appendix II-I	Violation of provisions for equipment having maximum ozone-generating capacity of 1/2 pound or more over a 24 hour period. Exception: Ozone-generating equipment used in Group R, Division 3 occupancies.	\$75.00
U.F.C Appendix II-J	Violation of provisions for storage of flammable or combustible liquids in tanks located within below-grade vaults.	\$75.00
U.F.C Appendix III-A	Violation of provisions for the procedure determining fire-flow requirements for building or portions of building hereafter constructed.	\$75.00
U.F.C Appendix III-B	Violation of provisions for fire hydrant location and distribution.	\$75.00
U.F.C Appendix III-C	Violation of provisions for inspection, testing and maintenance of water-based fire-protection systems.	\$75.00
U.F.C Appendix III-D	Violation of provisions for basement pipe inlets. Also, see UFC section 1005.	\$75.00
U.F.C Appendix IV-A	Violation of provisions for exposed floor surfaces of buildings, including coverings which are applied over a previously finished floor. Exception: Interior floor finish materials of a traditional type, such as wood, vinyl, linoleum, terrazzo, and other resilient floor covering materials.	\$75.00
U.F.C Appendix IV-B	Violation of provisions for the use of natural or resin-bearing cut trees in public buildings.	\$75.00
U.F.C Appendix V-A	Violation of provisions of Nationally recognized standards of good practice.	\$75.00
U.F.C Appendix	Violation of provisions for hazardous materials classifications. To provide	\$75.00

VI-A	information, explanations and examples to illustrate and clarify the hazard categories contained in Article 80. The hazard categories are base upon the code of Federal Regulations, Title 29. Where the numerical classifications are included.	
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Section 1014. Citation Process

A. SCOPE

The following regulations were done to prevent creating conflicting regulations with the U.F.C and at the same time, present for public awareness, review and use, a document that is useful in explaining pertinent department rules, regulations and procedures relative to inspections and citations.

The U.F.C., Uniform Building Code and other codes adopted under Public Law 11-56 were developed, and shall continually updated, with concern for consistency amongst these codes. The Fire Prevention Section intends to continue this practice, and thus, has developed these editions, and consequently, in conjunction with the editions of other codes, the department will make amendments to this document as new editions of the U.F.C. are automatically adopted; or, whenever amendments are necessary to address departmental administrative and operational needs, consistent with the U.F.C. 1997 and supplemental editions, and as determined by the chief.

This code prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazard of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

The provisions of this regulation shall supplement any and all laws relating to firesafety and shall apply to all persons without restriction unless specifically exempted. (U.F.C. section 101.2 scope.)

B. PURPOSE

1. To gain compliance with federal and local codes and regulations, when all reasonable efforts have been unsuccessful.
2. A course of action to be taken when a condition exists that causes a threat to life or property from fire and explosion.
3. It is the intent of the department to achieve compliance by traditional means of inspection, notification, granting of reasonable time to comply and reinspection. A citation shall be used only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the fire chief. Only those members of the fire division specifically designated by the fire chief may issue citation.

C. ADMINISTRATION AND ENFORCEMENT

The chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to:

1. The prevention of fires,
2. The suppression or extinguishment of dangerous or hazardous fires,
3. The storage, use and handling of hazardous materials,
4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipment,
5. The maintenance and regulation of fire escapes,
6. The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under construction,
7. The maintenance of exits, and
8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

For authority related to control and investigation of emergency scenes, see section 104. (U.F.C. section 103.2.1.1 General.)

D. CORRECTIVE ORDERS AND NOTICES

When the chief finds in any building or any premises combustibles, hazardous or explosive materials or dangerous accumulations of rubbish; or finds unnecessary accumulations of wastepaper, boxes, shaving or any highly flammable materials which are so situated as to endanger life or property; or finds obstruction to or on fire escapes, stairs, passageways, doors, or windows that reasonably tend to interfere with the operations of the fire department or the egress of the occupants of such building or premises; finds that the effectiveness of any exit door, attic separation or any fire separation wall is reduced; or finds that this code is being violated, the chief is authorized to issue orders as necessary for the enforcement of the fire prevention laws and ordinances governing the same and for the safeguarding of life and property from fire. (U.F.C. section 103.4.1 Authorization to issue corrective orders and notices. U.F.C. section 103.4.1.1 General.)

E. UNSAFE HEATING OR ELECTRICAL EQUIPMENT AND STRUCTURAL HAZARDS

When the chief deems any chimney, smokestack, stove, oven, incinerator furnace or other heating device, electric fixture or any appurtenance thereto, or anything regulated under a nationally recognized standard in or upon any building, structure or premises not specifically mentioned in this code, to be defective or unsafe so as to create a hazard, the chief is authorized to serve upon the owner or the person having control of the property a written notice to repair or alter as necessary and shall notify any other authority enforcing codes regulating such equipment. The chief is authorized to affix a condemnation tag prohibiting the use thereof until such repairs or alterations are made. When affixed, such tag shall only be removed by the order of the chief when the hazard to which the order pertains has been eliminated in an approved manner. Until removed, that item or device which has caused the hazard shall not be used or be permitted to be used.

When an apparent structural hazard is caused by the faulty installation, operation or malfunction at any of the items or devices listed in this subsection, the chief shall immediately notify the building official to investigate such hazard and cause such

hazard to be abated as required by the BuildingCode. (U.F.C. section 103.4.1.2 unsafe heating or electrical equipment and structural hazards.)

F. COMPLIANCE WITH ORDERS AND NOTICES

Orders and notices issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains, In cases of extreme danger to persons or property, immediate compliance is required.

If the building or other premises is not owner occupied, under lease or otherwise, and the order or notice requires additions or changes in the building or premises which would immediately become real estate and be the property of the owner of the building premises, such orders or notices shall be complied with by the owner. (U.F.C. section 103.4.3.1 Compliance with orders and notices.)

EXCEPTION: *When the owner and the occupant have agreed otherwise between themselves, in which event the occupant shall comply.*

G. COMPLIANCE WITH TAGS

A building, premises or thing shall not be used when in violation of this code as noted on a tag affixed in accordance with Section 103.4.1. (U.F.C. Section 103.4.3.2. Compliance with tags.)

Permit applicants and the applicants' agents and employees shall carry out the proposed activity in compliance with this code and other laws or regulations applicable thereto, whether specified or not, and in complete accordance with approved plans and specifications. Permits which purport to sanction a violation of this code or any applicable law or regulation shall be void and approvals of plans and specifications in the issuance of such permits shall likewise be void. (U.F.C. Section 105.2.3. Compliance.)

H. POLICE POWERS

The fire chief and members of the fire prevention shall have the powers of a police officer in performing their duties under this code.

When requested to do so by the chief, the chief of police is authorized to assign such available police officers as necessary to assist the fire department in enforcing the provisions of this code.

I. AUTHORITY TO INSPECT

The fire prevention section shall inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the

purpose or provisions of this code and of any other law or standard affecting firesafety. (U.F.C. Section 103.3.1.1. Authority to inspect.)

J. RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the chief has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the chief is authorized to enter such building or premises at all reasonable times to inspect the same or to perform any duty authorized by this code, provided that if such building or premises is occupied, the chief shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the chief shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the chief shall have recourse to every remedy provided by law to secure entry.

If the owner or occupant denies entry, the chief is authorized to obtain a proper inspection warrant or other remedy provided by law to secure entry. Owners, occupants or any other persons having charge, care or control of any building or premises shall, after proper request is made as herein provided, promptly permit entry therein by the chief for the purpose of inspection and examination pursuant to this code.

For the purpose of Section 103.3.1.2. [Tight of Entry], the term "Chief" shall include the chief officer of the fire department serving the jurisdiction and the officers named in Section 103.2.1.2. And 103.2.2.22 (U.F.C. Section 103.3.1.2 Right of Entry.)

K. SERVICE OF ORDERS AND NOTICES

Orders and notices authorized or require by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by verbal notification, personal service, or delivering the same to and leaving it with a person of suitable age and discretion upon the premises: or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to the person's last known address.

Orders or notices that are given verbally shall be confirmed by service in writing as herein provided. (U.F.C. Section 103.4.2 Service of orders and notices.)



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF FINAL ADOPTION OF THE PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT DEPARTMENT OF PUBLIC HEALTH FACILITIES

The Secretary of the Department of Public Health (DPH), Commonwealth of the Northern Mariana Islands (CNMI), which has promulgated Proposed Rules and Regulations Governing Medical Malpractice Coverage for Physicians Practicing at Department of Public Health Facilities, originally published in the Commonwealth Register, volume 27, number 5, page 024600, June 20, 2005, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been finally adopted with modification. I further request and direct this Notice, Certification, and attached final rule to be published in the CNMI Commonwealth Register. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 14 day of September 2005, at Saipan, in the Commonwealth of the Northern Mariana Islands.

[Handwritten signature of Pedro Untalan]

Pedro Untalan, MHA
Designee for the Secretary of Public Health
Department of Public Health

Date 9-14-05

Received by: [Handwritten signature of Thomas Tebuteb]

THOMAS TEBUTEB
Special Assistant for Administration

Date 9-19-05

Filed by: [Handwritten signature of Bernadita B. Dela Cruz]

BERNADITA B. DELA CRUZ
Commonwealth Registrar

Date 9-19-05

Medical Malpractice Liability Coverage¹

A. Malpractice liability coverage is a mandatory requirement for Medical Staff membership at the Commonwealth Health Center.

B. Each physician shall provide proof to the Secretary of Public Health (“the Secretary”) that he/she has met this requirement by any one of the following means:

1. Indemnification by the CNMI for its government employee staff;
2. Proof of private medical malpractice liability insurance (occurrence type) coverage of at least \$100,000; or,
3. Proof of other security acceptable to the Secretary and the Attorney General, in favor of the CNMI Dept. of Public Health (for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services), of not less than \$100,000. Possible alternative security vehicles may include:
 - a. surety bond;
 - b. letter of credit from an FDIC insured banking institution;
 - c. pledge of collateral;
 - d. escrow account with an FDIC insured banking institution.

C. No physician shall be granted privileges at the Commonwealth Health Center until these requirements have been completed.

D. The Secretary shall, on an ongoing basis, review compliance. Those practitioners with privileges at CHC who do not have proof in their CHC physician files of current medical malpractice coverage as defined above will have 30 days to come into compliance with this requirement. Any practitioner who fails to comply with this requirement within the 30 day time period will have his or her hospital privileges immediately suspended, and then the case shall be referred to the Medical Executive Committee for further action, including permanent termination of privileges.

E. All physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative

¹ 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC section 2603 (f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities.

financial products described above shall not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

F. These regulations shall not supplant or affect any separate, additional requirements imposed on physicians by the Medical Professional Licensing Board.

DISCUSSION OF PUBLIC COMMENTS RECEIVED IN RESPONSE TO
PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL
MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT
DEPARTMENT OF PUBLIC HEALTH FACILITIES

At the time the proposed rules were published, the public was asked to provide comments and make suggestions for the modification or improvement of the Rules and Regulations. A hearing was held on August 10, 2005 at the Multi-Purpose Center in Saipan, and a number of comments, both oral and written, were received and considered by the Dept. of Health administration. Copies of the written comments received in response to the prior public notice are available for inspection at the Department of Public Health during regular business hours. As a result of this review of the public comments, various changes were made to the Rules and Regulations as originally proposed. A review of the comments and the response by the Department of Public Health follows.

Proposed Rule:

Prior to the proposed rules and regulations, the Commonwealth Health Center Bylaws required any private physician who wanted hospital privileges to prove malpractice insurance coverage of at least \$100,000. No other forms of proof of financial responsibility were authorized.

The rules and regulations, as proposed, required: 1) proof of malpractice insurance in the amount of \$100,000; or, 2) other security acceptable to the Secretary and the Attorney General for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services, of not less than \$150,000. The proposed rule attempted to expand the types of financial products that would be acceptable proof of financial responsibility and a source of indemnification to the Dept. of Public Health in lieu of malpractice insurance. It would have increased the required amount of these alternative types of coverage to \$150,000 to cover litigation and other costs over and above the capped liability amount under the Public Employee Legal Defense and Indemnification Act of 1986, 7 CMC 2301 et seq. of \$100,000.

Comments:

In general, the physician commenters and their clinic representatives opposed the proposed rule or any requirement related to malpractice coverage, in any form. These commenters indicated that malpractice insurance was extremely difficult to obtain, and that it was unaffordable to them. They indicated that the alternative forms of financial products anticipated by the proposed rules and regulations were not acceptable to them as they would tie up their assets and be financially burdensome. They stated that enforcement of the rule as proposed would result in private physicians losing hospital privileges and subsequent loss of the medical services provided by them.

A couple of private physicians argued that the CNMI government should cover and indemnify them as it does government employed physicians and that the liability cap of \$100,000 should be extended to private doctors. They argued that the government should pass legislation that limits expert witnesses who testify to those residing in Guam and Saipan, who know the standard of care in the CNMI community. They stated the government should establish a malpractice company that would provide malpractice insurance for the \$100,000 capped amount for the private physicians at minimal cost.

One physician argued that private practitioners spent less time at DPH facilities and so posed a lower risk to patients there so that the amount of financial responsibility required should be lowered, rather than increased. The commenter feared that hospital staff could commit a wrong and that it would be unfair to make doctors undertake that risk. The commenter stated that a doctor might have to seek legal recourse against the hospital to get his funds back. The commenter was concerned that this requirement would be added to any amounts required by the medical licensing board. The commenter indicated that the cost of coverage would make it less likely that off island specialists would come to the CNMI. This commenter too suggested that the government of the CNMI should indemnify all private physicians as they do government doctors.

Another physician pointed to the high cost of medical malpractice insurance, the small market for such insurance, and the unacceptability to the Attorney General's Office of a bond previously in use by one bonding company. The commenter indicated the financial alternatives posed too great a barrier to the private practice of medicine and were unreasonable, particularly in light of low and slow insurance and Medicare payments. The commenter said the proposed \$150,000 requirement would tie up too much capital that could be used for other purposes. The commenter stated that the financial requirement would make private doctors unwilling to see indigent patients at the hospital. The commenter suggested a commission be established to explore a self-insurance program, with mandatory arbitration of medical malpractice claims.

One Guam malpractice carrier indicated an interest in providing insurance to CNMI physicians. One CNMI bonding company indicated it would not be willing to adapt its bonds to CNMI government requirements.

Other commenters who claimed to represent the views of patients, and in some cases their lawyers, took the position that only malpractice insurance should be allowed for financial responsibility purposes and opposed the use of bonds. They argued that malpractice insurance requirements provided a social benefit. They submitted what they claimed to be surveys of several hundred persons who advocated requiring medical malpractice coverage in amounts from \$300,000 to \$1,000,000. They argued that requiring medical malpractice insurance causes a private financially interested company to oversee and regulate the risk of each doctor and nurse who they provide insurance to. They argued that either the hospital may not have the time, resources, or even the desire to investigate a doctor, but that an insurance company that is insuring a doctor's risk does have a financial incentive to research the individual's past. They alleged there was evidence to show that medical malpractice reforms cause an increase in infant mortality, and presumably in some other health indicators. They submitted a paper entitled, "Does Medical Malpractice Reform Help States Retain Physicians and Does It Matter," by

Jonathan Klick (American Enterprise Institute) and Thomas Stratmann (Professor of Economics at George Mason University) (2003). The abstract of the paper summarizes its findings as that some medical malpractice reforms may help states retain physicians but some may also diminish incentives to provide a high level of health care and worsen health outcomes.

Response:

The proposed rules and regulations were intended to protect the CNMI Dept. of Public Health and the public at large from the undue expense that might be caused by alleged physician malpractice occurring at government facilities. Use of government property, and activities carried on by private entities on government property, ordinarily carries with them an insurance requirement. When private physicians use the government hospital facilities as part of their business, they are not ordinarily subject to government control, and so some protection of the government and public interest is required so that taxpayers don't suffer losses caused by the private business of another.

If malpractice insurance were reasonably available, it would protect both the patient and the government hospital. However, the idea of other financial products was proposed as an alternative to given broader choice to physicians.

All of these comments and the interests they represent, as well as the needs of the community to be protected from losses due to the risk of physician malpractice, have been considered and carefully weighed. The rules and regulations as adopted strike a fair and reasonable balance between the need for coverage of losses, while taking into account the fact that costly malpractice insurance premiums could pose a significant barrier to the private practice of medicine in the CNMI.

The types of financial products to meet the fiscal responsibility concerns of the public have been expanded, while the amount required has been kept at the minimum amount necessary to protect the public, i.e. \$100,000.

Further, the rule has been clarified to provide that all physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative financial products may not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

Adoption of some of the particular alternatives to the proposed rule would require legislative action. The Dept. of Health will refer the various comments to the CNMI legislative committees with health care facility oversight.

MEDICAL PHYSICIAN'S INDEMNITY BOND
(Specimen)

Bond No. _____
Premium: _____
Issue Date: _____

KNOW ALL MEN BY THESE PRESENTS:

That we, (name of medical company), as Principal, both for itself and its member(s) _____ (insert names of members of the LLC) _____, and (name of bonding company), a corporation organized under the laws of the Commonwealth of the Northern Marianas Islands and authorized to execute bonds and undertakings, as Surety, are held firmly bound unto the COMMONWEALTH HEALTH CENTER, the DEPARTMENT OF PUBLIC HEALTH, GOVERNMENT of the COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, and their officers, employees and agents, hereinafter collectively called the Obligee, in an amount not to exceed the principal sum of \$(state amount here)) for the payment whereof well and truly to be made, said Principal and Surety bond them, themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Obligee has agreed to authorize and provide Medical Staff Membership and Privileges of the Commonwealth Health Center or its associate facilities to Principal;

WHEREAS, a condition of such agreement addendum thereto is that the Principal shall provide Medical Malpractice Liability Insurance and in lieu of such insurance coverage, Principal has agreed to provide a good sufficient indemnity bond in the amount stated above to indemnify the Obligee against any financial loss, costs, expenses, or damages, including, but not limited to malpractice claims, or any and all damage or loss occasioned to Obligee as a resulted or related to Principal's provision of services, medical or otherwise, at Commonwealth Health Center or its associate facilities;

NOW THEREFORE, the conditions of this obligation are that the Surety shall indemnify the Obligee against failure of the Principal to faithfully defend and pay all sums of money for any and all claims, losses, costs, or injury arising out of or in relation to the provision of any services, medical or otherwise, performed at or in connection with the Commonwealth Health Center and related facilities, including but not limited to malpractice claims or damage of loss of its property;

First: That at the earliest practical moment, and in any event not later than ninety (90) days after the failure of the Principal to pay to the Obligee any sums owed pursuant to a separate indemnification agreement between Principal and Obligee for any act or acts that would cause a claim to be made under the terms of this Bond, the Obligee shall give the Surety written notice thereof, which notice shall be made to the following address:

(list address of bonding company)

And within 90 days after such failure of the Principal, the Obligee shall file with the Surety affirmative proof of loss and shall upon request of the Surety render every assistance, not pecuniary, to facilitate the investigation and adjustment of any loss.

Second: Any suit or action to recover against the Surety on account of loss hereunder shall be brought before the expiration of 24 months from demand of Obligee against the Principal for payment of such loss but shall not be instituted before the expiration of three (3) months from the filing of proof as aforesaid.

Third: This Bond may be cancelled either by the Surety or this Obligee by written notice served upon the other, or sent by registered mail specifying therein the effective date of such cancellation, provided, however, that this notice is served or sent by the Surety, such effective date shall not be less than sixty (60) days after such service or after the date born by the sender's registry receipt. Notwithstanding a termination by either party, this Bond shall remain effective for any claim, loss or liability which may arise out of or be related to the Principal's actions during the time period in which the Bond was effective plus an additional twenty-four (24) months.

Fourth: The terms of this Bond shall be from _____ day of _____, 20__ to and including the _____ day of _____ 20__.

PRINCIPAL:

SURETY:

By: _____

By: _____

ACKNOWLEDGEMENTS

COMMONWEALTH OF THE)
NORTHERN MARIANA ISLANDS) SS.
MUNICIPALITY OF SAIPAN)

On this _____ day of _____, 20__, before me, a Notary Public in and for the Commonwealth of the Northern Mariana Islands, Municipality of Saipan personally appeared _____ known to me to be persons whose names are subscribed as the authorized representative of _____ and _____ and acknowledged to me that they executed the foregoing instrument on behalf of said corporation for the purposes and consideration contained therein.

Notary Public

IRREVOCABLE LETTER OF CREDIT
(Specimen)

To: Commonwealth of the Northern Mariana Islands
Department of Public Health (DPH)
Commonwealth Health Center and related facilities
And their respective employees, assigns, and agents

REFERENCE: Name of Company or Person authorized by DPH:
Company ID # as assigned by the DPH:
Irrevocable Letter of Credit Number:
Effective Date:
Expiration Date:

Sir/Madam:

You have requested of [**Name of Lending Institution**] (the "Lender") that we establish an irrevocable letter of credit which will remain available on behalf of [**Applicant**] (the "Company") who has applied to the Department of Public Health (the "DPH") for authority to provide medical and related services at the Commonwealth Health Center and its related facilities. The purpose of this letter of credit is to secure payment of any monetary sanction, cost, liability, or expense which may be imposed against the Company, its representatives, successors or assigns, for any loss, cost, expense, damage, or liability arising out of the Company's activities or services, medical or otherwise, at or in connection with the grant of permission by DPH to the Company to provide services at the Commonwealth Health Center or any of its related facilities.

We hereby establish and issue, in favor of the DPH, an irrevocable letter of credit in the amount of _____ thousand dollars (\$ _____) lawful money of the United States of America. The DPH may draw upon this letter of credit, at any time and from time to time, by delivering a Letter of Credit Notice, substantially in the form set forth below (a "Notice"), which Notice shall specify the amount (the "Draw Amount") to be drawn and the bank account (the "Bank Account") to which the Draw Amount should be delivered and shall be signed by an official designated and duly authorized by the DPH, to Lender at the address listed below, or to such other address as the Lender shall notify the DPH in writing by certified mail. Promptly after the delivery of each Notice, the Lender hereby covenants and agrees to deliver, by wire transfer of immediately available funds, the Draw Amount to the Bank Account.

This letter of credit shall be deemed automatically renewed without amendment for successive one-year periods and may be canceled by the Lender by giving thirty (30) days advanced written notice by certified mail of such cancellation to the DPH and the Company, it being understood that the Lender shall not be relieved of liability that may have accrued under this letter of credit prior to the date of cancellation.

The Lender hereby represents and warrants that it is qualified and authorized to issue this letter of credit and is a bank regulated by the Federal Deposit Corporation of the United States.

Except as otherwise expressly stated, this letter of credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision) International Chamber of Commerce Publication No. 500, or any revisions thereto.

Yours Very Truly,
[Name of Lending Institution]
Name:
Title:
Address of Lender:

APPROVAL AND INDORSEMENT

This is to certify that I have examined the foregoing letter of credit and found the same to be sufficient and in conformity to law and that the same has been filed with the Department of Public Health, Commonwealth of the Northern Mariana Islands, this day of _____, 20____.

Name:
Title:

**FORM OF
LETTER OF CREDIT NOTICE**

[Name of Lender]
[Address]

Re: Irrevocable Letter of Credit No. []

Dear Sir or Madam:

You are hereby notified, and the undersigned hereby certifies, that the undersigned is an official designated and duly authorized by the DPH to deliver this notice and that a monetary sanction in the amount of \$ (the "Draw Amount") has been imposed against **[Applicant]** its representatives, successors or assigns, arising out of or related to **[Applicant]** 's services or activities at the Commonwealth Health Center or its related facilities. Pursuant to that certain Irrevocable Letter of Credit referenced above, we hereby request that you deliver payment of the Draw Amount to the bank account listed below by wire transfer of immediately available funds:

Name of Bank Account:
Account Number:

ABA Routing Number:
Reference:
Name of Contact:
Telephone Number:
Facsimile Number:

Please confirm receipt of this Notice and the Federal Reserve wire confirmation number of the delivery of the Draw Amount by sending a facsimile to the person at the number listed above.

Sincerely,

DEPARTMENT OF PUBLIC HEALTH, CNMI

Name:
Title:


PUBLIC NOTICE


NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED AMENDMENTS TO BOARD OF EDUCATION REGULATIONS REGARDING PRAXIS AND TEACHER CERTIFICATION

I, Roman C. Benavente, the Chairman of the Ninth Board of Education for the Commonwealth of the Northern Mariana Islands ("Board") pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10 hereby adopt as permanent the proposed amendments to Public School System Regulations for Certified Personnel, Chapter 2 Sections (b)(10), (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(iv), and (f)(3)(A)(iv) and Chapter 1 Part F Sections 1601 through 1603, as published in Volume 27, Number 06 of the Commonwealth Register dated July 20, 2005 (pages 024670 - 024678). I hereby certify that these amendments have been adopted after the appropriate time for public comment without modification or amendment.

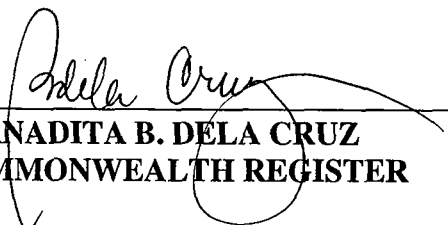
Accordingly, I request that this Notice and Certification of Adoption be published in the Commonwealth Register. Pursuant to 1 CMC sec. 9105(b), these amended regulations are effective 10 days after publication.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 22nd day of September, 2005, on Saipan, CNMI.

By: 
ROMAN C. BENAVENTE
BOARD OF EDUCATION CHAIRMAN

Approved By: 
PAMELA BROWN
ATTORNEY GENERAL, CNMI

Date: 9/22/05

Filed By: 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTER

Date: 9/22/05



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ATTORNEY GENERAL OPINION No. 05 -13

**To: Hon. Manuel P. Villagomez, Acting Chair
Marianas Public Lands Authority**

From: Alan J. Barak, Asst. AG, Civil Division
Through: Pam Brown, Attorney General
Date: 8/26/05

**Re: MPLA transfer to CUC emergency fuel fund during state of
emergency**
Within fiduciary duties and allowable

ISSUE AND SHORT ANSWER

Question

May the MPLA Board, consistent with its fiduciary duties, transfer \$1 million of unused CIP funds to the Emergency Fuel Contingency Fund in order to help avoid the disaster of losing power, water and sewage treatment due to the lack of CUC fuel oil?

Short Answer

Yes.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

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Summary

This Opinion examines whether the MPLA Board has acted within the scope of its fiduciary responsibilities in acceding to the Governor's request to transfer \$1 million of idle savings account funds to the CUC's Emergency Fuel Contingency Fund in order to help stave off the loss of power, water and sewage treatment in the CNMI.

By letter of August 24, 2005, the Acting Chairman of the MPLA, Manuel P. Villagomez, wrote the Attorney General, expressing his Board's interest in assisting Governor Juan N. Babauta in meeting the continued state of emergency caused by the high cost of fuel and the inability of CUC to provide power to the people¹. He asked the Attorney General to address the matter as a "top priority".²

This Opinion presents the background, history and authority for, the conclusion that the transfer is well within the scope of the Board's fiduciary responsibilities. The first section provides the background to the Acting Chair's request, including the Governor's Declaration of Disaster Emergency. The legal analysis appears in the second section.

Discussion

The first section of this memo, "Background", provides a description of the events and agencies related to this matter. The second section applies the tools of legal analysis, including review of relevant case law and principles of statutory construction.

1. Background

a. Description of MPLA Board and its duties

MPLA traces its beginnings to a Constitutional agency, the Marianas Public Lands Corporation ("MPLC"). MPLA is the product of the Governor's reorganization and three legislative enactments.³ Most recently, the Legislature renamed the agency "a public corporation to be known as the Marianas Public Lands Authority", headed by a "Commissioner" with a "Board of Directors." PL 12-71 (codified at 1 CMC, Division 2, Chapter 14, §§ 2801-08).⁴

Pursuant to the Constitution the Governor, by Executive Order "dissolved" MPLA, then the Legislature re-established the agency through a series of related enactments. See Law Revision Commission Comments to 1 CMC §§ 2001, 2801, as discussed in endnote 3. The Legislature sought to give MPLA broad powers. It stated its purpose in the most recent amendment to the agency's enabling act:

The Legislature finds that questions have arisen to the extent of the powers and duties of the Board of Public Lands. It is the intent of the Legislature that the Board of Public Lands be given broad powers over its operations, and the leasing of public lands.

PL 12-33, § 1. Findings. In re-enacting the agency, the Legislature repeated the language of the Constitution.

The Framers created two agencies to manage the Commonwealth's public lands and the funds relating to those lands. Article XI of the NMI Constitution, and the Legislature's reenactment, gave the MPLA broad powers within its mission. The following sections are excerpted from article XI:

Section 1: Public Lands. The lands . . . are **public lands belonging collectively to the people of the Commonwealth who are of Northern Marianas descent.**

Section 2: Submerged Lands. . . .

Section 3: Surface Lands. **The management and disposition of public lands except those provided for by N.M.I. Const. art. XI, § 2 shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

....

c) **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

....

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies in the performance of its responsibilities.**

....

b) **The corporation may not transfer a freehold interest in public lands for twenty years after the effective date of this Constitution, except for homesteads as provided under section 5(a), or for use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.**

....

e) **The corporation may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

....

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses**

reasonably necessary for the accomplishment of its functions. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added). The entirety of article XI is set out in the endnote.⁵ The Framers created a companion agency to manage the funds related to the MPLC/MPLA's activities, the Marianas Public Land Trust:

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

....

b) **The trustees shall make reasonable, careful and prudent investments.** For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

....
NMI Const. art. XI, § 6. (Emphasis added)

The statute re-enacting MPLC/MPLA differed in some respects from article XI:

There is established within the Executive Branch an independent public corporation of the Commonwealth. . . to be known as the Marianas Public Lands Authority.

1 CMC § 2801.

§ 2802. Board Powers and Duties.

(a) The Board of Public Lands shall have the following powers and duties:

....

(2) To be responsible for the management, use, and disposition of surface lands of the Commonwealth.

....

(c) The Board of Directors may select, employ, promote and terminate employees, employ contractors and consultants, employ legal counsels, sue and be sued in its own name, provide liability insurance as it considers necessary, make contracts, borrow money within the limitations contained in Article X of the Constitution [on public debt] . . . , **and take any other action necessary for the management or disposition of surface and submerged public lands.**

1 CMC § 2802. (Emphasis added)

§ 2803. Board Members.

(a) The Board of Public Lands shall be composed of five directors, appointed by the Governor with the advice and consent of the Senate, **who shall set policy with respect to public lands for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**No interest in public land shall be transferred except upon approval by the board of the particular

interest to be transferred . . . provided, that any provisions imposed as a condition of legislative approval pursuant to Section 2804 shall not require further approval by the board.

....

(d) . . . The directors shall be held to strict standards of fiduciary care. The governor may remove a director only for cause.

(e) The Board shall act only by the affirmative vote of the majority of the five directors.

....

1 CMC § 2803.

§ 2804. Public Lands: Fundamental Policies.

....

(c) The Board may not transfer a freehold interest in public lands for 20 years after the effective date of the Constitution, except for . . . use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.

....

(f) The Board may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Board may authorize construction of facilities for public purposes.

....

(h) The Board of Directors shall receive all moneys from public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 2804 (c), and shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the Board of Directors shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and nay [sic] other expenses reasonably necessary for the accomplishment of its functions. It shall prepare and submit a budget as a government corporation pursuant to 1 CMC § 7206.

1 CMC § 2804.

There are some limits to the MPLA's duties and powers. For instance, the CNMI Executive Branch, but not the MPLA, has the power, through its normal processes, to acquire and dispose of private land for the public good. *Romisher v. MPLC*, 1 CR 841, 860 (Tr. Ct. 1983) (preliminary injunction), 1 CR 873, 883 at n 3 (1983) (permanent injunction).⁶

This Opinion does **not** address the relationship between MPLA and MPLT, particularly the agencies' respective duties regarding the handling of funds relating to public lands and public land activities. This Opinion does **not** resolve the extent to which the "dissolution" and re-enactment of the MPLC/MPLA **continued** the agency and/or its functions or created a new agency with the same or similar functions. Rather, the Constitutional provisions are set out to present the context of the fiduciary analysis.

b. Description of the CIP funds at issue, including the two related appropriations acts

The Governor asked MPLA to transfer CIP matching funds that were previously obligated for MPLA-related purposes, but remained unused, to the CUC's Emergency Fuel Contingency Fund.⁷ The MPLA Board approved the request.⁸ The Governor restated his request on August 23, 2005, pursuant to the authority granted by the declared State of Emergency, as renewed.⁹

MPLA states that its funds are derived from public land revenues and are restricted for the benefit of NMI descent. (Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1) The amounts at issue are held in a savings account at Bank of Guam¹⁰, recorded on MPLA's books in General Ledger Account 102, "Operations Account"¹¹.

The Legislature was aware that MPLA had accrued these funds, identifying them as "public land lease payments", entrusting them to the Secretary of DPW and CUC's Director as the expenditure authority, and identifying projects for their use. PL 11-78 § 3; PL 11-79 §§ 4, 6, 7.

The two related FY 1999 appropriations acts must be read together. PL 11-79 repealed § 4 of PL 11-78 (Sources of Funds) and addressed certain line item vetoes. The acts permitted the use of the funds "as otherwise provided by law":

Use of public land lease payments for the purposes of the Act shall have priority over Public Law 11-41, and the amount identified herein shall be excluded from the resources available for expenditure pursuant to Public Law 11-41. Section 10 of Public Law 10-29 is not affected by this act, except that notwithstanding such section, the Secretary of Finance shall be required to maintain in the special trust fund only such amounts of the moneys received from public lands as the Marianas Public Land Trust (MPLT) determines will provide MPLT with adequate security for loans made pursuant to Public Law 10-029, as amended, and **the remainder shall be available as resources for the purposes of this Act and as otherwise provided by law.**

PL 11-78 § 3. (Emphasis added)

Another relevant part of the acts shows a nexus to the activities of the CUC:

Expenditure authority shall be as specified by Public Law 11-78, except expenditure authority for specific projects listed below shall be as indicated below . . . (b) Koblerville Homestead - New Power, Water and Wastewater Systems (Phase I) and Tanapag Homestead - New Power, Water and Wastewater Systems (Phase I): Expenditure Authority shall be the Secretary of the Department of Public Works with concurrence of the Executive Director of the Commonwealth Utilities Corporation.

PL: 11-79 § 7. The acts also recognized the general principal that retained MPLC/MPLA funds were to be used for the accomplishment of the agency's functions:

. . . the use of public land revenues is restricted by Article XI, Section 5(g) of the Commonwealth Constitution. Consistent with the Constitution, the public land lease revenues identified by this Act shall be used [sic] solely for the projects specifically related to homestead development.

PL 11-79 § 4. Section 5(g) addressed the uses of MPLC funds not turned over to the MPLT, which included "any other expenses reasonably necessary for the accomplishment of its functions."¹²

However, the projects were not constructed, and MPLA held onto the funds in a savings account.

c. Description of the CUC and the Office of the Governor.

Both the CUC and the Office of the Governor, the transferees of the CIP funds, are agencies of the Commonwealth Government.

CUC is a public power utility, owned by the CNMI Government. It is similar to municipal utilities and public power agencies found throughout the United States. See description in AG Opinion 05-11 (8/9/2005) The CUC is a public corporation of the Executive Branch of the CNMI government. 1 CMC § 8111 et seq. The CUC is part of the CNMI government. CUC is a "public corporation". AG Op 01-03-30, p 4. It has "corporation powers", is allowed to prepare and adopt its own budget, is granted specific exemptions from the CNMI Civil Service System for the hiring, retaining and compensation of its employees, and is permitted to conduct its own procurement, hire within certain limits, secure its own legal counsel, and is exempted from the payment of certain corporate duties and taxes. *Id.*, citing 4 CMC §§ 8121(a), 8123, 8133, 8151.

Presently CUC uses only one fuel, No. 2 diesel oil. The base rates recover 5.493 cents/kwh for it. CUC informational materials indicate that CUC fuel costs presently exceed the revenues recoverable by this base rate number by about 4.5 cents, due to fluctuating oil prices. (CUC Fuel Surcharge Presentation, Nov. 8, 2004, Tinian, pp 7-8 [on file]) Recently, CUC increased its rates through a fuel surcharge, by 3.5 cents/kWh.

CUC is an \$80 million/year company with a \$60 million/year fuel bill.¹³ CUC is on the edge of bankruptcy because, while its fuel costs have doubled over the past year, its base rates have remained static.¹⁴ Thus, while fuel has increased to roughly \$0.12/kWh, the base rate for fuel has remained at the 1993 level of \$0.05493.¹⁵ The under-recovery of fuel costs in CUC rates has ranged from \$3.7 million in 2002 to roughly \$16.6 million in 2004.¹⁶

The prices for CUC's fuel are increasing. As of this writing, crude oil has risen this week to a record \$68 per barrel.¹⁷

The Office of the Governor is an Executive Branch instrumentality of the CNMI government. N.M.I. Const. art. III, §§ 1, 14, 15;¹⁸ 1 CMC §§ 2051-53;¹⁹ 1 CMC § 2001.²⁰

d. The State of Disaster Emergency

The Governor declared a disaster emergency on May 19, 2005, based on the imminent failure of CUC to provide electricity to its customers. Declaration of State of Emergency: Commonwealth Utilities Corporation Lack of Power, May 2005 (Dated May 19, 2005), Com. Reg. Vol. 27, No. 5, p 24533 (6/20/2005) ("Governor's Emergency Declaration") (1 p).²¹

In particular, the Governor found that CUC would be "unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail." *Id.* He determined that "[t]hese conditions present an extreme,

immediate and imminent emergency.” *Id.* The emergency thus threatened the health and physical safety of the populations of Saipan, Rota and Tinian, as well as the economic life of the Commonwealth.

The Governor announced that he would take “all necessary measures”, including “[r]eprogram all necessary money to provide CUC the funds to address the conditions”. Emergency Declaration.

The Legislature subsequently affirmed the declaration in a joint resolution. H.J.R. 14-36 (transmitted June 21, 2005). The joint resolution “supported” the Governor’s declaration of state of disaster emergency and authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems”. *Id.*²²

The emergency declaration power is rooted in the Constitution:

Section 10: Emergency Powers. The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster, or other calamity as provided by law, and may mobilize available resources to respond to that emergency.

N.M.I. Const. art. III, § 10. The Local Disaster Relief Act of 1979, 3 CMC § 5101 et seq., PL 1-40 § 1 et seq., as amended, includes “man-made” disasters in its definition of “disaster” and “local disaster emergency”. 3 CMC § 5114.²³ The purpose of the Act include preparing for and avoiding disasters. 3 CMC § 5112.

The Act explicitly makes the Governor “responsible for meeting the dangers to the Commonwealth and the people affected by disasters.” 3 CMC § 5121(a). The Governor enjoys broad powers to prevent and respond to disasters under the Disaster Relief Act. Once he declares a “disaster emergency”, if the “threat” is “imminent”, these powers include: he may issue executive orders and regulations, provide for the use and distribution of supplies, equipment, and facilities, take control of and transfer forces, suspend regulations, and “[u]tilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth”.²⁴ See also, 1 CMC § 7403 (P.L. 3-68 § 403, as amended) (Governor may declare a “state of emergency” under his constitutional emergency powers).²⁵

In 1981 the Attorney General advised that the Administration could declare an emergency in order to stave off a threatened power shutdown. AG Op. 81-31 (7/23/81), “Declaration of Emergency in Threatened Power Shutdown”.²⁶ In addition to the authority relied on (see just preceding endnote), he noted that CNMI Const. art. III, § 1 implied emergency powers, *citing* Sterling v. Constantin, 287 U.S. 378 (1932) (Governor’s determination of exigency is conclusively correct, but court will determine that action taken is lawfully connected to the exigency).

The Framers of the CNMI Constitution, in their Analysis, commented on the broad powers given the Governor to address a disaster:

Section 10: Emergency Powers of the Governor. **This section authorizes the governor to declare a state of emergency in the event of attack on the commonwealth, civil disturbance, natural disaster or other calamity, such as a serious crisis caused by the unavailability of public utilities, transportation or communications.** It is intended that the governor have all the discretionary authority customarily possessed by the chief executive of a state or city in the United States. For example, the governor may reassign government employees from their normal tasks during an emergency if that is necessary to keep order or protect the public welfare. The governor may deputize citizens on a temporary basis for law enforcement purposes or use the militia if one has been established. **The governor may use contingency funds for disaster aid and divert**

from regular programs during the state of emergency with legislative approval. The governor may institute a curfew or other temporary emergency regulations, which regulations expire when the state of emergency ends.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, Pp 77- 78.^{1,27} (Emphasis added)²⁸

2. Legal Analysis

The Opinion examines the identified funds, their planned use to address the State of Emergency, and the duties of the MPLA Directors.

This Attorney General's legal analysis is binding on CNMI agencies and instrumentalities unless and until overturned by the courts. AG Opinion No. 86-16 (Castro). See, e.g., *People v. Penn*, 302 N.W.2d 298 (Mich. App. 1981). The Constitution and the Commonwealth Code provide that the Attorney General is the attorney for the Commonwealth government:

....The Attorney General shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law.

N.M.I. const., art III, § 11. The CNMI Code provides that the Attorney General is counsel to government agencies.²⁹ The Attorney General must review, and approve as to form and legal capacity, all contracts of the CNMI and its instrumentalities.³⁰ The Attorney General has a statutory and ethical responsibility to advise government clients to refrain from violating the law. The Attorney General can also bring statutory proceedings and common-law-writ-based proceedings to foreclose the pursuit of illegal activities.

The Courts are not bound by Attorney General Opinions, but tend to regard them as "highly persuasive". *United States v. Borja (Mayor of Tinian)*, 2003 MP 8 (2003), citing *Cedar Shake and Shingle Bureau v. City of Los Angeles*, 997 F.2d 620, 625 (9th Cir. 1993). An opinion of the Attorney General should be treated as persuasive authority for the judiciary so far as it is properly and thoroughly researched. *Borja (Mayor of Tinian)* 2003 MP at ¶¶ 20-21.³¹ See, generally, *State Attorneys General: Powers and Responsibilities*, Lynne M. Ross, editor (NAAG 1998).

Both statutory language and court decisions govern this analysis. The CNMI Supreme Court enunciates the governing common law. The Legislature has required the adoption of the common law as presented in the Restatements of the Law.³²

This interpretation adheres to the rules of Constitutional/statutory construction. Ordinarily, Constitutional language must be given its plain meaning. *In re Tenth Legislature Bills*, 5 N.M.I. 155 (1998). Also, *Camacho v. Northern Marianas Retirement Fund*, 1 N.M.I. 362 (CNMI 1990). See also, *Northern Marianas Housing Corp. v. Northern Marianas Land Trust*, 5 N.M.I. 150, 1998 MP 1, 1998 WL 34073630 (CNMI 1998) (The basic principle of statutory construction is that language must be given its plain meaning).

¹The Analysis must be cited with care. It is clarification, approved by the Constitutional Convention, not authority. See endnote 27 for the LRC's discussion.

In particular, for purposes of constitutional interpretation, the express mention of one thing implies the exclusion of another which might logically have been considered at the same time. *Aldan-Pierce v. Mañas*, 2 N.M.I. 122 (1991), *rev'd on other grounds*, 31 F.3d 756 (9th Cir. 1994), *cert. den*, 513 U.S. 1116, 115 S. Ct. 913, 130 L. Ed. 2d 794 (1995). See *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB").³³

- a. A fiduciary duty is the duty to act for another's benefit.

"Fiduciary Duty" is defined in Blacks Law Dictionary as a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person. It is the highest standard of duty implied by law. *Black's Law Dictionary*, Sixth Edition 625 (1990). *Govendo v. Marianas Public Land Corp.*, 2 N.M.I. 482, 491 n.5, 1992 WL 62888, p. 3 n.5 (CNMI Supreme Ct. 1992).

Beneficiaries of a fiduciary relationship require the "undivided loyalty" of a trustee, and, as such, the trustee must act "honestly [and] faithfully." *Govendo*, 2 NMI at 491, 1992 WL 62888 at 3, citing *Romisher v. MPLC*, 1 CR 843 (1983).

Generally, the provisions of the Restatement of Trusts 2d would govern the nature of the MPLA Board's trusteeship of public lands. "In the Commonwealth, the rules of the common law as expressed in the Restatements of the Law as approved by the American Law Institute serve as the applicable rules of decision, in the absence of written or local customary law to the contrary." 7 CMC § 3401. *Ito v Macro Energy, Inc.*, 4 N.M.I. 46 (1993). In determining the terms of the trust by which MPLA's Board is bound, "[a]mong the circumstances which may be of importance in determining the terms of the trust are the following: . . . (2) the value and character of the trust property; (3) the purposes for which the trust is created; . . . (5) the circumstances under which the trust is to be administered; (6) the formality of informality . . . with which any instrument containing the manifestation is drawn. Restatement of Trust 2d, § 164, comment "c".

Thus, as a fiduciary, the MPLA is responsible for public lands and the proceeds therefrom (until proceeds are turned over to the MPLT). As the statute (and Constitution) state, the beneficiaries are people of Northern Marianas descent. The circumstances of the administration are those of a public agency, of the Commonwealth government.

The documents establishing the fiduciary relationship are formal – the laws of the CNMI. The CNMI courts have addressed government fiduciary duty within the context of the US Government toward the people of the Northern Marianas:

In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965).

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).³⁴ In the instant case there is no issue of ethical or moral conduct; if anything, the moral position of the Board in helping to stave off the health and economic disaster of the failure of the CUC is a high one.

Thus, the typical controversy of a corporate board's fiduciary responsibilities may not apply here. There is a rule of "strict fiduciary responsibility" to a corporation. A breach of fiduciary duty occurs when an injury or loss to the corporation results from a director's: (1) negligence; (2) fraudulent misappropriation of corporate property to benefit the director or a third party; (3) acquisition of any undue personal advantage, benefit, or profit; or (4) other similar conduct sustaining injury or loss to the corporation. *South Seas Corp.*

v. Sablan, 525 F.Supp. 1033 (D.N. Mariana Islands 1981). The “injury or loss” is relative – the depletion of a bank account versus the termination of power, water and sewage treatment for the beneficiaries.

As a general rule, a corporate director should acquire at least a rudimentary understanding of the business of a corporation. The “business judgment rule” will ordinarily protect a director’s decision, unless s/he is grossly negligent and completely abdicates responsibility, and fails to exercise judgment as director. *F.D.I.C. v. Benson*, 867 F.Supp. 512 (S.D.Tex. 1994).³⁵ There is no question that the Board members understand the MPLA’s management of the public lands or of the proceeds therefrom. Further, they had at their disposal more than two weeks between the Governor’s first letter for assistance, on July 29, 2005, and their action, August 16, 2005. They were further informed by the Governor’s Declaration almost three months’ before, and the intervening public debate.³⁶

A board’s decision on an artificial crisis, taken without proper information, will be reversed. *Smith v. Van Gorkom*, 488 A.2d 858 (Del.Supr. 1985) (Board of directors did not reach “informed business judgment” in voting to sell company for low price, but rather, were grossly negligent in approving sale of company upon two hours’ consideration.) By contrast, the instant crisis is real, has been ongoing, and has been confirmed in the Governor’s Declaration and the Legislature’s subsequent Joint Resolution.

It has been held that specific statutory or constitutional provisions control over the general. *McDonald v. Schnipke*, 155 N.W.2d 169, 172 (Mich. 1968). Thus, where a State constitution’s general provision empowered the governor to remove executive branch officials for, *inter alia*, gross neglect, but a more specific constitutional provision on the militia had not yet been executed by statute, the governor’s removal of the commandant of the state’s national guard under the more general constitutional provision was void. *Id.* In the instant case specific statutory provisions regarding the declaration of a disaster emergency and the reprogramming of unused funds would control over the general duties to the MPLA Board to the beneficiaries. Further, the specifics of the MPLA enabling act control over the general responsibility to the beneficiaries. See part 2.b, just *infra*.

It would seem, therefore, that the decision of the MPLA Board, whether to provide the unused savings account funds to the CUC Emergency Fund in order to keep power on for MPLA’s beneficiaries, should be examined in light of the circumstances, the extent to which the Board members understood the relationship of the requested action to MPLA’s “business” and the related statutes.

- b. The MPLA Board owes a fiduciary duty to its beneficiaries, persons of Northern Marianas descent to “benefit” them.

By its terms the Constitution charged the MPLA’s Directors with “direct[ing] the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.” NMI Const. art. XI, § 4(a). The directors shall be held to strict standards of fiduciary care. NMI Const. art. XI, § 4(c).

The question presented for this Opinion is whether the Board’s use of funds in its care, as requested to help avert a disaster involving the elimination of electric power, water pumping, and sewage conveyance and treatment is a “benefit” within the scope of the fiduciary’s activities.

- c. The Board acted within its fiduciary duty when it used MPLA idle resources to maintain essential electricity services to stave off the failure of CUC services to the CNMI’s people.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the

CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

At the time the MPLA considered transferring the requested savings account funds, the validity of the public purpose in doing so was well settled. There was in place a lawful declaration of a state of emergency. Indeed, the Legislature had affirmed the Governor's Declaration and provided him with 100% fiscal reprogramming authority in order to address it. The only issue for the Board was whether their action comported with their fiduciary responsibilities.

i. The transfer is "as provided by law".

First, the appropriations acts, PL 11-78 and PL 11-79, addressed directly funding CUC-related facilities and indirectly defaulted to the Governor's Emergency Declaration to assist CUC. The acts looked to funding power, water and sewer for Koblerville. They included CUC as a concurring expenditure authority. Then, the language boldfaced *supra*, page 7, as a default, allowed the available public land funds to be allocated as "otherwise provided by law". The Governor's Emergency Declaration is "law" in this sense. Therefore, the Board's use of the idle funds is not only acceptable; it may be viewed as contemplated in the appropriations act.

ii. The Board may transfer property to another government agency for a "public purpose".

Second, MPLA can transfer funds to CUC, another Government agency. MPLA has a special relationship to the CNMI's Government and to the public purposes of the Government. The MPLA enabling act specifically empowers the Board to transfer property and authorize works for "public purposes". 1 CMC § 2804(c) and (f). Further, the restrictions on transfer of freeholds are waived for transfers to another government agency. 1 CMC § 2804(c). This relationship is embodied not only in the statute, but was evidenced in the Constitution.

An emergency will support strong measures. A recent well-publicized Pennsylvania decision supports the use of extraordinary measures by trustees in the midst of a financial crisis seeking to preserve the essence of the trust. *In re Barnes Foundation*, 871 A.2d 792 (Pa. Apr. 27, 2005) (Appeal of non-full-party student will be quashed, allowing for immediate implementation of trial court's restructuring and relocation of internationally-recognized nonprofit art gallery). A review of the history of the Barnes Foundation controversy shows that the late trustor had firmly required that his internationally-acclaimed art collection stay in his suburban Philadelphia house. The trustees successfully petitioned the trial court to revise the terms of the trust, because the building was deteriorating, the location made it impossible to accommodate enough of the public to continue the gallery's operations or care for its paintings, and potential funders would not contribute to the trust unless the facility was moved and its governance restructured.

In the instant case, no revision of the MPLA or its mission was sought. The Board members, as fiduciaries, were simply asked to contribute unused funds during an emergency to protect their beneficiaries.

Thus, for instance, if the Board had transferred a \$1 million piece of real estate to the Government, so that the Government could sell or lease the land to generate cash for a "public purpose"³⁷ – e.g., to pay for the imported oil required to keep the power on – the Board could have done that. And the Board could have done that without reference to the interests of the people of Northern Marianas descent.

In this instance it has been asked to transfer funds, not land. Therefore, a fortiori, it may transfer funds deriving from the land to use for a public purpose by the CUC, another agency of the Government. See also, Attorney General letter 02-443, Re: PL 13-16 (\$2.6 million appropriation to MVA) (Aug. 16, 2002) (Legislature's direction to MPLA to transfer to MVA landing fees held in trust account shall be presumed lawful).

iii. The Board may transfer its discretionary funds.

Third, while the Board must transfer land proceeds to the MPLT each year, it is permitted to retain funds for "any other expenses reasonably necessary for the accomplishment of its functions". 1 CMC § 2804(h). The Legislature recognized this in PL 11-78 § 3's citing to article XI, § 5(g), which contains this language. Its functions include benefitting people of Northern Marianas descent. Those people were the same people who rely on the continued flow of power, water and sewage treatment to maintain their homes, families and businesses. The Board acted responsibly in seeking to keep these services available to them in the emergency.

iv. The Board was required to transfer lawfully reprogrammed funds.

Fourth, the Governor had the legal power and authority to reprogram the unused funds. The appropriations acts provided for reprogramming by an appropriation bill or pursuant to 1 CMC § 7302. PL 11-79 § 8.³⁸ The statute allows for such reprogramming, of 25% of the appropriation. 1 CMC § 7402(b). The Legislature's subsequent joint resolution 14-34 authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems.

Thus, the Board was presented with a valid order for reprogramming funds to a public purpose concurred in by both the Legislative and Executive branches of government.

This subsection alone might support the agency's providing the savings funds during an emergency in order to keep power, water and sewage treatment flowing to its beneficiaries. In light of the three other provisions, just discussed, the MPLA Board is well within its fiduciary responsibilities in making the requested transfer.

d. The MPLA Board acted within its fiduciary duties because it could not deny the lawful request to use the identified funds to help stave off the power-related disaster emergency.

The MPLA Board's acceding to the Governor's request was not only within its fiduciary responsibilities, it was not optional. The Governor had lawfully declared a State of Disaster Emergency, affirmed by the Legislature. His emergency powers included employing such resources as the MPLA savings account containing the unused CIP funds to stave off the power emergency. It was not for the Board to determine independently whether the emergency powers should be exercised with respect to the idle funds. Thus, there was no violation of a fiduciary duty.

- e. The *Analysis* to the Constitution indicates the Framers' intent that MPLA's Board have the flexibility to manage its revenues for proper purposes.

To the extent that the purposes for the MPLA Board's activities are traceable to the Constitution, the expressions of the Framers are relevant. The Framers addressed the MPLC/MPLA in their comments to the Constitution, explaining that the Constitution had given the corporation broad powers to address funds from the public lands and broad discretion in handling those funds:

Section 4: Marianas Public Land Corporation.No further action is needed on the part of the corporation or any branch of government to constitute the corporation as a legal entity. . . .The provisions of sections 4 and 5 of this article constitute the basic rules of organization and governance that would ordinarily be found in the charter, articles of incorporation or bylaws of a corporation. **Organizational and policy matters not specified by the Constitution are left to the discretion of the corporation.** . . .

....

Section 4(d). This provision specifies that the directors may take action by a majority vote of the total number of directors. Action by any smaller number does not bind the corporation.

This provision specifies that **the corporation shall have all of the powers available to a corporation under Commonwealth law. This means that the corporation can exercise any power or privilege given to corporations that is not inconsistent with the limitations imposed on the corporation by the Constitution.**

Section 3 gives a broad grant of powers to the corporation to manage and dispose of the public lands. This provision in section 4(d) that gives the public land corporation all of the power available to a corporation under Commonwealth law is intended only to add to or clarify the powers of the public land corporation. It does not permit the legislature to enact any limitations on the powers of corporations and then require that such a limitation be applied to the public land corporation at the expense of the powers granted by the Constitution.

....

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, 150-51. (Emphasis added)

Section 5: Fundamental Policies. **This section sets out the fundamental policies** that must be followed by the corporation in carrying out its responsibilities. **All matters not specifically mandated by the Constitution or delegated to the legislature are left to the discretion of the corporation.** The corporation is not subject to any of the limitations imposed by article X [regarding public debt and indebtedness].

....

Section 5(g). This section provides for the disposition of funds derived from the public lands. These funds include the payments made by the United States for property leased under article VIII of the Covenant. The funds from the public lands are placed in a

trust fund that is an entity separate from the corporation. This separates the functions of land management and money management. This provision requires that the corporation turn over the proceeds from the public lands to the trust fund but does not include any time requirement that the moneys be turned over promptly.

The corporation is permitted to retain a portion of the funds for administration purposes with two restrictions: the funds must be necessary for administration and the expenses of administration must be reasonable.

Administration includes administration of the management of the public lands and administration of the disposition of public lands. **The determinations with respect to what is necessary and reasonable are made by the corporation.**

It is intended that the Marianas Public Land Corporation be financially independent of the legislature and that it meet its expenses with the retained funds. There is no limitation on the percentage of the total revenues received that the corporation may retain except the limitation of reasonableness and necessity set out in the last clause. The corporation also has the power to borrow to meet expenses.

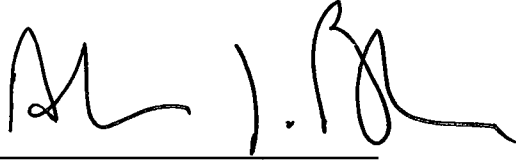
This provision does not prohibit the legislature from appropriating funds for expenditures by the public land corporation for management or disposition of the public lands or other responsibilities assigned to the corporation by the legislature.

. . . . All revenues from the public lands received on and after the effective date of the Constitution go to the public land corporation. This includes payments for the transfer of freehold, leasehold, and other interests made before the effective date of the Constitution by the government of the Northern Mariana Islands or nay [sic] predecessor entity and transfers made by the corporation. Any payment made to any agency or entity other than the corporation is of no effect and the corporation may hold the payee in default.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 152, 158-59. Thus, the Framers expressed the intention for the Board to address flexibly the care and disposition of public lands and the proceeds therefrom. The instant emergency and the Board's response, by transferring idle funds to a sister agency in order to stave off the disaster of no power, no water and no sewage treatment, is just such flexibility.

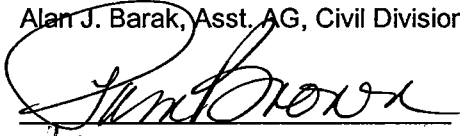
Conclusion

A careful analysis of the MPLA, the MPLA Board and the Board's duties, and the present disaster emergency demonstrates that the Board of the MPLA has operated well within its fiduciary duties and responsibilities in agreeing to transfer its idle savings account funds to the use of the CUC's Emergency Fuel Contingency Fund. Such a transfer is within the Board's fiduciary duties and responsibilities.



Date: August 26, 2005

Alan J. Barak, Asst. AG, Civil Division



Date: August 26, 2005

Concurred by: Pam Brown, Attorney General

ENDNOTES

1. Governor Babauta reasserted his request for emergency assistance in an August 22, 2005, memo to the Chairwoman of the MPLA:

To: Ana Demapan-Castro, Chairwoman, Marianas Public Lands Authority Board of Directors
Cc: Attorney General; Secretary of Finance; Members, [MPLA] Board of Directors; Commissioner, [MPLA]; Special Assistant for Management & Budget; Special Assistant for Administration
From: Governor
Subj: TRANSFER OF FUNDS

On July 29, 2005 I wrote to Marianas Public Lands Authority (MPLA) regarding the continued State of Emergency in the Commonwealth that exists as a result of the high cost of fuel and the inability of the Commonwealth Utilities Corporation (CUC) to provide power to our people. I requested MPLA to assist the Executive Branch and CUC to address this emergency situation by identifying and transferring funds for reprogramming to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated July 29, 2005 . (Attached).

On August 9, 2005, the Office of the Governor was informed by MPLA that it had identified CIP matching funds that were previously obligated, but remained unused. I subsequently requested that MPLA approve the transfer of these unused CIP matching funds to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated August 11, 2005 (Attached).

As such, pursuant to the approval of the MPLA Board of Directors and the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution, 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, as invoked in the Declaration of State of Disaster Emergency on May 19, 2005, the renewal/continuation of such Declaration of State of Disaster Emergency issued on June 19, 2005, July 18, 2005 and August 17, 2005, respectively; and, pursuant to the authority granted by the adoption of House Joint Resolution No. 14-36, I hereby request you to transfer One Million dollars (\$1,000,000.00) from the account of the Marianas Public lands Authority (General Saving Account No. 0203-429012) located at the Bank of Guam, Garapan Branch to the CUC Emergency Fuel Contingency Fund (Business Unit #1608).

To effectuate this transfer, I respectfully request the MPLA Commissioner to authorize the funds to be remitted to:

.....

This action is necessary to address critical fuel, generator rehabilitation and maintenance issues facing CUC and the people of the Commonwealth. Furthermore, the Special Assistant for Management and Budget and the Secretary of Finance are directed, by copy of this memorandum, to transfer the entire amount remitted by MPLA to the CUC Emergency Fuel Contingency Fund (Business Unit #1608.47210).

If you have any question related [sic] matter or require any additional information, please do not hesitate to contact my office.

/s

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

Juan N. Babauta

2. Letter of Aug. 24, 2005, fr Acting Chairman MPLA, M.P. Villagomez to Attorney General P. Brown:

VIA HAND DELIVERY

Re: Legal Opinion

Dear Attorney General Brown:

As you may be aware, Governor Juan N. Babauta is requesting that MPLA transfer \$1,000,000.00 from its Bank of Guam account to the CUC Emergency Fuel Contingency Fund, to be used to assist the Commonwealth in the continued State of Emergency. Enclosed is a copy of the Governor's most recent Memorandum.

Although the MPLA Board of Directors approved the Governor's request at a special public meeting held in Rota, lengthy discussion over the legality of the transfer took place in executive session prior to the Board action. As a result of those and subsequent discussions on the subject, the MPLA Board continues to be troubled by application of the cited authority for using NMI descent funds for such purposes.

As you know, MPLA funds derived from public land revenues are restricted for the benefit of NMI descent, and the MPLA Board is held to a strict fiduciary responsibility over the disposition of such funds.

In order to satisfy the Governor's request, the MPLA Board requests that you provide an official Attorney General Opinion, limited to this specific request by the Governor. MPLA stands ready and willing to accommodate the Governor immediately upon receipt of your opinion if you find that the request is allowable and will not be a violation of the Board Members' fiduciary responsibilities.

We ask that you give this request your top priority, as the Governor and CUC require prompt action on our part.

Thank you for your assistance,

Sincerely,

/s

Manuel P. Villagomez
Acting Chairman

Enclosure

cc: Governor
Board Members
Commissioner
Comptroller
Legal Counsels

3. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The Comment set out E.O. 94-3 in its entirety, including the section dissolving the MPLC and moving it to the Department of Land and Natural Resources:

Section 306. Department of Lands and Natural Resources. [Section 306 VACATED by PL 10-57, § 4]

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

Executive Order 94-3. The Legislature repealed the change. PL 10-57. The Legislature then repealed PL 10-57 and substituted a new Board of Public Lands, Office of Public Lands, and Administrator of Public Lands, as an independent agency. PL 12-33 (effective Dec. 5, 2000) (ordered codified as 1 CMC, Division 2, Chapter 14). The Legislature again amended the statutory scheme with PL 12-71.

4. According to the Law Revision Commission Comment to § 2801 there were technical deficiencies in the repeal and reenactments of PL 12-33 and PL 12-71, some of which the Commission corrected:

The Commission assigned a different number sequence to the reenacted sections than that provided in PL 12-33.

PL 12-71 became effective November 13, 2001 and contained some technical deficiencies. The first deficiency is the amendment of subsection (a) above without conforming amendments to subsection (b) and the remainder of the act; a global amendment provision was not included in PL 12-71. Additionally, the reference in subsection (a) above to the term of the Board of Directors is unclear and also in conflict with 1 CMC § 2803(d). Furthermore, it appears that in the last sentence of subsection (a) above, the reference to "effected" should have been "affected." Finally, the reference in PL 12-67 to "H.B. 12-257" should instead be to "PL 12-33."

1 CMC § 2801, Comment.

5. Article XI of the NMI Constitution gave the MPLA and MPLT broad powers within their missions:

Section 1: Public Lands. The lands to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under Covenant Article VIII, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are **public lands belonging collectively to the**

people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands. The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Surface Lands. **The management and disposition of public lands** except those provided for by N.M.I. Const. art. XI, § 2 **shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

b) One director shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, and three shall be residents of the third senatorial district; provided that of the five directors, at least one shall be a woman and at least one shall be a person of Carolinian descent. Each director shall be a citizen or national of the United States, a resident of the Commonwealth for at least five years immediately preceding the date on which the director takes office, a person with at least two years management experience, a person who has not been convicted of a crime carrying a maximum sentence of imprisonment of more than six months, a person who is able to speak Chamorro or Carolinian and a person of Northern Marianas descent.

c) The directors shall serve a term of four years except that two of the first five directors appointed shall serve a term of two years and three shall serve a term of four years. A director may not hold a paid position in the corporation. **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

e) The directors shall make an annual written report to the people of the Commonwealth describing the management of public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in Commonwealth land.

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies** in the performance of its responsibilities.

a) The corporation shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and one village homestead. A person may not receive a freehold interest in a homestead for three

years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least fifteen years as of the effective date of this Constitution. At any time after receiving the freehold interest, the grantee may mortgage the land provided that all funds received from the mortgagee be devoted to the improvement of the land. Other requirements relating to the homestead program shall be provided by law.

b) **The corporation may not transfer a freehold interest** in public lands for twenty years after the effective date of this Constitution, **except** for homesteads as provided under section 5(a), or **for use for a public purpose by another agency of government**, or for land exchanges to accomplish a public purpose as authorized by law.

c) The corporation may not transfer a leasehold interest in public lands that exceeds twenty-five years including renewal rights. An extension of not more than fifteen years may be given upon approval by three-fourths of the members of the legislature.

d) The corporation may not transfer an interest in more than five hectares of public land for use for commercial purposes without the approval of the legislature in a joint session.

e) **The corporation may not transfer an interest**, and may prohibit the erection of any permanent structure, **in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

f) The corporation shall adopt a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate.

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary** to meet reasonable expenses of administration and management, land surveying, homestead development, and **any other expenses reasonably necessary for the accomplishment of its functions**. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added)

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

a) The trust shall have three trustees appointed by the governor with the advice and consent of the senate. After this Constitution has been in effect for ten years, the number of trustees appointed by the governor with the advice and consent of the senate shall be increased to five. Three shall be from Saipan, one from Rota, and one from Tinian. At least one trustee shall be a woman and at least one trustee shall be of Carolinian descent. The trustees shall serve for a term of six years except that the term of office shall be staggered, accomplished as follows: three trustees shall serve for four years and two trustees shall serve for six years as determined by drawing of lots.

b) **The trustees shall make reasonable, careful and prudent investments.**
For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

c) If the legislature authorizes a Marianas development bank and provides that all United States economic assistance for economic development loans provided under Covenant § 702(c), shall be deposited as capital in that bank, the trust shall use up to fifty-five percent of its receipts in a year to increase the total capital available to the bank to the sum of ten million dollars. After the bank has more than ten million dollars in total capital, the bank shall pay the excess above ten million dollars to the trust until the trust has been fully repaid for its contribution to the bank.

NMI Const. art. XI, § 6. (Emphasis added)

6. The Court in *Romisher* held that the MPLC lacked the Constitutional authority to receive funds for, and negotiate a deal regarding, **private** interests in the US military's acquisition of Tinian real estate. *Romisher v. MPLC*, 1 CR at 860 (Tr. Ct. 1983) (preliminary injunction), upheld in 1 CR 873, 883 n 3 (1983) (permanent injunction). MPLC's power went to the disposition of public lands, held the Court. The Executive was to negotiate the value of the private interests, disburse the funds and acquire title in the sale.

7. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors from Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

8. Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

9. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

10. The \$1 million is held in Bank of Guam General Savings Account No. 0203-429012. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

11. Source, phone conversations with MPLA counsel of 8/25/05 and 8/26/05.

12. The Constitution's article XI, § 5(g) says:

(g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses reasonably necessary for the accomplishment of its functions.** The annual budget of the corporation shall be submitted to the legislature for information purposes only.

13. See, e.g., CUC's most recent annual financial report, most recent cash flow statement (6/27/05) and its sole fuel oil contract with Mobil Oil Co., #CUC-PG-05-0013. [all on file]

14. CUC's Comptroller describes a "financial crisis" and has projected negative cash flow by the beginning of Year 2005 into the indefinite future, **without** increasing the rates for the fuel surcharge. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 1.

CUC's oil price per gallon never rose above 88 cents/gal for the years 2001-02, then increased for 4 months in 2003 to almost \$1.00/gal, to drop to 78 cents/gal in June, then finish 2003 at about 92 cents/gal, then climb in 2004 to a high of \$1.17 in September, dropping to about \$1.12 in December. Source: Chart I, Production Fuel, Average Monthly Purchase Price Per Gallon, January 2001 to December 2004 (author, Ed Williams, CUC Comptroller's Office).

15. Memo Fr CUC Comptroller, Thru: Executive Director, CUC, to CUC Board of Directors, re: Financial Crisis Situation at CUC, dated Tuesday Jan 25, 2005. (2 pp):

I am writing you this letter to inform you of the serious financial situation that is facing CUC today. We face a situation that, if it is not addressed immediately, could lead to power shedding and ultimately to island wide black outs in Saipan, Tinian and Rota within the next few months.

With these black outs will also come the disruption of our water and sewer services. The ripple effect of our power shut down will cause wide spread negative economic impact on all aspects of our lives; it will be felt by our businesses, health care systems, education systems, tourism industry, etc.

By the end of this week we will have to deal with the fact that CUC can not meet the \$2 Million advance payment requested by Mobil on January 28 to stay within our credit limit of \$10 Million. This may jeopardize the fuel delivery in February.

Three weeks from today our Cash Flow projection shows that we will have a shortfall of \$1.1 Million. This is the day on which we are to pay Mobil for December's fuel. Failure to make this payment could possibly delay further deliveries until a credible payment plan can be established.

Our projections for cash flow without a fuel surcharge show CUC going further into debt. (See Attached) We must also realize that forecasting revenue may be unrealistic if we are forced into load shedding. If we are not supplying 24-hour power, our revenues will drop dramatically.

One suggestion to address our crisis has been to float a bond. However, while we may wish to pursue this in addition to a fuel surcharge, we must realize that it will take a minimum of 4 to 6 months at best to float a bond and we may have to seek the assistance of the Legislature and Governor if the bond underwriters will require a Full Faith and Credit from CNMI Government, which could even further lengthen the time until any funds became available.

At the present moment, because of the cost of fuel, the cost of production of Electricity exceeds the revenues generated by its sale. This cannot be allowed to continue. The actual costs of fuel must be recovered and the fuel surcharge is the most direct and rational approach to this problem.

I urge the Board to adopt the proposed emergency regulations today so that we may begin to address our revenue shortage immediately.

Thank you for your attention and assistance.

/s

Sohale Samari
CUC Comptroller

16. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 2.

17. "Oil Leaps to Record \$68 on Storm, U.S. Gasoline Draw", NY Times (www.nytimes.com) (Reuters) (Aug 25, 2005). The run-up in oil prices is likely to continue for a long time, given the multiple factors affecting prices – weather, production capacity, political events and worldwide demand:

August 25, 2005
Oil Hits Record \$68 on Storm, Gas Draw
By REUTERS

Filed at 6:10 a.m. ET

LONDON (Reuters) - Oil surged to a record \$68 a barrel on Thursday, hounded by supply concerns due to a growing threat to oil facilities from an Atlantic storm and a large fall in U.S. gasoline stocks.

U.S. light crude was up three cents at \$67.35 a barrel by 0958 GMT, pausing after hitting \$68 in early trade, the highest since U.S. crude futures started trade in 1983. London Brent crude was up 12 cents to \$66.13.

Dealers are concerned about a thin stock cushion after a rash of disruptions and tensions in oil-producing countries cut crude output and propelled prices to a series of record peaks.

Gasoline stockpiles in the United States, the world's top oil consumer, beat forecasts to register a slide of 3.2 million barrels in the week to August 19, widening the supply gap from a year ago, the government Energy Administration Agency said.

Stocks of the auto fuel have contracted for eight straight weeks, led by higher demand as the peak driving season has almost two weeks to run its course.

Compounding the fears, a tropical storm is swirling toward Florida, threatening U.S. oil and gas production facilities in the Gulf of Mexico.

"The market is really starting to get unhinged," said John Brady at ABN AMRO in New York. "The majority can be attributed to the storm, and some geopolitical concerns as well."

Tropical storm Katrina, which formed in the Bahamas on Wednesday, was moving on a path that would likely cut across southern Florida and into the Gulf of Mexico later this week, the U.S. National Hurricane Center said.

The storm was expected to hit the Miami area by Friday as a weak hurricane moving slowly across the state into the Gulf.

Market participants fear the storm may threaten oil and gas producing areas in the central and eastern Gulf of Mexico, where the United States derives between 20 and 25 percent of domestic crude and natural gas production.

gas production.

The unusually active Atlantic hurricane season has produced 11 named storms and could culminate in as many as 21 tropical storms and 11 hurricanes, forecasters have said.

SUPPLY WOES LINGER

Refinery snags have also skewed risks to the upside as the oil industry struggles to keep pace with demand growth, which has thus far proven remarkably resilient amid soaring costs.

"There is very strong demand and we don't see that demand receding," the International Monetary Fund's chief Rodrigo Rato, said in a teleconference on Thursday. "Prices are not going back to the levels seen at the beginning of 2004."

Adding to the list was Shell Oil Co.'s 153,000 barrel-per-day (bpd) refinery in Martinez, California, which suffered a malfunction in a production unit on Tuesday.

Tesoro Corp. said a 70,000-bpd gasoline-producing unit at its 168,000-bpd Golden Eagle refinery in Martinez, California, was shut on Wednesday following a fire.

And Huntsman Corp. declared a force majeure on Wednesday on a large part of its production of methyl tertiary butyl ether (MTBE), a gasoline octane-booster, from its refinery in Port Neches, Texas. Trade sources said the force majeure would last for 45 days.

Output in Ecuador, which mostly supplies crude to California, is still down to around 80 percent of its 530,000-bpd level after attacks on oil infrastructure last week.

Protesters, who have choked off oil exports, are threatening a hunger strike to pressure the government on their demands, dealing a blow to settlement talks.

The market also watched for disruption in Nigeria, where some fuel stations shut down ahead of an expected 60 percent hike in fuel prices. Previous government attempts to raise prices have led to crippling general strikes in the world's 8th largest oil exporter.

18. Sections 1 and 14 of the Constitution make the Governor the head of the Executive Branch, and Section 15 empowers him to reorganize the Executive:

Section 1: Executive Power. The executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws.

....

Section 14: Heads of Executive Departments. Each principal department shall be under the supervision of the governor and, unless otherwise provided by law, shall be headed by a single executive. The governor shall appoint the heads of executive departments with the advice and consent of the senate. The governor may remove the heads of executive departments. The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth.

Section 15: Executive Branch Departments. Executive branch offices, agencies and

instrumentalities of the Commonwealth government and their respective functions and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them so far as practicable according to major purposes. . . Regulatory, quasi-judicial and temporary agencies need not be a part of a principal department. The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law. The legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions and duties. **The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders** which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

N.M.I. Const. art. III, §§ 1, 14, 15.

19. The Office of the Governor was created by PL 1-8:

§ 2051. Office of the Governor.

There is in the Commonwealth government the office of the Governor, composed of the Governor, the Governor's Council and persons appointed by the Governor to the following positions:

- (a) A Special Assistant for Administration;
- (b) A Special Assistant for Planning and Budgeting;
- (c) A Special Assistant for Programs and Legislative Review;
- (d) An Executive Assistant for Carolinian Affairs;
- (e) A Public Information and Protocol Officer; and
- (f) A private secretary.

§ 2052. Office of the Governor: Staff.

The Governor may employ other staff as required to assist the office of the Governor in performing its functions, subject to budgetary appropriation. The staff shall be within the civil service.

§ 2053. Office of the Governor: Duties.

The Governor has the powers and duties as provided in the Commonwealth Constitution or as provided by law. In addition, the Governor shall receive official visitors and conduct official ceremonies of the Commonwealth. These duties and responsibilities may be delegated to the Lieutenant Governor or to elected or appointed officials of the Commonwealth.

1 CMC §§ 2051-53. E.O. 94-3 and PL 11-47 added staff to the Office and converted staff to the Excepted Service. See next endnote.

20. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The "Office of the Governor" is, for the most part assumed, rather than designated in the reorganization. However, it is mentioned as an agency in which all employees are subject to the Excepted Service. E.O. 94-3 § 509(b)(1). See also PL 11-47 (return of certain positions to Office of the Governor).

21. The text of the Governor's State of Emergency Declaration was as follows:

Declaration of State of Emergency:
Commonwealth Utilities Corporation
Lack of power May 2005

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

I find that CUC will be unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail. These conditions present an extreme, immediate and imminent emergency.

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

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

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

/s

Juan N. Babauta,
Governor

Dated this __19th__ day of May, 2005

22. The resolution stated as follows:

House Joint Resolution No. 14-36

Supporting the Governor's declaration of state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation and authorizing the Governor 100 percent reprogramming authority of available CNMI funds to remedy the power generation problems.

Whereas, on May 19, 2005, Governor Juan N. Babauta declared a state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation (CUC) for CUC's inability to provide service; and

Whereas, CUC will be unable to pay for its fuel oil supplies in the immediate future; and

Whereas, CUC's power generation levels are currently reduced to almost zero reserves; and

Whereas, without electricity the CUC water and wastewater pumping systems will also fail; and

Whereas, the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation; and

Whereas, it is the intent of the Legislature to authorize the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Whereas, the Commonwealth Constitution, Article 10 Section 3, provides that "public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature"; and

Whereas, the Commonwealth Constitution, Article 10 section 4, also provides in pertinent part the "public indebtedness may not be authorized for operating expenses of the Commonwealth government or its political subdivisions."

Now, therefore, be it resolved by the House of Representatives, Fourteenth Northern Marianas Commonwealth Legislature, the Senate concurring, that the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation and authorizes the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Be it further resolved that the Speaker of the House of Representatives and the President of the Senate shall certify, and the House Clerk and the Senate Legislature [sic] Secretary shall attest to the adoption of this joint resolution and thereafter the House Clerk shall transmit a certified copy to the Honorable Juan N. Babauta, Governor of the Commonwealth of the Northern Mariana Islands.

Adopted by the House of Representatives on May 25, 2005 and by the Senate on June 15, 2005

Certified by:

Benigno R. Fitial
Speaker of the House

Joaquin G. Adriano
President of the Senate

Attested to by:

Evelyn C. Fleming
House Clerk

Joseph M. Mendiola
Senate Legislative Secretary

23. The man-made disaster appears as part of the definition of "disaster" and "local disaster emergency":

(a) **"Disaster" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, fires, oil spills, or other water contamination **requiring emergency action to avert** danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in any part of the Commonwealth **which, in the determination of the Governor is of sufficient severity and magnitude to warrant assistance by the Commonwealth to supplement the efforts and available resources of the political subdivisions thereof and relief organizations** in alleviating the damage, loss, hardship or suffering caused thereby.

(b) "Emergency" means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, drought, fire, explosion, or other catastrophe in any part of the Commonwealth which requires federal emergency assistance to supplement the Commonwealth and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(c) "Major disaster" means any typhoon, tornado, storm, floods, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, fire or other catastrophe in any part of the Commonwealth which, in the determination of the President of the United States, causes damage of sufficient severity and magnitude to warrant major disaster assistance under U.S. Disaster Relief Act (42 U.S.C. § 5121 et seq.), above and beyond emergency services by the federal government to supplement the efforts and available resources of the Commonwealth and its political subdivisions.

(d) **"Local disaster emergency" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, highwater, wind-driven waters, tidal waves, earthquakes, fires, oil spills, water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in one particular political subdivision.

(e) "Political subdivision" means any district, village, community or other unit of local government recognized as such by laws or customs of the Commonwealth.

3 CMC § 5114 (Emphasis added).

24. The Governor has very broad powers to prevent and respond to disasters:

§ 5121. The Governor and disaster emergencies.

(a) The Governor is responsible for meeting the dangers to the Commonwealth and the people affected by disasters.

(b) Under this chapter, the Governor may issue executive orders and regulations and may amend or rescind them. Executive orders shall have the force and effect of law when promulgated in accordance with the procedures set forth in this chapter. The Governor shall issue regulations as provided by law, for the administration and enforcement of this chapter, and such regulations shall have the force and effect of law if they are not in conflict with the expressed provisions of this chapter or other laws of the Commonwealth.

(c) A disaster emergency shall be declared by executive order of the Governor if the Governor finds a disaster has occurred or that occurrence or the threat thereof is imminent. The state of disaster emergency will remain in effect until the Governor finds that the threat or danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order, but no state of disaster emergency may continue for longer than 30 days unless renewed by the Governor. The Governor shall issue an executive order which may terminate a state of disaster emergency at any time. An executive order issued under this subsection shall be filed promptly with the Commonwealth Disaster Control Office and the Attorney General's office, and shall immediately be disseminated to the general public.

(d) An executive order declaring a state of disaster emergency shall serve to activate the disaster response and recovery aspects of the Commonwealth, local, and inter-jurisdictional disaster emergency plans applicable to the political subdivisions or area in question, and the authority for the deployment and use of any forces to which the plan or plans apply, and for use or distribution of any supplies, equipment and materials and facilities assembled, stockpiled or arranged, to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

(e) During the continuance of any state of disaster emergency, the Governor shall be in charge of all forces and personnel, and the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate regulations, but nothing herein restricts the Governor's authority to do so by executive orders issued at the time of the disaster emergency.

(f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;

(3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Subject to any applicable requirements for compensation under 3 CMC § 5132, utilize any private property if the Governor finds this necessary to cope with the disaster emergency; provided, however, that any such property that is not destroyed or totally damaged shall be returned to the owner immediately following the termination of the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Commonwealth if the Governor deems this action is necessary for the preservation of life or public health or safety; provided, however, that any person so evacuated shall be permitted to return to the place from which he or she

was evacuated immediately following the termination of the disaster emergency;

(6) Prescribe routes, modes of transportation, and destination in connection with evacuation, and requisition and take possession and control of any government vehicle for any reasonable period of time in order to assist with evacuation or with other necessary emergency functions or duties;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(9) Make provisions for the availability and use of temporary emergency housing.

3 CMC § 5121.

25. The general emergency powers provision is as follows:

(a) Whenever the Governor uses his authority pursuant to N.M.I. Const. art. III, § 10, the Governor shall as soon as practicable transmit to the legislature a report describing in detail the emergency which required exercise of such authority, the measures being taken to deal with the emergency, and a financial plan for meeting the cost of these measures. This plan shall indicate any function, program, or project which will have to be curtailed or deferred during the emergency due to the emergency itself or due to fiscal constraints, any additional revenues which may be needed to ensure sufficient funds, and any additional information which the Governor deems appropriate. This plan shall also include, if a determination can be made at that time, the recommendations of the Governor for any necessary reprogramming, appropriations, or any other statutory changes which the Governor deems advisable to deal with the emergency or to adjust the fiscal position of the government subsequent to the emergency. If this determination cannot be made at that time, the recommendation shall be transmitted to the legislature as soon as practical. A state of emergency shall automatically terminate within 60 days of its proclamation; unless the Governor shall, prior to the end of the 60 day period, notify the presiding officers of the legislature that the state of emergency has been extended, for a like term, and giving the reason for extending the state of emergency.

(b) If the legislature is not in session when the Governor prepares the report required by subsection (a) of this section, the Governor shall call the legislature into special session for the purpose of receiving the report, and of taking other action as may be necessary under the circumstances, as soon as it is physically prudent to hold a special session.

1 CMC § 7403.

26. The Chief of Civil Litigation, Peter Van Name Esser, concluded that a utility shortage or stoppage constitutes a "calamity" under Art. iii, § 10 of the CNMI Constitution.

He cited the Analysis of the Constitution, which presents "...a serious crisis caused by the unavailability of public utilities, transportation or communications," as an example of an emergency.

And he relied on Webster's definition of "emergency" as "any event or occasional combination of circumstances which calls for immediate action or remedy, pressing necessity; exigency," citing *People v. Ansen*, 105 P2d 321 (Cal. 1937) (Municipal streetcar driver was entitled to show in defense of prosecution for running "stop" signal that "emergency" supported continued travel through intersection); *Geisendorfer*

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

v. Mayor and City Council of Baltimore, 3 A.2d 860 (Md. 1947) (Emergency is lack of funds for school system); and Mullins v. Henderson, 170 P2d 118 (1942) (Mayor may use emergency powers to avert shutdown of street railway).

AG Op. 81-31 (7/23/81).

27. The LRC's "Constitution Annotated" discusses the *Analysis*, its stated purpose of explaining each section of the Constitution, and its limited use as authority:

Courts have cited the *Analysis* in several decisions. According to the *Analysis*' brief preface:

The purpose of this memorandum is to explain each section of the Constitution of the Commonwealth of the Northern Mariana Islands and to summarize the intent of the Northern Marianas Constitutional Convention in approving each section. This statement was approved by the Convention on December 6, 1976 with the direction that it be available to the people along with the Constitution for their consideration before the referendum on the Constitution.

Id. at 1. The 1976 *Analysis* was approved by the Convention, and published in a small, blue paperback booklet, 215 pages in length. The *Analysis* is mentioned in article III, § 23(b) (directing the resident executive for indigenous affairs to "coordinate the translation and distribution of such official documents as the Constitution of the Northern Mariana Islands and the Covenant and analysis thereof").

Comments to many sections in this publication include quotations from the *Analysis*. It is important to note that while courts have often cited the *Analysis* in support of rulings, they are not obligated to follow its interpretation of Constitutional provisions. In short, "the *Analysis* does not have the force law." *Camacho v. Civil Service Commission*, 666 F.2d 1257, 1264 (9th Cir. 1982) (rejecting *Analysis* interpretation of article III, § 16). According to a Commonwealth Trial Court decision:

The *Analysis* is not the law. It was not voted on by the electorate. At most, it is an attempt to clarify what the law is as stated in the Constitution. To use the *Analysis* as authority to overcome the clear language of the Constitution is not permissible.

Camacho v. Camacho, 1 CR 620, 628-29 (Trial Ct. 1983) (rejecting *Analysis*' interpretation of schedule on Transitional Matters. § 4).

Comm.. Law Rev. Com'n, Constitution of the Commonwealth of the Northern Mariana Islands, annotated, 1st ed. (June 1995), p xiii-xiv. (Fn's omitted)

28. The *Analysis* refers to legislative approval – "The governor may use contingency funds for disaster aid and divert from regular programs during the state of emergency with legislative approval." – but there is no such language on legislative approval in article III, § 10.

29.1 CMC § 2153(h): Attorney General Duties

The Attorney General shall have the powers and duties as provided in the Commonwealth Constitution. In addition, the Attorney General shall have the following powers and duties:

....

(h) To act, upon request, as counsel to all departments, agencies and instrumentalities of the Commonwealth, including public corporations, except the Marianas Public Land Trust. Subject to availability of funds by budgetary appropriation, separate legal counsel may be retained for particular matters.

1 CMC § 2153(h).

30.1 CMC § 2153(g).

31. Faced with two conflicting opinions of the CNMI Attorney General, the Supreme Court, responding to a certified question from the U.S. District Court, rejected the earlier, four-sentence-long opinion containing "ninety words with no reference to case law or legislative history" as "unpersuasive" in favor of the Attorney General's thoroughly researched brief. *Borja (Mayor of Tinian)*, 2003 MP ¶ 21.

32. *Castro v. Hotel Nikko Saipan, Inc.*, 4 N.M.I. 268, 275 (1995), citing 7 CMC § 3401.

33. The Mafnas' court's decision was "The absence of any language excluding such interests from the restriction in Article XII leads us to conclude that they are within the restriction." *Aldan-Pierce v. Mafnas*, 2 N.M.I. 122 (1991), at n 24.

The principle of "expressio unius est exclusio alterius" was addressed in the legislative context as the existence of express exceptions to a rule gives rise to a presumption that no other exceptions were intended. *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB"). The case cited *Andrus v. Glover Constr. Co.*, 100 S. Ct. 1905, 1910 (1980); Norman J. Singer, 2A *Sutherland Statutory Construction* § 47.11 (5th ed. 1993). MVB, p 28. See also *E-Tours Inc. v. Marianas Visitors Authority*, Civ. No. 00-0078D, p 7 (Super. Ct. 2000).

34. The full text of the District Court's statement is as follows:

It is now settled that the United States stands in relation to the peoples of Micronesia as a trustee. See, e.g., *Palacios v. Commonwealth of the Northern Mariana Islands*, Civ.App. No. 81-9017 (D.N.M.I. (App. Div.) 1983); *Gale v. Andrus*, 643 F.2d 826, 830 (D.C.Cir. 1980) ('the entire authority of the United States in the Trust Territory is derived from a trust'); *Ralpho v. Bell*, 569 F.2d 607, 619 (D.C.Cir. 1977) ('the United States does not hold the Trust Territory in fee simple, as it were, but rather as a trustee'). In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965). The nature of the fiduciary obligations which the United States shoulders in its capacity as a trustee to a race or nation of peoples is well summarized in *Smith v. United States*, 515 F.Supp. 56, 60 (N.D.Cal. 1978), a decision based on the United States-Indian trust relationship. In *Smith*, Judge Sweigert describes those fiduciary duties as duties that must be exercised with 'great care,' *United States v. Mason*, 412 U.S. 391, 398, 93 S.Ct. 2202, 2207, 37 L.Ed.2d 22 (1973), in accordance with 'moral obligations of the highest responsibility and trust,' that must be measured 'by the most exacting fiduciary standards.' *Seminole Nation v. United States*, 316 U.S. 286, 297, 62 S.Ct. 1049, 1054, 86 L.Ed. 1480 (1942). This Court previously has held that the 'very purposes which engendered the judicially created Indian fiduciary doctrine apply a fortiori to the Micronesian-U.S. relationship.' *Palacios*, supra, slip op. at 10.

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).

35. With respect to the business judgment rule, see also *Francis v. United Jersey Bank*, 432 A.2d 814 (N.J.1981) (A director should become familiar with fundamentals of business in which corporation is engaged and because directors are bound to exercise ordinary care, they cannot set up as a defense lack of knowledge needed to exercise the requisite degree of care; and if one feels that he has not had sufficient business experience to qualify him to perform the duties of a director, he should either acquire the knowledge by inquiry, or refuse to act).

36. This Opinion will not catalogue the almost-daily press coverage of the CUC emergency, as it is well known, and the press clippings can be assembled if needed.

37. The Constitution's language was "for use for a public purpose by another agency of government", NMI Const. art. XI, § 5(c), and, with respect to an interest in public lands located within 150 feet of the high water mark of a sandy beach, specifically excepted to authorize construction of facilities "for public purposes", NMI Const. art. XI, § 5(e).

38. The appropriations act restricted reprogramming to the same senatorial district:

Section 8. Reprogramming. Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reprogrammed by an appropriation bill of the CNMI Legislature or pursuant to the process specified in or 1 CMC 7302, all or in part among the projects funded by this Act to alternative projects included in the CIP Plan adopted by Section 5 of Public Law 11-78. However, notwithstanding other provisions of law, funds can only be reprogrammed from one project in a senatorial district to another project in the same senatorial district. Reprogramming of funds to alternative projects not included in the CIP Plan, must comply with the Plan Amendment Process as specified in Section VII of the CIP Plan.

PL 11-79 § 8. Since the overwhelming majority of CUC's power is consumed on the Island of Saipan, the reprogramming presented to the Board was to the same Senatorial District as the Koblerville project. As to the CIP Plan process, the State of Emergency supercedes the necessity to revise the CIP Plan, as a one of the regulatory provisions subject to suspension.



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

Civil Division
Tel: (670) 664-2341/42
Fax: (670) 664-2349

Criminal Division
Tel: (670) 664-2366/67/68
Fax: (670) 234-7016

Investigative Unit
Tel: (670) 664-2310/12
Fax: (670) 664-2319

**Division of
Immigration**

Saipan
Tel: (670) 236-0922/23
Fax: (670) 664-3190

Rota
Tel: (670) 532-9436
Fax: (670) 532-3190

Tinian
Tel: (670) 433-3712
Fax: (670) 433-3730

**Domestic Violence
Intervention Center**
Tel: (670) 664-4583/4
Fax: (670) 234-4589

MEMORANDUM AND ORDER

TO: All Immigration Personnel

FROM: Pam Brown, Attorney General 

DATE: September 1, 2005

RE: Admission of Bangladeshi Citizens

As of today, the CNMI will no longer admit citizens of Bangladesh for any purpose. This is due to the high frequency of document fraud in that country. We are unable to verify the authenticity of travel documents originating there and therefore must deny entry in the best interests of the Commonwealth. Please do not process any entry permit applications from citizens of Bangladesh.



Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Division of Environmental Quality



P.O. Box 501304 C.K., Saipan, MP 96950-1304
Tels.: (670) 664-8500 /01
Fax: (670) 664-8540

**Public Notice of Erratum
CNMI Aboveground Storage Tank Regulation**

The CNMI Division of Environmental Quality hereby gives notice of a printing error in Volume 27, Number 4 of the Commonwealth Register (May 2005); the final page of the recently adopted CNMI Aboveground Storage Regulations was inadvertently excluded. The excluded page, reproduced herein, addressed, in part, procedures for the issuance of administrative orders; severability of regulatory provisions; and delaying the effective date of the regulation 10 (ten) calendar days after the notice of adoption was published.

The complete version of the CNMI Aboveground Storage Regulations was available to the general public for review and comment at the DEQ Offices, on the DEQ webpage, and by written request or telephone request to DEQ. The printing error that excluded the final page of the regulations was limited solely to the Commonwealth Register. DEQ did not receive comments regarding the provisions that appeared on the last page of the regulations. Therefore, the duly adopted DEQ Aboveground Storage Tank regulations will remain in full force and effect with the addition of the final page.

SEP 21 2005

Date

John I. Castro, Jr., Director
Division of Environmental Quality

- 23.2.3 Any person subject to an Order imposing penalties pursuant to 23.2.2 may request, in writing, a hearing before the designated hearing officer. Request for a hearing shall be served upon the Division within seven (7) calendar days from the date the Order is received. Failure to request a hearing within seven (7) calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the Order.
- 23.2.4 Persons subject to orders issued pursuant to the Act and these regulations may also request an informal Settlement Conference. An informal Settlement Conference shall not affect the person's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.
- 23.2.5 Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, et seq.

PART 24 SEVERABILITY

Should any provision of these regulations or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and/or the application of the affected provision to other persons or circumstance shall not be affected thereby.

PART 25 EFFECTIVE DATE

These regulations will take effect (ten) 10 calendar days after notice of adoption is published in the Commonwealth Register.

COMMONWEALTH REGISTER

VOLUME 27

NUMBER 08

September 22, 2005

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 01-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **SAIPAN** and **TINIAN** effective **02:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, and **TINIAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta", written over a circular stamp or seal.

JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 001

DATE: August 30, 2005

TIME: 2:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.3 DEGREES NORTH AND LONGITUDE 149.8 DEGREES EAST, OR ABOUT 365 MILES SOUTHEAST OF AGRIHAN, 330 MILES SOUTHEAST OF PAGAN, 270 MILES EAST OF SAIPAN, 280 MILES EAST OF TINIAN, AND 320 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST-NORTHWEST AT 13-MILES PER HOUR. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 12 TO 24 HOURS.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON LATER TODAY.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS DECLARED TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND TROPICAL STORM WARNING FOR THE ISLAND OF ROTA AS OF 2:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, AND SAIPAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 02-2005

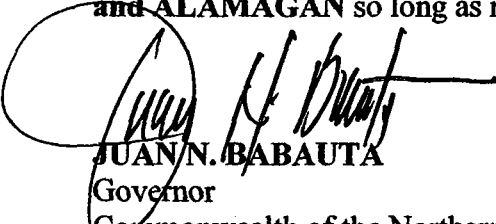
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** effective **05:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **05:30 P.M., AUGUST 30, 2005**, on the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 002

DATE: August 30, 2005
TIME: 5:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 4:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 151 DEGREES NORTH AND LONGITUDE 149.1 DEGREES EAST, OR ABOUT 340 MILES SOUTHEAST OF AGRIHAN, 300 MILES SOUTHEAST OF PAGAN, 280 MILES SOUTHEAST OF ALAMAGAN, 225 MILES EAST OF SAIPAN, AND 230 MILES EAST OF TINIAN, AND 370 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS. TROPICAL STORM NABI 14W WILL MAINTAIN ITS CURRENT SPEED WITH A GRADUAL TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON TONIGHT. TROPICAL STORM FORCE WINDS EXTEND OUTWARD UP TO 90 MILES.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND UPGRADED TROPICAL STORM WARNING TO TROPICAL STORM CONDITION III FOR THE ISLAND OF ROTA, AGRIHAN, PAGAN, AND ALAMAGAN AS OF 5:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, SAIPAN, ALAMAGAN, AGRIHAN, AND PAGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 03-2005

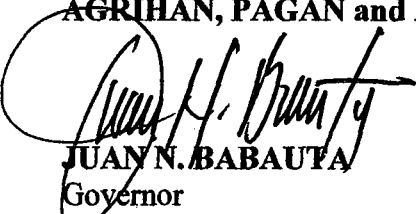
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
DECLARED READINESS and has **UPGRADED TROPICAL STORM CONDITION III**
to **TROPICAL STORM CONDITION II** for the islands of **SAIPAN** and **TINIAN**, and
maintains **TROPICAL STORM CONDITION III** for the islands of **ROTA**, **AGRIHAN**,
PAGAN and **ALAMAGAN** effective **08:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern
Mariana Islands' Emergency Operations Plan, the declaration automatically puts into
execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is
directed that operational portions of the CNMI Emergency Operations Plan be executed,
effective **08:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN, TINIAN, ROTA,**
AGRIHAN, PAGAN and **ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TROPICAL STORM NABI 14W
BULLETIN NO. 003

DATE: August 30, 2005
TIME: 8:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 7:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS LOCATED NEAR LATITUDE 15.1 DEGREES NORTH AND LONGITUDE 148.5 DEGREES EAST, OR ABOUT 315 MILES SOUTHEAST OF AGRIHAN, 275 MILES SOUTHEAST OF PAGAN, 250 MILES SOUTHEAST OF ALAMAGAN, 185 MILES EAST OF SAIPAN, 190 EAST OF TINIAN, AND 230 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS...TROPICAL STORM NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 65 MPH. NABI WILL CONTINUE TO STRENGTHEN....

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W. GOVERNOR JUAN N. BABAUTA HAS UPGRADED TROPICAL STORM CONDITION III TO TROPICAL STORM CONDITION II FOR THE ISLANDS OF SAIPAN AND TINIAN AND MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF ROTA, AGRIHAN, PAGAN AND ALAMAGAN AS OF 8:30 P.M. THIS EVENING ACCORDING TO NATIONAL WEATHER SERVICE, TIYAN, GUAM TROPICAL STORM NABI 14W WILL INTENSIFY INTO A TYPHOON BY EARLY TOMORROW MORNING.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN AND SAIPAN, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ROTA, ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 04-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **UPGRADED TROPICAL STORM CONDITION II** to **TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **TYPHOON CONDITION II** for the island of **ROTA**, and **TYPHOON CONDITION III** for the islands of **AGRIHAN, PAGAN** and **ALAMAGAN** effective **11:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **11:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN** and **ALAMAGAN** so long as required by the emergency situation.

Handwritten signature of Juan N. Babauta in black ink.

JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 004

DATE: August 30, 2005
TIME: 11:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS UPGRADED TO TYPHOON NABI 14W AND WAS LOCATED NEAR LATITUDE 14.6 DEGREES NORTH AND LONGITUDE 147.9 DEGREES EAST, OR ABOUT 325 MILES SOUTH-SOUTHEAST OF AGRIHAN, 280 MILES SOUTH-SOUTHEAST OF PAGAN, 250 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 150 MILES EAST-SOUTHEAST OF SAIPAN, 155 EAST OF TINIAN, AND 185 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 14 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS... TYPHOON NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE **75 MPH**. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**. GOVERNOR **JUAN N. BABAUTA** HAS UPGRADED **TROPICAL STORM CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND **TYPHOON CONDITION II** FOR THE ISLAND OF ROTA, AND **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 11:30 P.M.

GOVERNOR **JUAN N. BABAUTA** IS STRONGLY ADVISING THE **RESIDENTS OF TINIAN, SAIPAN AND ROTA**, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 05-2005

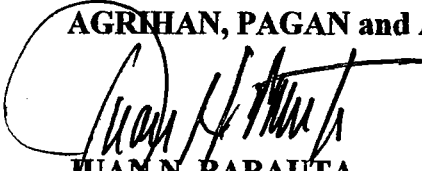
DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **UPGRADED TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the island of **ROTA**, and **MAINTAINS TYPHOON CONDITION III** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **02:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 005

DATE: August 31, 2005
TIME: 2:30 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 A.M. THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR LATITUDE 15.0 DEGREES NORTH AND LONGITUDE 147.5 DEGREES EAST, OR ABOUT 290 MILES SOUTH-SOUTHEAST OF AGRIHAN, 240 MILES SOUTH-SOUTHEAST OF PAGAN, 215 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 120 MILES EAST-SOUTHEAST OF SAIPAN, 125 MILES EAST OF TINIAN, AND 165 MILES EAST-NORTHEAST OF ROTA. **TYPHOON NABI 14W** IS MOVING WEST AT 14-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS, THIS GENERAL MOTION WILL CONTINUES WITH A SLIGHT TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 75 MPH. **NABI 14W** WILL COTNINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**, GOVERNOR JUAN N. BABAUTA HAS MAINTAIN **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND HAS UPGRADED **TYPHOON CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLAND OF ROTA, AND MAINTAIN **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN, AND ALAMAGAN AS OF 2:30 A.M. THIS MORNING.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, AND ROTA TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIHAN SHOULD CONTINUE TO MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 06-2005

DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN, TINIAN and ROTA** and **UPGRADED TYPHOON CONDITION III** to **TYPHOON CONDITION II** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **10:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **10:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta", written over a circular stamp or seal.

JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 009

DATE: August 31, 2005
TIME: 10:30 A.M.

HERE IS THE LATEST INFORMATION ON TYPHOON NABI 14W AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 A.M. THIS MORNING, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.5 DEGREES NORTH AND LONGITUDE 146.3 DEGREES EAST, OR ABOUT 230 MILES SOUTH OF AGRIHAN, 185 MILES SOUTH OF PAGAN, 155 MILES SOUTH OF ALAMAGAN, 45 MILES NORTHEAST OF SAIPAN, 60 NORTHEAST OF TINIAN AND 120 MILES NORTHEAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 10 MILES PER HOUR., DURING THE NEXT 12 HOURS.... TYPHOON NABI 14W IS EXPECTED TO TURN WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 85 MPH. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 12 HOURS.

BECAUSE OF THE CONTINUING THREAT OF TYPHOON NABI 14W, GOVERNOR JUAN N. BABAUTA MAINTAINS TYPHOON CONDITION I FOR THE ISLANDS OF SAIPAN, TINIAN AND ROTA, AND UPGRADE TYPHOON CONDITION III TO TYPHOON CONDITION II FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 10:00 A.M. THIS MORNING.

DAMAGING WINDS ARE IMMINENT OR OCCURRING. NORTH WINDS 40 TO 50 MPH BECOMING NORTHEAST AND INCREASING TO TYPHOON FORCE 65 TO 75 MPH WITH GUSTS TO 100 MPH IN THE MORNING...THEN SHIFTING TO THE SOUTHEAST IN THE AFTERNOON. WINDS WILL SHIFT TO SOUTHWEST TONIGHT AND GRADUALLY DECREASE TO 30 TO 40 MPH AS TYPHOON NABI 14W MOVES WEST OF THE MARIANAS.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, ROTA, TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF TYPHOON NABI 14W AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CONTINUE TO CLOSELY MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TYPHOON NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

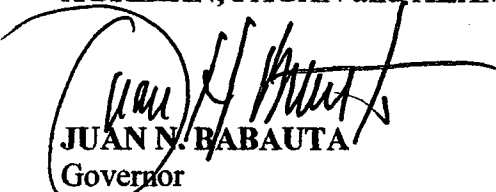
EMERGENCY DECLARATION NO. 07-2005 DATE: 9/01/05

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "ALL CLEAR CONDITION" for the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN effective 5:00 A.M., SEPTEMBER 01, 2005; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be terminated, effective 5:00 A.M., SEPTEMBER 01, 2005, on the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 016

DATE: September 01, 2005
TIME: 5:15 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT **05:00 A.M** THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR **LATITUDE 16.9 DEGREES NORTH AND LONGITUDE 142.2DEGREES EAST**, OR **250 MILES WEST-NORTHWEST OF SAIPAN, 245 MILES WEST-NORTHWEST OF TINIAN, 265 MILES NORTHWEST OF ROTA, 230 MILES WEST-SOUTHWEST OF ALAMAGAN, 230 MILES WEST-SOUTHWEST OF PAGAN...AND 250 MILES WEST-SOUTHWEST OF AGRIHAN.**

TYPHOON NABI 14W IS MOVING **WEST-NORTHWEST** AT **13 MPH**. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 24 HOURS. **MAXIMUM SUSTAINED WINDS ARE 120 MPH** AND CONTINUE TO INTENSIFY OVER THE NEXT 24 HOURS.

BECAUSE **TYPHOON NABI 14W** IS MOVING AWAY AND NO LONGER CONSIDER A THREAT TO OUR AREA, GOVERNOR **JUAN N. BABAUTA** HAS DECLARE "**ALL CLEAR CONDITONS**" FOR THE ISLANDS OF **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN AND ALAMAGAN** AS OF **4:30 A.M.** THIS MORNING.

AS A RESULT OF THE ALL CLEAR CONDITION, **ALL GOVERNMENT EMPLOYEE ARE TO REPORT BACK TO WORK THIS MORNING (THURSDAY, SEPTEMBER 01, 2005)**

GOVENOR **JUAN N. BABAUTA** IS STILL REMINDING THE RESIDENTS TO TAKE CAUTION AGAINST HEAVY RAINFALL AND POSSIBLE FLOODING ALONG ROADWAYS AND IN LOW-LYING AREAS, AND HAZARDOUS SURF CONDITIONS ALONG COASTAL AREAS.

THIS WILL BE THE FINAL BULLETIN ON TYPHOON NABI 14W UNLESS CONDITION CHANGE.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:


**COMONWEALTH UTILITIES CORPORATION
LACK OF POWER AUGUST 2005.**

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on July 18, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. In addition, Engine Numbers 3, 4 and 8 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Reports for Power Plant I dated August 3, 2005 and August 17, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

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

The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of this authority for the first ninety (90) days of the State of Disaster Emergency shall be transmitted to the presiding officers of the Legislature as soon as practicable.


JUAN N. BABAUTA

Dated this 17th Day of August 2005.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:

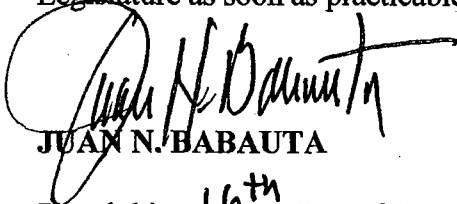
COMONWEALTH UTILITIES CORPORATION
LACK OF POWER SEPTEMBER 2005.

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on August 17, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. Although Engine Number 8 is now online and in full operation after undergoing emergency replacement of its foundation bolts, Engine Numbers 3 and 4 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Report dated September 14, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

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

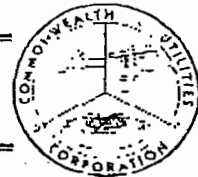
The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005, the Declaration of State of Disaster Emergency dated August 17, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of my authority during the State of Disaster Emergency will be transmitted to the presiding officers of the Legislature as soon as practicable.



JUAN N. BABAUTA

Dated this 16th Day of September 2005.

**GENERATION STATUS
AS OF SEPTEMBER 14, 2005**



Power Plant	Design MW	Available MW	Restriction %	Std. Run hours for PMI	Run hours to-date	Overdue hours	Remarks
PP I							
D/E 1	7.27	6.5	89.4	36000	60,170	24,170	Overdue for 36,000 hrs. PMI
D/E 2	7.27	6.5	89.4	4,000	8,018	4,018	Overdue for 4,000 hrs. PMI
D/E 3	7.27	0.0	0.0	12000	20,701	8,701	Down due to crankpin seizure (8/1/05)
D/E 4	7.27	0.0	0.0	36000	44,690	8,690	Down due to crankpin seizure (7/16/05)
D/E 5	13.04	10.0	76.7	12000	26,188	14,188	Overdue for 12,000 hrs. PMI
D/E 6	13.04	10.0	76.7	4000	5,974	1,974	Overdue for 4,000 hrs PMI
D/E 7	13.04	10.0	76.7	12000	26,200	14,200	Overdue for 12,000 hrs PMI
D/E 8	13.04	10.0	76.7		118		Operational
Total	81.24	53					
PP II							
D/E 1	2.5	1.6	64.0				Operational
D/E 2	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 3	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 4	2.5	0.0	0.0				Completion of power packs on progress
D/E 5	2.5	0.0	0.0				Operational (off-line for inspection 9/14/05)
D/E 6	2.5	0.0	0.0				Governor problem (elect'l. limit switch)
Total	15.0	1.6					
PP III							
D/E 1	1.5	0.0	0.0				Not operational
D/E 2	1.5	0.0	0.0				Not operational
D/E 3	1.5	0.0	0.0				Not operational
Total	4.5	0					
PP IV							
D/E 1	3.50	0.00	0.0				Down / Crankshaft problem
D/E 2	2.50	2.00	80.0				Operational
D/E 3	2.50	1.80	72.0				Operational
D/E 4	2.50	2.00	80.0				Operational
D/E 5	2.50	2.10	84.0				Operational
D/E 6	1.00	0.00	0.0				Down \ Generator bearing problem
D/E 7	1.00	0.90	90.0				Operational
D/E 8	1.00	0.90	90.0				Operational
D/E 9	1.00	0.90	90.0				Operational
Total	17.50	10.60					
Grand Total	118.24	65.20					

Remarks:

ecgilboy

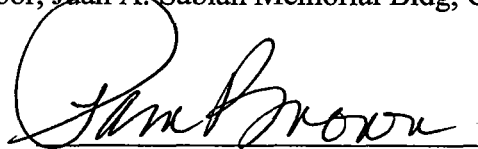
PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement a program to provide emergency short-term humanitarian aid to abandoned, unemployed alien workers. These regulations are promulgated as a necessary component of the administration of funds given to the Commonwealth by the United States Department of the Interior for Labor and Immigration Reform. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Commonwealth Register subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: The United States Department of the Interior has granted the Commonwealth Office of the Attorney General funds for the purpose of providing humanitarian aid to abandoned alien workers. Effective October 1, 2005 Karidat, Social Service, an agency that has been providing emergency relief to abandoned workers, will no longer be administering that program. Therefore, it is necessary to immediately adopt these regulations to eliminate a lapse in providing short-term emergency assistance to persons in crisis due to abandonment and who are unable to provide adequate food or shelter for themselves.

INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

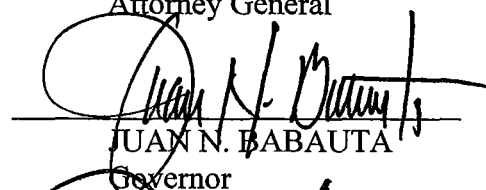
Submitted by:


PAMELA BROWN

Attorney General

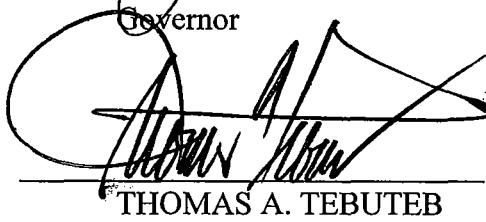
9/9/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

9/9/05
Date

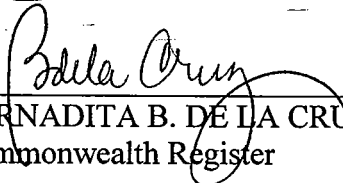
Received by:


THOMAS A. TEBUTEB

Special Assistant for Administration

9/12/05
Date

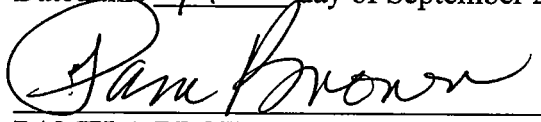
Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/12/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9th day of September 2005


PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Office of the Attorney General is adopting rules and regulations governing the provision of short-term humanitarian aid to abandoned alien workers.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

These emergency regulations govern how, and to whom, short-term emergency financial assistance may be provided from funds received from the United States Department of the Interior for that purpose, and from other sources.

Brief Summary of the

Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of funds given to that office by the United States Department of the Interior for the purpose of providing financial assistance to abandoned, unemployed alien workers.
- (2) Establish criteria for eligibility for relief.
- (3) Establish the amount and length of time for which relief is available, and conditions that may accompany the granting of relief.

For Further

Information Contact:

Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations:**

None

Dated this 14th day of September 2005.

Submitted by:



PAMELA BROWN
Attorney General

HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

I. These Regulations establish and govern the provision of short-term humanitarian aid to alien workers who have been abandoned by their employers and who have been unable to secure new temporary or permanent employment. Exclusive jurisdiction over this program is vested in the Attorney General or her or his designee. The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible aliens and their employment status and in facilitating implementation of the program.

II. Definitions:

- a. *Abandoned*: A person is considered abandoned if her or his employer has left the jurisdiction or ceased business operations and any of the following circumstances exist;
 1. without fully compensating the worker(s) in full for all hours worked, or
 2. without following the procedures to be followed under the Alien Labor Rules and Regulations and employment contract for termination of employees due to reduction in force or cessation of business activity, and worker repatriation, or
 3. without providing to the worker (s) one-way airfare to the point of hire, or
 4. if the employer provided food and/or housing, without providing for adequate food and shelter for the worker(s) for a reasonable period of time following cessation of the business activity.
- b. *Alien worker*: A person whose most recent entry into the Commonwealth was for purposes of employment under Immigration Regulation 706 (K), or any person who falls within the definition of "Nonresident Worker" as defined in the Nonresident Workers Act, 3 CMC § 4412(i).
- c. *Humanitarian Aid*: Short-term assistance provided to an alien worker for food, other necessities, and shelter.
- d. *Voucher*: A monetary instrument issued by the Office of the Attorney General Humanitarian Aid Fund, not to exceed a sum certain, that identifies the person in whose favor the voucher is issued, that may be used for the purchase of food, other necessities, or housing. Vouchers are non-transferable and shall expire 30 days from their date of issuance. Vouchers may not be redeemed for cash or used for purchase of items other than food, other necessities, or housing.

III. The Fund:

There is a Fund administered by the Office of the Attorney General for the purpose of providing short-term humanitarian aid to abandoned alien workers. Expenditures from the Fund shall be made on a first-come-first served basis. The money in the fund shall come from sources identified by the Attorney General and shall not be

subject to reappropriation. Disbursements may be made by voucher redeemable at a specified location or locations, or may be made by cash or check.

IV. Eligibility determination:

Eligibility for humanitarian aid is based on need. The alien worker must show by proof acceptable to the Attorney General their status and eligibility for humanitarian aid. The Attorney General may perform such additional investigation into the worker's circumstances as is necessary to verify the status and request, and may ask the worker to provide such documents as may be necessary to a fair determination of eligibility. The Attorney General may require proof that the worker has actively been seeking work but has been unable to become employed.

V. Amount and conditions of grant:

The Attorney General may grant a worker not to exceed an aggregate total of \$200.00 for food, necessities, and housing allowance. The Attorney General may condition receipt of the aid upon the worker's promise to reimburse the Fund for moneys received in the event the worker becomes reemployed, or upon the worker's assignment of rights to an administrative or judicial award up to the amount of the humanitarian aid provided to the worker. Any such repayments shall be without interest.

Humanitarian aid is available only for emergency assistance.

The Attorney General may provide actual meals and/or lodging instead of a disbursement to the worker from the fund if warranted by the circumstances.

VI. Termination of Eligibility:

Humanitarian aid is available only one time, and only for a 30-day period from the first award. An application for aid is not subject to renewal.

VII. Other Eligible Persons:

The Attorney General may designate other persons eligible for humanitarian aid because of circumstances occurring outside the labor laws, such as foreign students abandoned by their sponsors, or other unusual circumstances as may from time to time arise. While the humanitarian aid program is intended primarily for short-term emergency assistance to alien workers, nothing shall prohibit the Attorney General from designating other persons or groups of persons as eligible for assistance based on need.

VIII. Miscellaneous:

1. Humanitarian aid may be denied to a person making a false statement or representation in connection with an original application or renewal application for humanitarian aid.
2. A person receiving similar assistance from another provider is not eligible for aid from the Office of the Attorney General.
3. A worker must attempt to become lawfully employed and thereby eliminate their need for aid.
4. Humanitarian aid may be denied to a person who, after receiving aid, uses the funds provided for purposes other than food and necessities and shelter.

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS IMPLEMENTING P.L. 11-66 (3 CMC § 4701 *et seq.*).

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement P.L. 11-66 (3 CMC § 4701 *et seq.*) These regulations are promulgated pursuant to the authority given in 3 CMC § 4702, and the transfer of responsibility for Immigration matters to the Attorney General by Executive Order 03-01. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Registrar of Corporations, subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: P.L. 11-66 creates a fund administered by the Attorney General to provide payments of uncollected administrative awards and for repatriation of alien workers who have been abandoned by their employers. During the first quarter of this year three employers of alien workers ceased operations and stranded a large number of alien workers in the Commonwealth without a means for them to repatriate. One company also owes workers a substantial amount in unpaid wages. The burden fell to the Commonwealth to use the fund created by P.L. 11-66 to return workers to their places of recruitment. The large demand placed on the fund by these recent events has demonstrated the need to clarify how the fund is to be administered in order to provide relief to the largest number of people and resolve uncertainties regarding the operation of the fund.

INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

Submitted by:


PAMELA BROWN
Attorney General

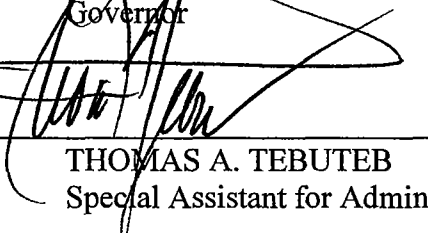
8/29/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

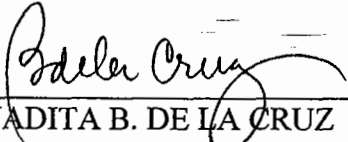
8/30/05
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

9/1/05
Date

Filed and Recorded by:

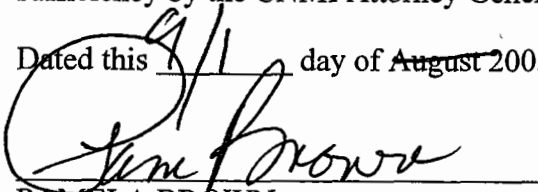


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/1/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9/1 day of August 2005



PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS IMPLEMENTING

P.L. 11-66 (3 CMC § 4701 *et seq.*).

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, *et seq.* The Office of the Attorney General is adopting rules and regulations to implement P.L. 11-66, the Nonresident Workers Relief Act.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

The emergency implement the Nonresident Workers Relief Act by defining terms and eligibility for relief, establishing the amount of payments, and by stating time limits and restrictions on requests for relief.

Brief Summary of the Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of the fund created by P.L. 11-66, 3 CMC § 4701 *et seq.*
- (2) Provide that workers must be unemployed in order to claim relief under the Act, and must execute an assignment of rights in favor of the Commonwealth in the event unpaid wages or repatriation funds are collected on behalf of the worker.
- (3) Provide that the amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.
- (4) Provide a 5-year time limit for claiming relief, and prohibit a worker who has received an award from reentering the Commonwealth for any reason for 180 days.

For Further

Information Contact:

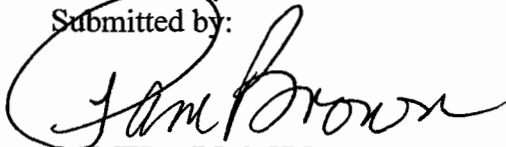
Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

P.L. 11-66, as codified in 3 CMC § 4701 *et seq*, Executive Order 03-01 regarding the transfer of Immigration-related duties from the Secretary of Labor and Immigration to the Attorney General.

Dated this 9/1 day of ~~August~~ 2005.

Submitted by:



PAMELA BROWN
Attorney General

**NOTISIAN PUBLIKU POT ENSIGIDAS NA REGULASION SIHA
YAN NOTISIAN INTENSION PARA U MA'ADOPTA
AREKLAMENTO YAN REGULASION SIHA POT PARA U
MA'ENFUETSA I LAI PUBLIKU 11-66
(3 CMC SEKSIONA 4701 *et seq.*).**

ENSIGIDAS: I Commonwealth I Sankattan Siha Na Islas Marianas, gi Ofisinan I Abugâdu Henerât (AGO) masodda' na papa I lai 1 CMC Seksiona 9104(b), na I enteres publiku a gâgâgao para I mapâsan I regulasion siha pot para u ma'enfuetsa I Lai Publiku 11-66 (3 CMC Seksiona 4701 *et seq.*). Este na regulasion siha man ma'establesi sigun I aturidât ni ma'entrega gi hâlom 3 CMC Seksiona 4702, yan I matransferin I responiblidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01. I Abugâdu Henerât a sodda mâs na I enteres pu

RASON I ENSIGIDAS: I Lai Publiku 11-66 a fatitinas I ma'atministreha na fundu ginen I Abugâdu Henerât para u probeniyi âpas I ti man marikokohi na premiun atministrasion yan para I dipottasion I estrangheru siha ni man ma abandona ni mu'empleleha siha. Durânten I fine'nina na quarter gi este na sâkkan tres na man empleleha estrangheru siha ma na pâra I operasion I bisnis niha ya ma'abandona kantidâha na estrangheru siha gi hâlom I Commonwealth sen hâfa na ditension pot dipottasion Guaha un kompania lokkue a didibe' I empleao-ña siha la'meggai na âpas suetdu. Todu este siha na problema man popodong gi Commonwealth ni para u ma'usa I man ma'establesi na fundu gi Lai Publiku 11-66 para u mabira tatte' I estrangheru siha amânu nai man ma'enlista para u fan macho'chu'. I tutât gâstum este siha na sinesedi gof tatkilo ya enao na manisisita para u ma na klâru hâfa taimanu para u ma'atministreha I fundu yanggen para u maprobeniyi ayudu para I mâs tatkilo' na tutât taotao ya u masâiba I ti man siguru na operasion I fundu.

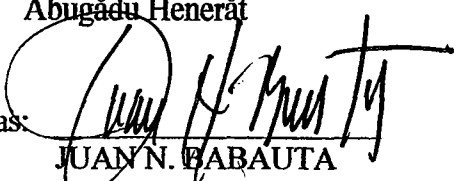
INTENSION PARA U MA'ADOPTA: I intension I Abugâdu Henerât para u adopta este siha na Ensigidas na Regulasion siha sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2). Des pues na, an hâyi enteresao na petsona siña muna halom tinige' opinion siha pot este ensigidas na rekomendasion siha para as Pamela Brown, I Abugâdu Henerât, osino as Kevin A. Lynch, Ayudânten I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950.

Ninahalom as:

PAMELA BROWN
Abugâdu Henerât

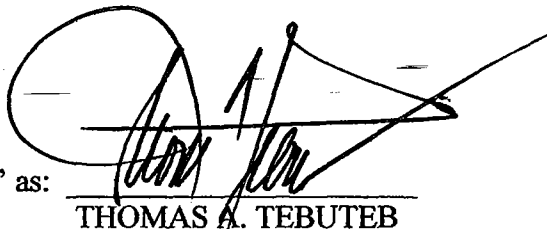
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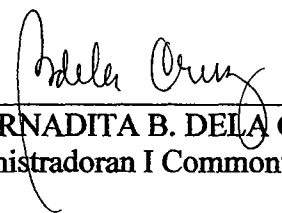
JUAN N. BABAUTA
Gabietno

9/22/05
Fecha



Marisibe' as: THOMAS A. TEBUTEB
Espisiât Na Ayudânte Para I Atministrasion

Fecha



Pine'lo yan Rinikot as: BERNADITA B. DELA CRUZ
Rehistradoran I Commonwealth

9/22/05
Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I Ensigidas Na Regulasion siha ni man che'che'ton esta man ma'ina yan ma'apueba pot para u fotma yan ligât suficiente ginen I Ofisinan I Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi _____, 2005.

PAMELA BROWN
Abugâdu Henerât

NOTISIAN PUBLIKU

MAN MAPROPONE NA ENSIGIDAS NA REGULASION SIHA MA'ENFUETSA I LAI PUBLIKU 11-66 (3 CMC Seksiona 4701 *et.seq.*).

Este na amendasion ma'establesi ni para u konsiste ni Administrative Procedures Act, I CMC Seksiona 9101, *et.seq.* I Ofisinan I Abugâdu Henerât ma'adodopta I areklamento yan regulasion siha para u enfuetsa I Lai Publiku 11-66, I Nonresident Workers Relief Act.

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para u enfuetsa I Nonresident Relief Act, lai 3 CMC Seksiona 4701 *et seq.* ginen I lai 3 CMC Seksiona 4702 yan I matransferin I responsabilidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01.

Kada'da' Na Finiho

Yan Diniseha:

I ensigidas na enfuetsamenten I Nonresident Workers Relief Act a dififina I palabrâ siha, yan I kuâlifikaon I ayudu, ma'establelesi I tutât I âpas, yan u mamensiona I tiempo yan I pribision I man gâgâgao ayudu.

Kada'da' Na Mensâhe

Pot I Man Mapropone

Na Regulasion siha: Este I ensigidas na regulasion siha man ma'establesi para; uma

1. Entrega I Abugâdu Henerât responsabilidadât para I atministrasion pot I ma'establesin fundu ginen I Lai Publiku 11-66, 3 CMC Seksiona 4701 *et seq.*
2. Probeniyi na I man machochochu' ti ma'empleleha yanggen para u ma'ayuda papa I Akto, ya debi di u fan laknos assignment of rights ni a supopotta I Commonwealth pot asunton I ti man ma'apâpâsi na suetdu yan I dipottasion salâpe an marikohi para I empleao siha.
3. Probeniyi na I tutât I âpas debi di u akto na tutât I premiun atministrasion dumaña yan I âpas ticket batkonaire para I dipottasion, gi I tutât ti debi di u upus \$3,000.00

4. Probeniyi na I singko años na tiempo para I ginagaon ayudu, ya u probidu I macho'cho'chu' ni a risibe' I premiuna para u hálom talo' gi Commonwealth para maseha háfa na rason gi hálom siento-ochienta (180) diha siha.

Para Mås

Infotmasion Ágang: Si Kevin A. Lynch, Ayudánten I Abugádu Henerát, gi Ofisinan I Abugádu Henerát, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950. Numirun Tilifon (670) 664-2341 (voice) osino (670) 664-2349 (fax).

**Annok I Man Achule'
Yan/pat Man Inafekta
Na Lai, Areklamento,
Regulasion, yan Otden**

Siha: Lai Publiku 11-66, ni makodigu gi 3 CMC Seksiona 4701 *et seq.*, Executive Order 03-01 ni tineteka I matransferin I responibilidadat I asuntón I Imigrasion ginen I Sekretarion I Labor yan Immigrasion para I Abugádu Henerát.

Mafecha gi este fine'nina na ha'áne gi Septiembre, 2005.

Ninahalom as:

PAMELA BROWN
Abugádu Henerát

**-ARONGOL TOULAP REEL GHITIPWOTCHOL ALLÉGH KKAAL ME
ARONGOL AGHIYEGHIL IGHA EBWE FILLÓÓY ALLÉGH KKA EBWE
ATOTOOLONG P.L. 11-66 (3 CMC táilil 4701 et seq.).**

GHITIPWOTCHOL: Commonwealth Téel falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap (AGO) e schungi bwe faal 1 CMC táilil 9104(b), bwe llól tipeer toulap bwe rebwe mweiti ngáli fféerúl allégh igha rebwe ayoora P.L. 11-66 (3 CMC táilil 4701 et seq.) allégh kkaal nge e akkaté bwelle bwáng ye toowow mereel 3 CMC táilil 4702 me alusul bwángil immigration ngáli Sów Bwungúl Allégh sáangi akkúleyal Sów Lemelem 03-01. AGO ebwal schungi bwe tipeer toulap bwe rebwe tabweey fillóól allégh kkaal llól eliigh (30) rállil yaal arongowow, me bwelle igha allégh kkaal ebwe schéeschéél ammwello llól Register of Corporations, kkapasal igha ebwe alughulughulo mereel Sów Lemelem, me ebwe fischeló llól ebwughúw ruweigh (120) rááilil.

AWEWEEL GHITIPWOTCHOL: P.L. 11-66 e ayoora fundo ye e toowow mereel Sów Bwungúl Allégh Lapalap igha ebwe ayoora óbwóssul administrative awards me assáfalil schóóy angaang kka aramasal lúghúl ikka samwoolur e lighitiiló mwirimwiril. Ótol first quarter llól rágh yeel élésháy employers kka samwoolur schóóy angaang e ayuwuló yaar angaang me re ssogh schóóy angaang kka aramasal lúghúl rebwe asáfaliir ló wóól falúweer. Eyoor kkompania ye esáál kke óbwósuur layúr schóóy angaang. Weires yeel nge a lo ngáli Commonwealth bwe ebwe yááli salaapi ye e fféer sáangi P.L. 11-66 iye ebwe asefáaliir schóóy angaang kka aramasal lúghúl ló wóól falúweer bwelle recruitment. Llapal salaapi ye ekke tittingór bwelle reel mwóghútúl yeel nge ebwe affatewow ebwe faisúl yaar mwóghút ágheli salaapi yeel igha ebwe alisiir aramas kkaal me aghatchúwuló meeta kka ese welepakk bwelle reel fundo.

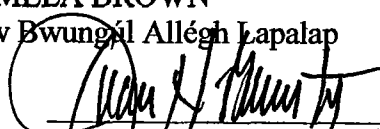
AGHIYEGHIL FILLÓ YEEL: Aghiyeghil Sów Bwungúl Allégh Lapalap bwe ebwe fillóóy ghitipwotchol Allégh kkaal bwelle 1CMC talil 9104 (a)(1) me (2). Schéeschéél, schóókka eyoor mángemángiir nge rebwe ischilong reel Pamela Brown, Sów Bwung, me ngáre Kevin A. Lynch, Sów Alillisil Sów Bwung, Bwulasiyool Sów Bwungul Allegh, Aruwowal pwo, Juan A. Sablan Memorial Bldg, Capitol Hill, Seipél MP 96950.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Rál

Alúghúlúgh sáangi:



JUAN N. BARAUTA
Sów Lemelem

9/22/05

Rál

Mwir sáangi:



THOMAS A. EBUIEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Commonwealth Register

Ral

ARONGOL TOULAP
POWMOL GHITIPWOTCHOL ALLEGH KKAAL IYE EBWE AYOORALONG
ALLEGHUL TOULAP 11-66 (3 CMC TALIL 4701 et seq.).

Lliwel yeel nge ebwe akkate bwelle reel Administrative Procedure Act, 1 CMC talil 9101, et seq. Bwulasiyool Sów Bwungúl Allégh nge ebwe fillóóy allegh kkaal bwe ebwe ayoora Alléghúl Toulap 11-66, ammwelil schóóy angaang kkaal (Nonresident Workers Relief Act.).

Akkatéél bwángil: Bwulasiyool Sów Bwungúl Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl ammwelil schóóy angaang kka aramasal lúghúl, 3 CMC talil 4701 et seq. sáangi 3 CMC talil 4702 me alusul mwóghútúl immigration ngáli Sów Bwungúl Allégh Lapalap sáangi Akkuleyal Sów Lemelem 03-01.

Aweweel pomwol lliwel: Ghitipwotchol atotoolong reel Ammwelil schóóy angaang kka aramasal lúghúl iye ebwe aweweey yaal term me aghatchú fillongol, atotoolong llapal salaapi, me abwáári ótol aighúghúl me restriction sangi tigorol relief.

Akkateel akkááw bwángil allegh: Ghitipwotchol Allégh kkaal nge ebwe akkaté bwelle ebwe:

- (1) Ngalleey Sów Bwungúl Allégh bwángil reel ebwe mwóghut agheli fundo ye e toowow mereel P.L 11-66, 3 CMC talil 4701 et seq.
- (2) Ayoorallong bwe schóóy angaang kka aramasal lughul nge rese kke angaang igha rebwe tingorol relief sangi allegh yeel, me rebwe alleghelo bwangil iye toowow mereel Commonwealth ngare rese obwossuur me assefalil salaapi ikka re bwughi sangi yaal angaang.
- (3) Ayoorallong llapal obwos ye ebwe scheescheel llapal yaal administrative award fengal me meel air fare, iye ebwal toolong llapal iye essobw luulo eliigh sangaras (3000.00).
- (4) Ayoora otol limoow raagh (5-year time limit) reel tingorol relief, me ayuulo schooy angaang kka raa bwughil award meigha re sefallong llo Commonwealth bwelle meeta llo ebwughuw waliigh (180)raalil.

Sáangi allégh ye 1 CMC talil 2153, iye a lliwel mereel Alléghúl Toulap 10-50, alléghúl ghitipwotchol yeel nge raa takkal amweri fischiy me allégheló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ llól _____ 2005

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Aramas ye ubwe faingi:

Kevin Al. Lynch, Sow Alillisiil Sow Bwungul Allegh Lapalap, Bwulasiyool Sow Bwung, Aruwowal pwo, Juan A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950. (670) 664-2341 (voice) me ngare (679) 664-2349 (fax).

Akkateel akkaaw bwangil allegh: P.L.11-66, iye raa alleghelo lloil 3 CMC talil 4701 et seq, akkuleyal Sow Lemelem 03-01 bwelle reel alullusul ngare mwoghutul Immigration ye e ghil ngali yaal angaang mellol Secretary of Labor me Immigration ngali Sow Bwungul Allegh Lapalap.

Rallil ye _____ lloil _____ 2005

Isaliyallong:

PAMELA BROWN
Sow Bwungul Allegh Lapalap

REGULATIONS IMPLEMENTING P.L. 11-66

I. Definitions:

- a. *Administrative award*: An administrative award is a finding or order issued by the Department of Labor, Division of Administrative Hearings stating that an employer is financially liable to a current or former employee as a result of a cause of action arising from the employment relationship.
- b. *Air fare*: Air fare is the cost of air transportation for the alien worker from the Commonwealth to the point of recruitment.
- c. *Unemployed*: An alien worker is unemployed if he or she is not subject to a contract approved by the Director of Labor or his designee and does not have an application for a work permit pending with the Department of Labor.

II. Administration:

The Office of the Attorney General has primary responsibility and authority for the administration of the Commonwealth Nonresident Worker Relief Act of 1999, P.L. 11-66, 3 CMC § 4701 *et seq.* (the Act). The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible nonresident workers and their status and in facilitating implementation of the Act.

III. Eligibility and amount of payment:

To be eligible for funds and air fare under the Act the worker must be unemployed. If an application for a work permit is pending with the Department of Labor when the worker requests relief, the worker must resign by written notice provided to the Department and the prospective employer. If a worker is on Temporary Work Authorization (TWA) awaiting relief under the Act, the TWA will expire upon the issuance of the repatriation ticket.

The alien worker must execute an assignment of rights in favor of the Commonwealth government to any amounts collected on behalf of the worker. The assignment of rights shall be on a form and in a manner proscribed by the Attorney General. The form shall also provide that any amounts collected by the Commonwealth in excess of the amounts spent for repatriation and payment of the administrative award shall be remitted to the worker, provided the worker notifies the Attorney General of the worker's address in his or her home country.

The amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.

IV. Time limits:

- a. To be eligible for relief under the Act the alien worker must make a claim for payment and repatriation within five (5) years from the date of the Administrative Order granting the administrative award. For persons eligible for relief under this regulation who have been granted administrative awards but have not requested relief, the five-year period shall commence on the date of adoption of this regulation. Claims made after expiration of the five-year period shall be barred except for good cause shown to the Attorney General.

- b. An alien worker who avails of relief pursuant to the Act shall not be permitted to reenter the Commonwealth for any reason for 180 days from the date of departure.

V. Restrictions:

- a. Employers and employees are not eligible for reimbursement under the Act for airfare provided to repatriated workers.
- b. Exclusive jurisdiction to resolve disputes arising under the Act or these Regulations is vested in the Attorney General by virtue of the Attorney General's authority to administer the Immigration laws.



Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs
Office of the Secretary

Caller Box 10007
Saipan, M.P. 96950



**NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENTION
TO ADOPT AMENDMENTS TO EXISTING MANUAL OF OPERATIONS
GOVERNING THE NUTRITION ASSISTANCE PROGRAM**

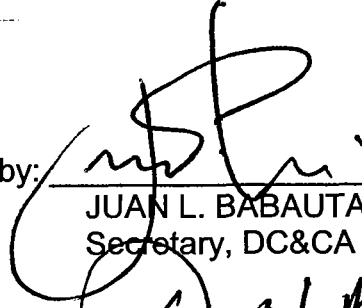
EMERGENCY: The Secretary of the Department of Community and Cultural Affairs finds that, pursuant to 1 CMC § 9104(b), the public interest requires the adoption of Emergency Regulations, upon concurrence by the Governor, to implement changes to the existing MANUAL OF OPERATIONS governing the Nutrition Assistance Program (NAP). The proposed Amendments would create a greater degree of security against counterfeiting or other misuse of Nutritional Assistance Food Stamp Coupons. The Secretary further finds that the public interest requires adoption of these amendments within fewer than thirty (30) days notice for the reasons stated below. These amendments in the MANUAL OF OPERATIONS shall become effective upon publication, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

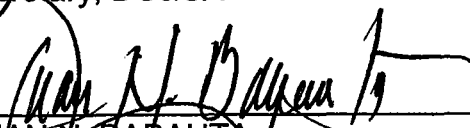
REASON FOR EMERGENCY: The counterfeiting and other fraudulent misuse of Nutritional Assistance Food Stamp Coupons has become more frequent and sophisticated in nature. In order to protect unsuspecting vendors and the banks who redeem these coupons, it is necessary to change the physical look of the coupons and to institute additional requirements to insure that only coupons issued to eligible participants of the Nutritional Assistance Program are used at the stores of authorized retailers.


CONTENT: Attached to this Notice of Emergency are the amendments to the Manual Of Operations.

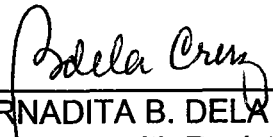
INTENT TO ADOPT: The Secretary intends to adopt these amendments to the existing regulations, requirements, policies and procedures contained in the Nutritional Assistance Program Manual Of Operations as permanent regulations, requirements, policies and procedures pursuant to 1 CMC § 9104(a)(1) and (2), and therefore publishes in the Commonwealth Register this notice of opportunity to submit comments. If necessary, a Hearing will be provided. Comments on the amendments to the Nutritional Assistance Program Manual Of Operations may be sent to: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

AUTHORITY: The Secretary is authorized to promulgate these regulations pursuant to 2 CMC § 5522(a).

Issued by:  8/29/05
 JUAN L. BABAUTA
 Secretary, DC&CA
 Date

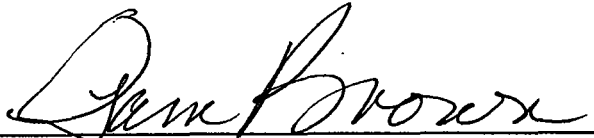
Concurring by:  8/29/05
 JUAN N. BABAUTA
 Governor
 Date

Received by:  8/29/05
 THOMAS A. TEBUTEB
 Special Assistant for Administration
 Date

Filed and Recorded by:  8/29/05
 BERNADITA B. DELA CRUZ
 Commonwealth Register
 Date

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 29th day of August, 2005.


 PAMELA BROWN
 Attorney General

Public Notice
Department of Community and Cultural Affairs

**EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS**

Citation of Statutory Authority: Pursuant to Article X, Section 8 of the Commonwealth Constitution and 1 CMC § 2553(j) and 1 CMC § 2557.

Short Statement of Goals and Objectives: To insure the use of only legitimate Food Stamp coupons by NAP authorized recipients.

Brief Summary of The Amendments: Nutritional Assistance Program Manual of Operations is amended to provide that NAP Food Stamp Recipients when redeeming coupons must do the following; 1) present a valid photo I.D. 2) present a valid Food Stamp Identification card. 3) Print the Photo I.D number and Food Stamp I.D. card number along with printing and signing their name on the back of each coupon. All this must be done in the presence of the vendor cashier.

For further Information Contact: The Nutritional Assistance Program at 235-9889.

Citation of Related and/or Affected Statutes, Regulations and Orders: NAP Manual of Operations Chapter VIII

EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS

Nutritional Assistance Program Manual of Operations Chapter VIII Section (K)(4) is hereby amended to read as follows:

4. Use of Identifications Cards. The **Adult Head of Household** or its Authorized Representative shall present his Nutrition Assistance Program Identification Card and a Photo Identification, and on the back of each coupon, print the NAP I.D. card number & Photo I.D. number and their name and then sign each coupon in the presence of the cashier for the Authorized Retailers when exchanging **Nutrition Assistance Program Coupons** for eligible food and other eligible items enumerated on item K.2 and 3 above. The Adult Head of Household or its Authorized Representative shall also present his Nutrition Assistance Program Identification Card and a Photo Identification when performing Recertifications at Certification Unit, and picking up benefits at the designated Issuance Agent Location.

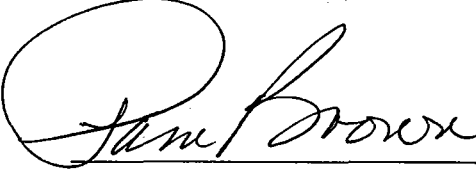

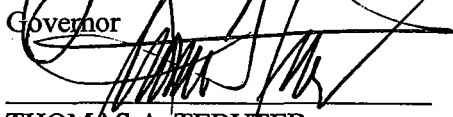
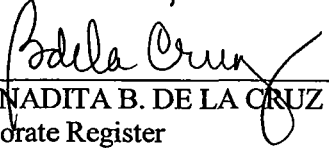
To be added to the NAP Manual of Operations Chapter VIII is the following:

- L. All NAP Program Coupons issued on or before August 31, 2005 must be redeemed at NAP authorized retailers on or before August 31, 2005.

PUBLIC NOTICE

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General, notifies the general public of proposed amendments to Immigration Regulations §§706 and 707. It is the intent of the Attorney General to adopt such amendments, proposed on an emergency basis in May of 2005 pursuant to 1 CMC §9104(a)(1) and (2), as permanent. This publication of the proposed amendments in the Commonwealth Register provides notice and opportunity for comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendments to Pamela Brown, Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950 or by fax at (670) 664-2349 during the thirty (30) day period immediately following the publication of these proposed amendments.

Submitted by:	 PAMELA BROWN Attorney General	<u>8/19/05</u> Date
Concurred by:	 JUAN N. BABAUTA Governor	<u>8/22/05</u> Date
Received by:	 THOMAS A. TEBUTEB Special Assistant for Administration	<u>8/23/05</u> Date
Filed and Recorded by:	 BERNADITA B. DE LA CRUZ Corporate Register	<u>8/23/05</u> Date

Pursuant to 1CMC §2153, as amended by Public Law 10-50, amendments attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 19 day of August 2005.


PAMELA BROWN
Attorney General

PUBLIC NOTICE
PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

**Citation of
Statutory Authority:**

The Office of Attorney General is authorized to promulgate regulations for entry and deportation of aliens in the Commonwealth of the Northern Marianas pursuant to Executive Order 03-01 and 3 CMC § 4312(d).

**Short Statement of
Goals and Objectives:**

The Attorney General finds that it is in the public interest to amend Immigration Regulations §§706K, 706P and 707 to require that all non-resident workers entering the Commonwealth of the Northern Mariana Islands to work in establishments licensed to serve alcohol be at least twenty-one (21) years of age. Specifically, the Attorney General finds that the employment of non-resident workers under the age of 21 in alcohol establishments has created problems for both criminal and immigration enforcement authorities, has led to inexperienced workers entering the CNMI, and is not consistent with the efficient enforcement of the liquor laws.

The Attorney General further finds that the current Immigration Regulation §706P is not sufficiently defined as falling outside of the Non-resident Workers Act and is therefore not effective in its present form.

The Attorney General further finds that it is in the public interest that Immigration Regulation §707 be amended to include reference to an "Overseas Employment Certificate" or OEC. An OEC is an official document issued by the Government of the Philippines to workers applying for employment abroad. The Attorney General finds that, in the case of Filipino workers, this certificate can be the best evidence of the worker's identity, employment eligibility, and job category.

**For Further
Information Contact:**


Ian M. Catlett, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2366 or facsimile (670) 234-7016.

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

The proposed amendments affect or are related to Immigration Regulations Sections 706 and 707.

Dated this 19 day of August 2005.

Submitted by:



PAMELA BROWN
Attorney General

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

I Ofisinan I Abugâdu Henerât, gi Commonwealth I Sankattan Siha Na Islas Marianas, a notifikika I publiku henerât pot I man mapropone na amendasion siha gi Regulasion Imigrasion Seksiona 706 yan 707. I intension-ña I Abugâdu Henerât para u adopta I man ma'amenda, I mapropone gi ensigidas na manera gi Mâyû 2005 sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2), petmanente. Este na publikasion I man mapropone na amendasion gi Rehistradoran I Commonwealth a probeniyi notisia yan opotunidât para u guaha opinion siha. Yanggen nisisârio, u maprobeniyi inekungok publiku. Todu I man interesao na petsona siña u mana fan hâlom tinige' opinion siha pot I man mapropone na amendasion guatto as Pamela Brown, I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina Segundo na bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi (670) 664-2349 durântên I trenta (30) diha siha na tiempo imidiâmente tinitiyi I publikasion este man mapropone na amendasion siha.

Ninahâlom:

PAMELA BROWN
Abugâdu Henerât

Fecha

Kinonfotme as:

JUAN N. BABAUTA
Gubietno

9/22/05

Fecha

Marisibe' as:

THOMAS A. TEBUTEB
Espisiât Nâ Ayudânte Para I Atministrasion

9/22/05

Fecha

Pinelo' yan
Marikot as:

BERNADITA B. DELA CRUZ
Rehistradoran I Koporasion

9/22/05

Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I amendasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan suficiente ligat ni Ofisinan I Abugadu Henerat I CNMI.

Mafecha gi este mina _____ na ha'ane gi Agostu 2005.

PAMELA BROWN
Abugadu Henerat

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para I entrâda yan dipottasion I estrangheru siha gi Commonwealth I Sankattan Siha Na Islas Marianas sigun I Executive Order 03-01 yan I lai 3 CMC Seksiona 4312 (d).

Kada'da' Na Mensâhe

Pot I Finiho yan

Diniseha siha:

I Abugâdu Henerât masodda' na I enteres publiku para u ma'amenda I Regulasion Imigrasion Seksiona 706 K, 706P yan 707 para u ma'otden todû I hotnalerun Estrangheru siha ni man hâhâlom gi Commonwealth I Sankattan Siha Na Islas Marianas ni para u fan macho'chu' gi I man malisensia na bisnis ni man man bebende maneska na debi di u bente-uno (21) años na idât. Spesifikâtmente,

I Abugâdu Henerât a sodda' na I ma'emplea na estrangheru siha ni papa I idât bente uno (21) años gi bisnis siha ni man man bebende maneska ma na guaguaha prublema siha para I kriminât yan aturidât enfuetsamenten imigrasion, muna fan ekspirinsao siha na hotnaleru ya man hâhâlom gi CNMI, ya ti man konsiste ni enfuetsamenten I lai siha gi bândan maneska. I Abugâdu Henerât masodda' mâs na I presente na Regulasion Imigrasion Seksiona 706P ti madefina sufisiente na popodong gi sanhiyong I Non-Resident workers Act ya enao na ti efektibu gi presente na fotmasion.

I Abugâdu Henerât masodda' mâs na gaige gi I enteres publiku na I Regulasion Imigrasion Seksiona 707 na u ma'amenda ya u enklusu I refiriensian I "Overseas Employment Certificate" osino OEC. I OEC, ofisiât na dokumento ni malaknos ginen I gubietnamenton I Filipinas para I hotnaleru siha ni man aplilika para u fan ma'emplea gi otro tâno'. I Abugâdu Henerât a sodda' na, gi I kaosan I hotnalerun Filipina siha, este na setifiku siña un maolek na ebidensian I aidentifikasion I hotnaleru, kuâlifikaon empleao, yan I katigorian cho'chu'.

Para Mås

Infotmasion Ågang: Si Ian M. Catlett, Ayudånten I Abugådu Heneråt, gi Ofisinan I Abugådu Heneråt, Numirun Tilifon (670) 664-2366 osino Facsmile gi (670) 664-7016.

**Annok I Man Achule'
Yan/pat Inafekta Na
Lai, Areklamento,
Regulasion yan Otden**

Siha: I man mapropone na amendasion siha a afekta osino man achule' yan I Regulasion Imigrasion Seksiona 706 yan 707.

Mafecha gi este mina _____ na ha'åne gi Agosto 2005.

Ninahålom as:

PAMELA BROWN
Abugådu Heneråt

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707:

Regulasion Imigrasion Seksiona 706K ma'amenda pot para u taitai:

Petmisun Entrádan Hotnalerun Estrangheru – I estrangheru ni humáháloom gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI) pot para u pofotma tempuláron na setbisiu osino hotnát ni masetifika na kuálifikao na estrangherun hotnaleru ginen I Dipáttamenton I Hotnát siña ma'entrega petmisun entráda kumo kinonfotme ni Lai Publiku 3-66, fuerra di maseha háyi na estrangheru papa I bente-uno (21) años na idát debi di u ma'aprueba para u háloom papa este na seksiona para u facho'chu' gi I malisensia na bisnis ni man man bebende maneska.

Regulasion Imigrasion Seksiona 706P ma'amenda pot para u taitai:

Petmisun Entrádan Espisiát na Manera siha – masedi I estrangheru papa I espisiát na manera siha para u saga ligát ya u facho'chu' háloom I Commonwealth sen más aturisasion papa I lai Commonwealth. I gumugu'ot I petmisu papa este na seksiona madespensa ni probension siha gi Non-Resident Act (3 CMC sect. 4411 et.seq.). Este na petmisu debi di u marinueba kada sakkan sigun I disision I Ofisinan Abugádu Henerát. Siña madiroga este na petmisu yanggen masodda' ni Abugádu Henerát na I espisiát na manera papa I petmisu ni malaknos ti eksiste esta.

Regulasion Imigrasion Seksiona 707 ma'amenda pot para u taitai:

Areklamenton Aturisasion Para Aplikasion Entráda.

- A. Aplikasion siha para I Aturisasion I Petmisun Entráda debi di u mana fan háloom gi Ofisinan I Imigrasion. Todu I aplikasion yan I dokumenton supottasion siha humuyong iyun I Ofisinan I Imigrasion. I aplikasion siha debi di u ma'arekla gi entre siette (7) diha siha ni todú I man aplikátble na nisisidát siha. I Aturisasion I Petmisun Entráda siempre man mafitma solamente ni Ofisiát Imigrasion fuerra di I Petmisun Entrádan Kada'da' Na Tiempo Bumisnis. Todu I dokumento siha debi di u fan mafitma papa I Penan I Chatmanhula.
- B. I Man Nisisário siha na Dokumeto Yanggen Para u Mapolu' gi Rihistradora.
1. Kabáles na Aplikasion
 2. Kopian Setifikun Finañágu ni masetifika,
 3. Maseha háfa na dokumento makonsidera ni I Ofisiát Imigrasion ya u

nisisário para u ma'apueba na dokumenton supottasion I katigorian aplikasion entráda, a enklulusu, I disision I Abugádu Henerát, I Overseas Employment Certificate (OEC) malaknos ni Gubietnamenton I Filipinas para I aplikánte.

- C. I ápas I aplikasion debi di u madipositu guatto I CNMI Treasurer an u polu I nisisário na dokumento siha gi Rehistradoran. Ti siña manana'lo tatte' I ápas aplikasion guatto gi aplikánte. I aplikasion siña u mahañágue guatto I Ofisinan I Imigrasion. Yanggen para un tugi'e' chek tugi'e' I CNMI Treasurer.
- D. Ti siña man ma'aksepta I aplikasion siha ginen I estrangheru siha yanggen man gaige gi hálom CNMI pot rason na man gaige sa pot man gai'kaosa gi Labor, Imigrasion osino asunton ligát siha. Lao, yanggen esta masátba I asunto, siña I estrangheru man aplika ni petmisun entráda, a riñueba osino tulaika I estao-ña.

**ARONGORONGOL TOULAP
POMWOL LLIWEL NGÁLI ALLÉGHÚL IMMIGRATION 706 ME 707**

Commonwealth Téél falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap ekke arongaar toulap reel pomwol lliwel kkaal ngáli Alléghúl Immigration Talil 706 me 707. Mángemángil Sów Bwungúl Allégh bwe ebwe fillóoy lliwel kkaal, pomwol yeel igha re ghitipwotchol ótol Móózo 2005 bwelle reel 1 CMC táilil 9104 (a)(1) me (2), ebwe schééschéél. Akkatéél lliwel kkaal mellól Commonwealth Register e ayoora ammataf me bwángil aghiyegh. Ngáre e welepakk, arongorongol toulap imwu rebwe ayoora. Alongeer schóókka eyoor mángemániir nge emmwel rebwe ischilong reel Pamela Brown, Sów Bwungúl Allégh Lapalap, Bwulasiyool Sów Bwung, Aruwowal pwó, Juab A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950 me fax reel (670) 664-2349 ótol eliigh (30) rállil yaal akkatééwow powmol lliwel kkaal.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl allégh Lapalap

Rál

Alúghúlúgh sáangi:

JUAN N. BABAUTA
Sów Lemelem

Rál

Mwir sáangi:

THOMAS A. TEBUTEB

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Corporate Register

Rál

Sáangi allágh ye 1 CMC táilil 2153, iye aa lliwel mereel Allághúl Toulap 10-50, lliwel kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungól Allógh Lapalap

Rállil ye _____ llól Agosto 2005.

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

**ARONGORONGOL TOULAP
POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL
IMMIGRATION TÁLIL 706 ME 707**

Akkatéél bwángil: Bwulasiyool Sów Bwungul Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl atotoolong me asáfalil aramasal lúghúl kka relo llo Commonwealth Téél falúwasch Marianas bwelle akkúleyal Sów Lemelem 03-01 me 3 CMC talil 4312(d).

Aweweel pomwol lliwel: Sáangi allégh ye 1 CMC talil 9104 (b), Sów Bwungúl Allégh Lapalap e schungi bwe llól tipeer toulap bwe rebwe fillóoy Alléghúl Immigration kkaal Tálil 706K, 706P me 707 igha ebwe yááyá ngáli alongeer schóól angaang kka aramasal lúghúl ikka re toolong llól Commonwealth Téél falúwasch Marianas rebwe angaang llól bwuley ye eyoor yaal lisensial áschí bwe rebwe ngálleer llól ruweigh me eew (21) rághil. Schééschéél, Sów Bwungúl Allégh Lapalap e schungi bwe schóól angaang kka aramasal lúghúl ikka re lo faal ruweigh mè eew (21) ikka re lo llo leliyel aschi re ayoora féfféér nggów me bwángiir immigration, iye re schungi bwe schóóy angaang mellól CNMI, nge rese tabweey alléghúl áschí.

Sów Bwungúl Allégh Lapalap ebwal schungi bwe alléghúl immigration kka ighila tálil 706P nge ese féérú alléghúl ngáre aramasal lúghúl me ese ghi fisch mwóghútúl ighila.

Sów Bwungúl Allégh Lapalap ebwal sóbwósóbwóló yaar schungi tipeer toulap bwe alléghúl immigration Tálil 707 rebwe fillóoy igha rebwe atoowowu mille “Overseas Employment Certificate” me ngáre OEC. Mille OEC nge schééschéél dokkomento ye e toowow mereel Gobennol Philippine ngaliir schóóy angaang kka re tittingór (apply) angaang mewóól akkááw falúw. Sów Bwungúl Allégh Lapalap e schungi, Schéél alúghúlúgh yeel nge ekke bwaári weleposol ngáre kkapasal schóóy angaang, fillongol angaang, me job category.

Reel ammataf faingi: Ian M. Catlett, Sów Alillisil Sów Bwungú Allégh, Bwulasiyool Sów Bwungúl Allégh, tilifoon (670) 664-2366 me facsimile (670) 234-7016.

Akkatéél bwángil akkááw allégh: Pomwol lliwel kkaal nge ebwe mwóghút me ngáre e ghilighil ngáli Alléghúl Immigration Tálil 706 me 707.

Rállil ye _____ llól Agosto 2005.

Isaliyallong: _____
PAMELA BROWN
Sów Bwungúl Allégh

ARONGORONGOL TOULAP

Alléghúl Immigration Tálil 706K iye aa ssiwel bwe rebwe árághi:

Lisensial schóóy angaang kka aramasal lúghúl – Schóóy lúghúl kka re toolong CNMI bwe tempiróriyo bwe rebwe alillis me féérú labor ikka raa certified bwe rekke angaang sangi Depattamentool Labor nge emmwel bwe rebwe ngálleer lisensial atotoolong bwelle reel Alléghúl Toulap No. 3-66, ese mmwel aramasal lúghúl kka faal, ruweigh me eew (21) rághil rebwe alúghúlúghúúr rebwe atolongoor faal tálil ye ubwe féérú angaang mellól bwuley ye eyoor lisensial bwe ubwe amwóghútú áschi.

Alléghúl Immigration Tálil 706P iye re fillóóy bwe rebwe árághi:

Lisensial atotoolong ye ghi welepakk – lisensial aramasal lúghúl kka re faal mwóghútúghút ye e ghi welepakk igha ebwe allégh yaal ebwe lootiw me angaang llól Commonwealth me essóbw yoor bwángil alléghúl Commonwealth. Schóókka eyoor yaar lisensia ikka re lo faal tálil yeel nge re exempted sángi alléghúl schóóy angaang kka aramasal lúghúl (3 CMC talil 4411 et seq.). Lisensia yeel nge emmwel rebwe apiyówuta kkada ráágh me amwaschúúló sángi schungiyeer sów bwungúl allégh bwelle mwóghút ye e ghi welepakk faal lisensia ye e toowow iye ese melaw lo.

Alléghúl Immigration Tálil 707 iye aa ssiwel bwe rebwe árághi:

Bwángil Entry Application Procedure:

- A. Schéél tingór reel Bwángil lisensial atotoolong nge ebwe isisilong reel Main Office llol Immigration. Alongal schéél tingór me dokkomentol nge ebwe toowow bwe yaal Bwulasyool Immigration. Schéél nge ebwe fféérló llól fisuuw (7) ráálil iye ebwe tabweey alongal tittingór kka e fil. Bwángil Lisensial atotoolong nge re mákkey sángi Immigration Officer saabw reel Short-Term Business Entry Permits. Alongal dokkomento nge ebwe alúghúlúghúló faal penalty of perjury.

B. Dokkomento kka ebwe ammwello:

1. Schéel tittingór kka a takkaló,
2. Kkopia alúghúlúgh reel birth certificate:
3. Alongal dokkomento nge e allégh sáangi Immigration Officer bwelle ebwe ffat schéel tittingór entry classification, ebwal toolong, bwángil sów bwungúl Allégh, schéel alúghúlúgh ngáli schóoy angaang kka lúghúl (OES) iye e toowow mereel Gobennol Philippine ngáli applicant.
4. One and one quarter inch (1-1/4") frontal photograph e wewee schagh ngáre e schótchól me e bwesch me ngáre e kkoloot.

C. Méel schéel tingór yeel nge ebwe isisilong llól CNMI Treasurer bwe ebwe Ammwelghatchdokkomentool. Óbwós yeel nge ese mmwel rebwe asáfáli. Schéel Tingór nge emmwel ubwe mail. Salaapi (checks) nge ebwe mwete ngáli Treasurer mellol CNMI.

D. Alongeer schóoy lúghúl kkaal nge ressóbw alisi yaar tingór (applications) mellól Commonwealth ikka re lollo bwelle igha eyoor yaar fitighogho mellól Labor, immigration me ngáre legal matter. Bwal eew, ngáre schagh ffataló mwóghútúghút, schóoy lúghúl aa mmwel rebwe tingór (apply) lisensial atotoolong, fféer sefál me ssiwelil kkapasal ngáre e alúghúlúghúlóme labor, immigration me ngáre legal matter.

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTION 706 and 707:

Immigration Regulation §706K is amended to read:

Nonresident Worker Entry Permit – An alien who is coming temporarily to the CNMI to perform temporary service or labor who has been certified as an eligible nonresident worker by the Department of Labor may be granted an entry permit in accordance with Public Law No. 3-66, except that no alien under the age of twenty-one (21) shall be approved for entry under this section to perform work of any kind in an establishment licensed to serve alcohol.

Immigration Regulation §706P is amended to read:

Special Circumstances Entry Permit- permits an alien under special circumstances to legally remain and work in the Commonwealth without further authorization under Commonwealth law. A permit holder under this section is exempted from the provisions of the Non-Resident Workers Act (3 CMC §4411 et seq.). This permit shall be subject to annual renewal at the discretion of the Office of the Attorney General. This permit may be revoked upon a finding by the Attorney General that the special circumstances under which the permit was issued no longer exist.

Immigration Regulation §707 is amended to read:

Authorization For Entry Application Procedure.

- A. Applications for Authorization for Entry permits shall be submitted to the Main Office for Immigration. All applications and supporting documents become the property of the Office of the Immigration. Applications shall be processed within seven (7) days of compliance with all applicable requirements. Authorization For Entry permits will be signed only by the Immigration Officer except for Short-Term Business Entry Permits. All documents shall be filled out under penalty of perjury.
- B. Necessary documents for filing:
1. A completed application form,
 2. Certified copy of birth certificate,
 3. Any document deemed by the Immigration Officer to be necessary to substantiate the applicant's entry classification, including, at the discretion of the Attorney General, an Overseas Employment Certificate (OEC) issued by the Government of the Philippines to the applicant.
 4. One and one quarter inch (1-1/4") frontal photograph in either black and white or color.
- C. The application fee shall be deposited with the CNMI Treasurer by filing the necessary documents. The fee is non-refundable. Application may be made by mail. Checks must be made to "Treasurer of the CNMI".

- D. Applications shall not be accepted from aliens present in the Commonwealth whose presence is permitted solely because they have a pending labor, immigration or legal matter. However, once said matter is decided, the alien may apply for an entry permit, renewal or change of status if the alien prevailed in the labor, immigration or legal matter.

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Saipan, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tel: 670.664.2209 fax: 670.664.2211

**PUBLIC NOTICE OF PROPOSED REGULATIONS
WHICH ARE AMENDMENTS TO THE REGULATIONS OF
THE COMMONWEALTH TELECOMMUNICATIONS COMMISSION**

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Telecommunications Commission ("CTC"), intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CTC intends to adopt them as permanent, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b))

AUTHORITY: The CTC is required by the Legislature to adopt rules and regulations regarding those matters over which the CTC has jurisdiction, including its internal affairs. (4 CMC § 8313(b)(6); 4 CMC § 8301, *et seq.*, Public Law 12-39).

THE TERMS AND SUBSTANCE: The Regulations provide clear legal authority for the CTC to meet "virtually", rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's Open Meetings Act, 1 CMC § 9901, *et seq.* Typically one or more Commission members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Regulations define the virtual meeting and set out the requirements for public participation.

These Regulations shall be amendments to the CTC Regulations. These amendments add to the Regulations of the CTC, the attached **new Section 1-700 (Meetings)**.

THE SUBJECTS AND ISSUES INVOLVED: There are independent, but related, reasons for the promulgation of these regulations.

1. The Regulations provide procedures for the CTC to conduct its meetings when one or more of the Commissioners is not physically present. This is necessary because of the Commission's dispersed geographical representation (multiple islands) and the difficulties of travel in bad weather, as well as the complexities of the travel schedules of the Commissioners. The Regulations allow one or more of the Commissioners to call in

to the announced meeting place, a practice common in the business world.

2. The Regulations also provide procedures that conform to the CNMI's Open Meetings Act to insure that any member of the public may attend a CTC meeting and hear and view everything that every CTC Commissioner can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Commissioners are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Commissioners see and hear.

3. The Regulations also provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin boards – one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.


4. The Regulations also provide that the Commission's regular meetings shall ordinarily be the third Thursday of every month.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to CTC Acting Director Adam Turner, *Attn: New CTC Regs*, Box 505049, Capitol Hill, Saipan MP 96950 or fax 670.664.2211 or email to director@nmctc.com with the subject line "New CTC regs". Comments are due by November 30, 2005. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

Proposed regulations approved by the CTC on November 16, 2004, and

Submitted by:




JOSEPHINE DLG MESTA
Secretary, CTC




Date

Received by:


THOMAS A. TEBUTEB
Governor's Special Assistant for Administration

9/22/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Registrar

9/22/05
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 22nd day of Sept, 2005.



PAMELA S. BROWN,
Attorney General

0 CTC NOPR Meetings Oct 2005.wpd

COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
KOMISION TELECOMMUNICATION I COMMONWEALTH

Norman T. Tenorio, Kabesiyo
Caller Box 505049, Capitol Hill, Saipan MP 96950
(Fine'nina na Bibienda gi Building Honorable Juan A. Sablan)
Numirun Tilifon: 670-664-2209 Fax 670-664-2211

**NOTISIAN PUPBLIKU POT I MAN MAPROPONE NA REGULASION SIHA
NI MAN MA'AMENDA I REGULASION I KOMISION TELECOMMUNICATION I
COMMONWEALTH**

MA'INTENSION I AKSION PARA U MA'ADOPTA ESTE SIHA MAN MAPROPONE NA REGULASION SIHA: I Komision Telecommunication (CTC) gi Commonwealth I Sankattan Siha Na Islas Marianas, ma'intensiona para u ma'adopta i man mapropone na regulasion siha ni man che'che'ton petmanente, sigun i areklamenton i Akton Areklamenton Atministrasion, 1 CMC Seksiona 9104 (a). I Komision Telecommunication I Commonwealth ma'intensiona para u ma'adopta petmanente, ya man nãã'i' trenta (30) diha siha na notisia pot i intension. Siempre efektibu i regulasion siha dies (10) diha siha despues di i inadoptasion. (1 CMC Seksiona 9105 (b))

ATURIDÁT: I Komision Telecommunication I Commonwealth (CTC) ma'otden ni Lehislatura para u ma'adopta i areklamento yan regulasion siha ni tineteka eyu siha na asunto ni responsibilidad, a enklulusu i asunton sanhalom. (4 CMC Seksiona 8313 (b)(6); 4 CMC Seksiona 8301, et seq., Lai Publiku 12-39).

REGULASION YAN I SUSTÂNSIAN-NIHA: I Regulasion siha maprobeniyi mäs klâru na ligât aturidât para i Komision Telecommunication I Commonwealth na para u fan hunta "Konfiriensian Ilektrisdât" ("virtually") adimäs hu gaige petsonât, tatkomo u ma'atiende ni pumalu siha na taotao anai ma anunsia i lugât i hunta, papa i Akton i CNMI pot Mababan I Hunta, 1 CMC Seksiona 9901, et. seq. Seso tenga uno pat mäs na membrun komision hu atiende ginen i konfiriensian tilifon, ni gai spika gi anai ma hunta i dinaña. I regulasion madefina i konfiriensian ilektrisdât ya ma na guaha nisisidât siha para i patisipaon i publiku.

Este na regulasion debi di u ma'amenda para i Regulasion i Komision Telecommunication I Commonwealth. Este na amendasion ma'omenta i Regulasion siha gi Komision Telecommunication I Commonwealth ni man che'che'ton na nuebu na Seksiona 1-700 (Hunta siha).

I PUNTO YAN ASUNTO SIHA NI MAN TINETEKKA: Man independente, lao ti man achule', pot rason para u ma'establesi este na regulasion siha.

1. I Regulasion siha maprobeniyi areklamento siha para i Komision Telecommunication I Commonwealth para u makondukta i huntan-niha yanggen uno osino mäs na membrun komisina siha ti man gaige petsonât. Nisisário este pot rason na guaha membrun i komisina

ma prisenenta otro siha na tano' gi isla-ta siha ya guaha-na basis nai bumaba i tiempo, parehu

ha' yan i sifalan i batkon aire para i Komisina siha. I Regulasion siha a sesedi uno osino mas na membrun komisina para u ma'agang i lugat i hunta, este na prinaktika sesso gi bisnis i tano' .

2. I Regulasion siha a probeniyi lakkue areklamento anai siha makonfotma i Akton i Binaban i Huntan i CNMI para u ma'insura na maseha hayi na petsona siha ma'atiende para u ma'ekungok yan ina todun i hafa i membrun komisina mahuhungok yan i'ina, fuerra di ayu siha i man mapetmiti sikretu na pribilehu sigun i lai. Yanggen uno osino mas na membrun komisina man a'agang gi tilifon, i petsona ni ha atetiende debi di u na setbi i speakerphone anai siha u fan a'hungok gi sagan i hunta. Yanggen makondukta i hunta gi Internet, i mu atetiende debi di u manasetbe Computer anai siha u fan a'hungok yan a'li'e' yan i pumalu komisina.
3. I Regulasion siha a probeniyi lakkue para u guaha Computer anai siha makondukta i hunta yanggen masusedi ya gai annoko i tiempun-niha. Parehu ha' este yan i gasetan i computer, yanggen un petsona ha infotma i mensahe, ya i otro u oppe' gi birada, guaha na basis nai tinaka diha siha osino gi ora, estaki munayan i asunto.
4. I Regulasion a probeniyi lakkue na i regulat na hunatan komisina debi di u mahunta gi tetseru na Huebis kada mes.

DIREKSION YANGGEN PARA U MAPOLU YAN MAPUPBLIKA: Este siha I Man Mapropone na Regulasion debi di u mapupblika gi Rehistradoran i Commonwealth gi seksionan i man mapropone ya nuebu anai ma'adopta (1 CMC Seksiona 9102 (a)(1)) ya i notisia debi di u malaknos gi kombiniente na lugat siha gi civic center yan ofisinan gobietnamento siha gi kada distritun senadot siha, todun i dos Engles yan i lengguahen prinsipat ni Natibu, Chamorro yan Refaluwasch. (1 CMC Seksiona 9104 9(a)(1)).

YANGGEN PARA UN NA GUAHA OPINION SIHA: Nahalom osino mail i opinion siha guatto as Adam Turner i Acting Director gi Komision Telecommunication I Commonwealth, Atension: Nuebu Na Regulasion Komision Telecommunication I Commonwealth, gi Box 505049, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi 670-664-2211 osino email guatto gi director@nmictc.com ni matitilu "Nuebu Na Regulasion Komision Telecommunication I Commonwealth". Uttimo i opinion siha gi Nobiembre 30, 2005. Pot fabot nahalom i opinion yan mensahe kinontra siha. (1 CMC Seksiona 9104 (a)(1))

I Man Mapropone Na Regulasion siha man ma'aprueba ni Komision Telecommunication I Commonwealth gi Nobiembre 16, 2004, ya

Ma Nahalom as: _____
JOSEPHINE DLG. MESTA

Fecha

Sekretaria,
Komision Telecommunication I Commonwealth

Marisibe' as: _____
THOMAS A. TEBUTEB
Espiãt Na Ayudãnten i Atministrasion i Gobietno

_____ Fecha

Pinelo' yan Rinikot as: _____
BERNADITA B. DELA CRUZ
Rehistradoran i Commonwealth

_____ Fecha

Sigun i lai 1 CMC Seksiona 2153 (e) (i inapruedan i Abugãdo Henerãt ni regulasion siha ni para u ma'establesi pot para u fotma) yan 1 CMC Seksiona 9104 (a)(3) (ma'aprueda ni Abugãdo Henerãt) i man mapropone na regulasion siha man che'che'ton esta man ma'ina yan ma'aprueda pot para u fotma yan ligãt sufisiente ni Abugãdo Henerãt ya debi di u mapublika (1 CMC Seksiona 2153 (f) (publikasion i areklamento yan regulasion siha)).

Mafecha gi este mina _____ na ha'ãne gi _____, 2005

PAMELA BROWN
Abugao Henerãt

**Commonwealth of the Northern Marianas Islands
Commonwealth Telecommunications Commission**

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Seipel, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tilifoon: 670. 664.2209 fax: 670. 664. 2211

**ARONGORONGOL TOULAP REEL POMWOL ALLÉGH KKAAL IKKA
SSIWELI ALLÉGHÚL COMMONWEALTH TELECOMMUNICATIONS
COMMISSION**

AGHIYEGHIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:

Commonwealth Téel falúw kka falúwasch, Commonwealth Telecommunications Commission (“CTC”), e mángi bwe ebwe schééschéél fillóóy pomwol allégh kka e appasch, sáangi mwóghútúl Administrative Procedure Act, 1 CMC táilil 9104(a). CTC nge e mángi bwe ebwe schééschéél fillóóy, me essóbw luuló eliigh(30) rallil yaal arongowow. (Id.) Allegh kkaal nge ebwe schééschéél allégheló llól seigh(10)rááilil mwiril yaal filló. (1CMC talil 9105 (b))

BWÁNGIL: Schóóy allégh nge re tittingór bwe CTC ebwe fillóóy allégh kkaal bwelle mwóghút ye CTC eyoor bwángil reel, ebwal toolong internal affairs. (4 CMC táilil 8313 (b)(6); 4 CMC táilil 8301, et seq., Alléghúl Toulap 12-39).

ALLÉGH KKAAL ME AWEWEEL: Allégh kkaal nge ebwe ayoora bwáng ye e ffat alléghúl ngáli CTC reel ebwe fil ngáli “virtually”, mmwal igha ipighil aramas, ngáre schagh amweyút re tabweey mwiisch me bwuley ye re fili, sáangi CNMI Open meeting Act, 1 CMC talil 9101, et seq. Schééschéél nge escháy me ngáre fitimal mwiischil Commission nge emmwel ebwe kkapas llól telephone conference, fengál me speaker phone igha re fili bwe mwiisch ebwe lo iye. Allégh kkaal nge ekke affata ghatchúl mwiisch me isisiwow yááyál kkaal ngáliir alillisil toulap

Allégh kkaal nge ebwe ssiwel ngáli Alléghul CTC. Ssiwel kkaal nge ebwe schu ngáli Alléghúl CTC, Talil kka e ffe 1-700 (Mwiisch kkaal), aweewe reel akkaté kkaal.

ALLÉGH ME AWEWE KKA E FIL FENGÁL: Eyoor independent, nge e weewe fengál, kkapasal akkatéél allégh kkaal.

1. Allégh kkaal nge e ayoora mwóghútúghútúl CTC reel ebwe atééw mwiisch igha escháy me ngáre fitimal Commissioners ikka ipighil rese lo. Milleel nge e welepakk bwelle igha re lo wóól akkááw falúw (multiple islands) me nggówal raal ótol yaar fáráágh, me bwal ótol weiresil yaar Commissioners fáráágh. Allégh kkaal nge emmwel bwe escháy me ngáre iyo meleir Commissioners rebwe failong bwe rebwe ira iya igha ebwe lo mwiisch iye, Fasúl féfféer me wóól falúw tóttómwógh.

2. Allégh kkaal nge e bwal ayoora mwóghut-ye ebwe alúghúlúghúw CNMI's Open Meetings Act igha ebwe affata bwe inaamwo iyo meleir membroot toulap nge ebwe tabweey mwiischil CTC me amweri fischiy, kkapasal alléghúl igha executive ese tabweey mwiisch me akkáaw allégh e fil reel confidential me proprietary material. Ngáre escháy me iyo meleir Commissioners rekke mwaliili fengál wóól tilifoon, aramas kkaal nge rebwe connect sáangi tilifoon me ngáre emmwel bwe rebwe ásáling mereel speaker phone mellól kkwóto. Ngáre mwiisch yeel e tooto mereel internet, schóókka relo nge ebwe yoor yaal access ngáli computer igha ebwe weri me rongorong meeta Commissioners re weri me rongorong.
3. Allégh kkaal e bwal ayoora yaal access computer igha ebwe computerized mwiisch kkaal igha ebwe lááláay mwóghútúl. Milikkaal nge e weewe schagh computer bulletin board-escháy ebwe isisilong yaal message, escháy ebwe appalawal mwirilóól, emmwel ebwe fitoow ráal me fitoow oora, me sóbwósóbwóló, ngáre schagh ssiwelil text-based aa ffataló nge aa akkayuulo.
4. Allégh kkaal e bwal ayoora bwe ótol yaar mwiisch Commissioners nge ebwe aluuwal weipis llól maram.

AFAL REEL AISIIS ME AKKATÉEWOW: Pomwol Allégh kkaal nge ebwe atotoolong llól Commonwealth Register llól Tálil la re pomwoli me allégh kka re fillóoy ikka e ffé (1 CMC Tálil 9102 (a)(1) me arongorong yeel ebwe aisis ghatch llól civic center me llól Bwulasiyool local government mellól alongal senatorial district, e weewe schagh llól Amerikónu me llól kkapasal Refalúwasch me Remeraalis. (1 CMC Tálil 9104 (a) (1))

ISISILONGOL MÁNGEMÁNG: Afanga me bwughiiló yóómw mángemáng reel CTC Acting ngáli Adam Turner, Attn: Allághúl CTC kka e ffe, Box 505049, Capitol Hill, Seipél MP 96950 me fax reel 670.664.2211 me ngáre email ngáli director@nmictc.com ngáli kkapasal "New CTC regs". Aghiyegh nge essóbw luuló Nobembre 30, 2005. Óutu ghal soong ów isisilong yáami data, ghuley'ami me ngáre aingiingil. (1 CMC Talil 9104 (4)(a)(2))

Alúghúlúghúl pomwol allégh kkaal sáangi CTC Nobembre 16, 2004, me

Isaliyáallong:

JOSEPHINE DLG MESTA
Sekkeretóriyol, CTC

Rál

Mwir sáangi:

THOMAS A. TEBUTEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi: _____
BERNADITA B. DELA CRUZ
Commonwealth Registrar

Rál _____

Sáangi allágh ye 1 CMC Tálil 2153 (e) (alúghúlúghúl AG reel allégh kka ebwe akkatééwow) me 1 CMC tálil 9104 (a)(3) (bwughi alúghúlúghúl AG) pomwol allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap me ebwe akkatééló (1 CMC tálil 2153 (f) (akkatéél allégh kkaal)).

Rállil ye _____ llál _____, 2005.

PAMELA S. BROWN,
Sów Bwungól Allégh Lapalap

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Proposed Amendment to Regulations:

Add to the Regulations of the Commonwealth Telecommunications Commission Part 1, the following new Section 1-700 (Meetings):

Section 1-700 Meetings

This section is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and 4 CMC § 8138(b)(6)(i) (promulgating administrative regulations).

- a. In general.
 - i. The Commission shall act at its meetings, or as otherwise provided in these Regulations.
 - ii. The Commission shall make provision for the virtual attendance of Commissioners, if a Commissioner so requests.
 - iii. Meetings shall be noticed as required by law.
 - iv. A copy of meeting materials distributed to the Commissioners shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.
- b. Time. The time for the regular meetings of the Commission shall be the third Thursday of every month at 6:00 p.m., except as otherwise permitted or provided by law.
- c. Location.
 - i. Meetings shall be held at such place as the Chair may determine unless otherwise provided by the Commission, and the location shall be properly noticed to the public.
 - ii. The Commission may meet virtually, and any Commissioner may attend a meeting virtually.
 - iii. When the Commission meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any

person attending shall have the same access to the meeting as each attending Commissioner at the site. Typically this will include use of a speaker phone for a conference call meeting.

- iv. Votes of Commissioners may be received by electronic means and announced at a meeting.
- d. Rules. Meetings of the Commissioners shall be conducted according to Robert's Rules of Order, most recent revision, unless:
 - i. otherwise specified in these Regulations; or
 - ii. the Rules are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.
- e. Regular Meetings. Regular meetings shall be held as determined by the Commission's Regulations and as additionally determined by the Commission.
- f. Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Commission.
- g. Executive Session. Ordinarily the Commission's meetings shall be open to the public. The Commission may meet privately, in Executive Session, for the following purposes:
 - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
 - (2) To discuss pending or potential litigation or investigations;
 - (3) To discuss aspects of the Commission's business affairs that are confidential and/or proprietary by law;
 - (4) To address a matter that may give rise to a conflict of interest, or an appearance of a conflict, in the absence of the Commissioner(s) related thereto; and
 - (5) To address other matters permitted by law.
- h. Virtual discussions.
 - i. The Commission may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given so that a person seeking to review the discussion as

it happens shall have substantially the same access to the discussion as each participating Commissioner.

- ii. Typically such a discussion shall be by electronic bulletin board open to the view of the public.
 - iii. Such discussion shall be noticed according to these Regulations and shall comply with CNMI law regarding open meetings.
 - iv. The Commission shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
- i. **Accessibility.** The Commission shall comply with the accessibility requirements required by law and may, upon a person's request accommodate other special needs relating to sight, sound, language or location.
- j. **Definitions.** For the purposes of this Section, the following definitions shall apply:
- i. **ELECTRONIC MEANS** includes telephone, video-conference, electronic-telecommunications-mediated written, aural and/or video means, including, but not limited to, mediated through the internet, and/or email.
 - ii. **REAL TIME** or real-time means immediately before, during and/or after, as in "as it happens".
 - iii. **VIRTUAL** or **VIRTUALLY** when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 FAX: (670) 664-1115

**PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO THE AMENDED RULES AND REGULATIONS
FOR THE OPERATION OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LOTTERY**

The Secretary of Finance hereby gives notice to the general public that the Department of Finance is proposing to amend the Amended Rules and Regulations for the Operation of the CNMI Lottery, as originally published in the Commonwealth Register, Volume 22, No.6, June 20, 2000, Commonwealth Register, Volume 24, No. 8, August 21, 2002 and Commonwealth Register, Volume 25, No. 8, September 18, 2003, and as amended by the Rules and Regulations for the Operation of the Commonwealth of the Northern Marianas Lottery as adopted in the Commonwealth Register, Vol. 26, No. 4, April 23, 2004. This amendment is made pursuant to the Department's authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §9305, 1 CMC §9306, the Commonwealth Administrative Procedure Act, 1 CMC §9101 *et. seq.*, and Executive Order 94-3.

The purpose of these amendments are enacted to implement, interpret, prescribe and clarify the policies and procedures required to implement, regulate and supervise the operation of the CNMI Lottery. These Rules and regulations shall have the force and effect of law.

The proposed regulations may be inspected at, and copies obtained from the Secretary's Office, EDP Bldg., Capitol Hill, Saipan, MP. 96950. The proposed regulations are published in the Commonwealth Register.

The Secretary of Finance is soliciting comments on this proposed amendment to the Amended Rules and Regulations for the Operation of the CNMI Lottery from the general public. Anyone interested in commenting on this proposed amendment may do so in writing. Comments may be addressed to the Secretary of Finance, Department of Finance, P.O. Box 5234 CHRB, Saipan, MP. 96950. All comments must be received within 30 days from the date of this notice published in the Commonwealth Register.

Certified By:

Fermin M. Atalig
Secretary of Finance
Department of Finance

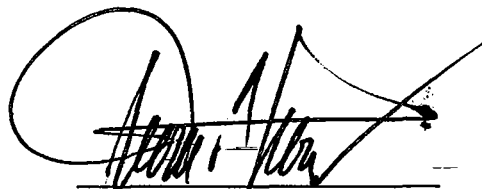
Date: 9/14/05

Filed By:

Bernadita B. Dela Cruz
Commonwealth Register

Date: 9/22/05


Received By:


Thomas A. Tebuteb
SAA, Office of the Governor

Date: 9/22/05

Pursuant to 1 CMC §2153, as amended by P.L. 10-50, the regulations attached hereto have been reviewed and approved by the CNMI Attorney General.

Dated this 22nd day of September 2005.


Pamela Brown
Attorney General

**NOTISIAN PUBLIKU POT I MAN MAPROPONE NA
AMENDASION SIHA PARA I MAN MA'AMENDA NA
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
LOTTERY GI COMMONWEALTH I SANKATTAN SIHA NA ISLAS
MARIANAS**

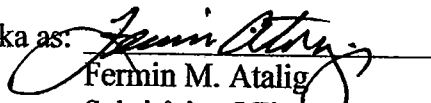
I Sekretarion I Finance man nãã'i' notisia para I publiku henerat na I Dipattamenton I Finance man propopone para u amenda I Man Ma'amenda Na Areklamento yan Regulasion siha Para I Operasion I Lottery gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI), ni mapublika originat gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, gi Rehistran I Commonwealth, Baluma 24, Numiru 08, gi Agostu 21, 2002 yan Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septiembre 18, 2003, ya ni inamenda ni I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery anai ma'adopta gi Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abril 23, 2004. Este na amendasion mafatinas sigun I aturidat yan oden I dipattamento ni mamensiona gi Commonwealth Code a enklulusu lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Seksiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 *et seq.*, yan Executive Order 94-3.

I propositun este na amendasion man ma'otdena para u ma'enfuetsa, ma'sangan, ma'otden yan maklaruyi I areklamento yan manera I manisisita para u ma'enfuetsa, gubietna yan maneha I operasion I CNMI Lottery. Este na Areklamento yan Regulasion siha debi di u gai fuetsa yan efektibu gi Lai.

I man mapropone na regulasion siha ma'ina gi, ya I kopia siha siha u fan machule' gi Ofisinan I Sekretario, gi EDP Bldg., giya Capitol Hill, giya Saipan, MP 96950. I man mapropone na regulasion siha man mapublika gi Rehistran I Commonwealth.

I Sekretarion I Finance man gãgãgao opinion siha pot I man mapropone na amendasion para I man ma'amenda na Areklamento yan Regulasion siha para I Operasion I CNMI Lottery ginen I henerat publiku. Maseha hãyi enteresao munahalom opinion pot I man mapropone na amendasion siha munahalom gi tinige'. Siha mahanãgue' I opinion siha guatto gi Sekretarion I Finance, gi P.O.Box 5234 CHRB, giya Saipan MP 96950. Todu I opinion siha debi di u marisibe' gi halom trenta (30) diha siha anai mafecha este na notisia ni para u mapublika gi Rehistran I Commonwealth.

Masetifika as:


Fermin M. Atalig
Sekretarion I Finance
Dipattamenton I Finance

Fecha:

9/20/05

Pinelo' as: Bernadita B. Dela Cruz
Bernadita B. Dela Cruz
Rehistradoran I Commonwealth

Fecha: 9/22/05

Marisibe' as: Thomas A. Tebuteb
Thomas A. Tebuteb
SAA, Ofisinan I Gubietno

Fecha: 9/22/05

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I regulasion siha ni man che'che'ton man ma'ina yan ma'aprueba ni Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi Septiembre, 2005.

Pamela Brown
Abugâdu Henerât

DIPÀTTAMENTON I FINANCE
MAN MAPROPONE NA AMENDASION SIHA PARA I
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
(CNMI) LOTTERY

Annok I Aturidât I Lai: I Man mapropone na amendasion siha para I areklamento yan regulasion siha para I operasion I CNMI Lottery man ma'establesi sigun, lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Seksiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 et.seq., yan Executive Order 94-3.

Mensâhen Finiho yan Diniseha:

Para u amenda I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery, anai mapublika gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Kada'da' Na Mensâhe Pot I Areklamento Siha:

I areklamento yan regulasion siha a probeniyi I otden yan manera para u ma'enfuetsa yan ma'otden yan mancha I operasion I CNMI Lottery. Este na areklamento siempre lokkue a omentâyi nuebu na huegun lottery mâs matungoña I Marianas Sports Lottery. Este na areklamento yan regulasion siha siña ma'amenda, matulaika osino madiroga pot para u propiu ni I Dipàttamenton I Finance I CNMI.

Para Mâs Infotmasion Ågang:

Si Fermin M. Atalig, I Sekretârion I Finance, gi Numirun Tilifon 664-1100 yan numirun I facsimile 664-1115.

Annok I Man Achule' Yan/pat Inafekta na Lai, Regulasion yan Otden siha:

I CMC Seksiona 9301, et. seq; Rehistran I Commonwealth Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Ninahalom as: *Fermin M. Atajig*
Fermin M. Atajig
Sekritarion I Finance

9/21/05
Fecha

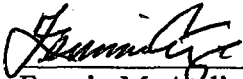
**ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGH ME
AMMWELIL MWÓGHÚTÚGHÚTÚL LOTTERY MELLÓL
COMMONWEALTH TÉEL FALÚWASCH MARIANAS**

Samwoolul Finance ekki arongaar toulap bwe Depattamentool Finance ekki pomwoli bwe ebwe liweli Allégh kka e ssiweló reel Mwóghútúl CNMI Lottery, iye raa fasúl atéew llól Commonwealth Register, Volume 22, Numoro. 6, Alimaté 20, 2000, Commonwealth Register, Volume 24, Numoro. 8, Eluwel 21, 2002 me Commonwealth Register, Volume 24, Numoro. 8, Maan 18, 2003, me a ssiwel mereel Allégh kkaal reel Mwóghútúl Lottery mellól Commonwealth Téel falúwasch Marianas iye aa filló mellól Commonwealth Register, Volume 26, Numoro 4, Sééta 23, 2004. Lliwel yeel nge e fféer sáangi Bwángil Depattamento me afalafal iye aléghélégéló mellól Commonwealth Code ebwal toolong, me ese bwal aighúgh ngáli, 1 CMC Tálil 9303, 1 CMC 9306, Ammwelil Commonwealth Administrative Procedure Act, 1 CMC 9101 et seq., me Akkúleyal Samwool 94-3.


Bwulúl lliwel kkaal ikka re alléghúwuló igha rebwe ayoora, sów aweewe, ischil me affata allégh kkaal me mwóghútúghút ye ebwe mweiti ngáli atotoolongol, alúghúlúgh me amweri fischiy mwóghútúl CNMI Lottery. Allégh me Ammwel kkaal nge rebwe ghítipwotchuw me mwóghut sáangi allégh.

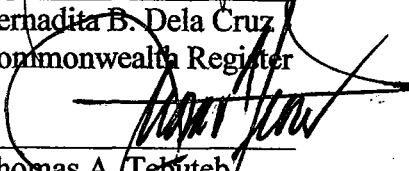
Pomwol allegh kkaal nge emmwel rebwe amweri fischiy mereel, me emmwel rebwe bwughil kkopial mereel Bwulasiyool Sekkretóriyo, EDP Bldg., Capitol Hill, Seipel, MP. 96950. Pomwol allégh kkaal ikka raa atéew llól Commonwealth Register.

Samwoolul Finance ekki tittingór mángemáng reel pomwol lliwel yeel ngáli Allégh kka e ssiwel reel Mwóghútúl CNMI Lottery mereer toulapeer aramas. Schóókka eyoor mángemángiir reel pomwol lliwel yeel nge emmwel rebwe ischilong, mángemáng nge emmwel rebwe afanga ngáli Samwoolul Finance, Depattamentool Finance, P.O. Box 5234 CHRB, Seipél, MP. 96950. Alongal mángemáng nge rebwe bwughil llól eliigh (30) raalil mwiril schagh yaal arong yeel akkaté mellól Commonwealth Register.

Alúghúlúgh sáangi: 
Fermin M. Alalig
Samwoolul Finance
Depattamentool Finance

9/22/05
Rál

Ammwel sáangi: 
Bernadita B. Dela Cruz
Commonwealth Register

Mwir sáangi: 
Thomas A. Tebuteb
SAA, Bwulasiyool Sów Lemelem

9/22/05
Rál

9/22/05
Rál

Sáangi allégh ye 1 CMC, iye aa lliwel mereel P.L. 10-50, allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ Ilól Maan 2005.

Pamela Brown
Sów Bwungúl Allégh Lapalap

DEPARTAMENTOOL FINANCE
POMWOL LLIWEL NGÁLI AMMWEL ME ALLÉGHÚL REEL MWÓGHÚTÚL
LOTTERY MELLÓL COMMONWEALTH TÉÉL FALÚWASCH MARIANAS

Akkatéél bwángil: Pomwol liwel ngáli Allégh me Ammwelil reel Mwóghútúl CNMI Lottery ikka raa atééw bwelle, me ese aighúgh ngáli, 1 CMC Tálil 9305, 1 CMC Tálil 9306, Commonwealth Administrative Procedure Act, 1 CMC Tálil 9101 et seq., me Akkúleyal Sów Lemelem 94-3.

Aweweel pomwol liwel: Rebwe lliweli Allégh kkaal reel Mwóghútúl CNMI Lottery, iye a akkatééwow mellól Commonwealth Register, Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register, Vol. 26, No. 4, Seeta 23, 2004.

Aweweel pomwol allégh: Allégh me Ammwel kkaal e ayoora mwóghutul atotoolong me alléghúw me amweri fischiy mwóghútúl CNMI Lottery. Allégh kkaal nge ebwal ayoora eew urul lottery ye e ffe iye re ghal ira bwe Marianas Sports Lottery. Allegh kkaal nge emmwel rebwe siweli, mwóghútúl me ngáre fféer sefál bwelle e alléghewow mereel CNMI Depattamentool Finance.

Reel ammataf faingi: Fermin M. Atalig, Samwoolul Finance, Numorol tilifoon 664-1100 me facsimile numoro 664-1115.

Akkatéél bwángil akkááw allégh: 1 CMC Tálil 9301 et seq; Commonwealth Register Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register Vol. 26, No. 4, Séetá 23, 2004.

Isaliyallong:

Fermin M. Atalig
Samwoolul Finance

Rál

Marianas Lottery - SPORTS LOTTERY

Section 1 Purpose and Disclaimer

- (1) Purpose: These rules establish the procedures and requirements for playing Marianas Sports Lottery, a lottery game operated by the Marianas Lottery.
- (2) Disclaimer: Marianas Sports Lottery is not associated with, sponsored, or authorized by any sports league or agency.

Section 1.1 Definitions

For the purposes of Section 1, the following definitions apply unless the context requires otherwise:

- (1) **"Entry Form"** means a play program used by a player to choose the dollar amount to be wagered, the number of events selected, and the player's chosen option for each event selected.
- (2) **"Event"** means a game or a special play that a player may select.
- (3) **"Favorite"** means the likely winning team of a game as indicated on the official program.
- (4) **"Game"** means a game between two teams.
- (5) **"Game ticket"** or **"ticket"** means a computer-generated, printed paper issued by the Marianas Lottery as a receipt for the events selected and the options chosen by a player and includes, but is not limited to, the following data: The name "Marianas Sports Lottery", the purchase date, events selected, the option chosen for each selected event, the cost of the ticket, the identifying number for the specific play program, and a serial number.
- (6) **"Official program"** means the Lottery's list of games with point spreads and special plays, including the options for each event a player may select for a particular play program.
- (7) **"Official Marianas Sports Lottery results"** means the Lottery's list of the final outcomes of the events scheduled for a given play program, showing the results for each event.
- (8) **"Play Program"** means the form listing the games for which there is an option to play. Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.
- (9) **"Playoff Special"** means a Marianas Sports Lottery game based on the outcomes of games played during the "playoffs" of a particular sport to determine its champion for a particular year.
- (10) **"Point spread"** means the number of points used to balance the possible outcome of an event, giving equal chance for each event's success.
- (11) **"Prize category"** means a division of the prize pool identified by a specific number of events selected by a player.
- (12) **"Quick Pick"** means the random selection by a Marianas Lottery on-line terminal of events played on a ticket and an option for each event selected.
- (13) **"Special play"** means an activity that occurs within a game, including, but not limited to, fumbles, interceptions, sacks, three-pointers, and home runs.

(14) "Total points" means the total number of the points scored by both teams.

(15) "Underdog" means the likely losing team of a game as indicated on the official program.

Section 1.2 Marianas Sports Lottery Description

(1) **General:** Marianas Sports Lottery is a Lottery game based on the outcome of a game or special play. During the Sports Lottery season, the Lottery will make available an official program, which lists the events for that play program. For each game listed, the official program will indicate the favorite and the underdog and include a point spread. The point spread is added to the underdog score which is then compared to the favorite's score to determine the outcome of a game. The team with the highest score is the winner. The Lottery's point spread appearing on the official program is the only point spread applicable to Marianas Sports Lottery. A game may have no winner should the sum of the point spread plus the underdog score is equal to the favorite's score. The Marianas Lottery may also include for certain games an Over/Under event. The player selects either the Over option or the Under option. The Over selection is correct should the total points scored exceed the number listed in the program, The Under selection is correct should the total points scored be less than the number listed in the program. There is no winner should the total points match the number listed in the program.

(2) **Player Selections:** A player is required to select at least three events on the official program but may select 4, 5, 6, 7, 8, 10, 12, or a maximum of 14 events.

(3) **Lottery Selections:** The Lottery will list a minimum of three events up to a maximum of fifty events each week. The Director reserves the right to determine which events will be listed in the official program and whether to apply a point spread.

Section 1.3 Play Dates and Times

Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.

Section 1.4 Cost of a Ticket

The cost of a ticket is determined by the amount of money a player chooses to wager. The minimum wager is \$1 per ticket. The Marianas Lottery reserves the right to not accept any wager for any particular event.

Section 1.5 Ticket Purchase, Characteristics, and Restrictions

(1) **General:** A Marianas Sports Lottery ticket may only be purchased from a Lottery retailer during the Marianas Sports Lottery season.

(2) **Age of Player:** A player must be at least 18 years of age to purchase a Marianas Sports Lottery ticket.

(3) **Ticket Characteristics:** A game ticket is the only proof of Marianas Sports Lottery game play, including the selections made by a player. The submission of a winning ticket to the Lottery is the sole method for claiming a prize. An entry form or a copy of a game ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase, the selections made by a player, or otherwise represent an opportunity to win a prize.

Section 1.6 Cancellation of Tickets

(1) **General:** A player may cancel a Marianas Sports Lottery game ticket by returning the ticket to the Lottery on the day of purchase prior to the time wagers are disabled before the first event listed on the ticket. After this time, the ticket cannot be canceled.

(2) **Refund:** In the event that Section 1.6, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket.

Section 1.7 Payment Of Prizes; Ticket Validation Requirements; time

Same as Marianas Lottery

Section 1.8 Odd of Winning and Prize Payout

1) Prizes for each Play Program shall be determined and awarded on the following basis:

Match	Odds	Payout	Prize per \$1 Played
3 of 3	8	4	0.500
4 of 4	16	8	0.500
5 of 5	32	15	0.469
6 of 6	64	25	0.391
7 of 7	128	50	0.391
8 of 8	256	100	0.391
10 of 10	1024	200	0.195
12 of 12	4096	400	0.098
14 of 14	16384	1000	0.061

Amount per play program will be subject to a maximum payout of \$50,000.00 per play program. Should the total prizes paid exceed the maximum payout, the prize payout will be prorated based on the total payout for each ticket divided by the total payout determined without regard to the maximum payout.

Section 1.9 Determination of Winners

(1) **Favorite:** To be a winning selection, the favorite must defeat the underdog by more points than the point spread.

(2) **Underdog:** To be a winning selection, the underdog must win the game or lose by fewer points than the point spread.

(3) **General:** To win, all of a player's event selections must match the final outcomes in the Lottery's official Sports Action results. For example, no prize shall be awarded to players who match 3 of 4 event selections, 5 of 7 event selections, or 11 of 14 event selections.

(4) **Official Event Results:** The scores and results for an event become official and final for the purpose of playing Marianas Sports Lottery when the Lottery enters the results in the Lottery's central computer

system for purposes of validating winning tickets. Once the results are entered, the Lottery shall not recognize any changes, including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the professional sports league or organization overseeing the game that changes the outcome of a special play.

Section 1.10 Game Cancellation, Postponement, or Termination

Game Cancellation, Postponement, or Termination

- (1) **Game Cancellation:** If a game is officially canceled prior to the start, or during the course of play, the Director will authorize a refund equal to the cost shown on the player's ticket.
- (2) **Game Postponed:** If a game is officially postponed prior to the start, or during the course of play, play on a Marianas Sports Lottery ticket, which includes that game, may continue until the rescheduled starting time for the game.
- (3) **Game Terminated after Play Has Started:** If a game is officially terminated after play has started and the results of that game are declared as official and final by the sports ruling body, the Lottery will adopt those results. Results include the final score of the game and any special plays within that game.

Section 1.11 Playoff Specials

Playoff Specials

- (1) The Marianas Lottery shall provide to the Director of Finance the rules and prize payout structure of any Playoff Special games prior to offering the game to the public. The Director of Finance must approve the game prior to its sale to the public.

Section 1.12 Fees

Fees

- (1) The annual fee shall be prorated based on the ratio of the number of days the Sports Lottery is available for sales to the number of days in the year.
- (2) The Marianas Lottery shall provide to the Director of Finance a listing of the number of days the Sports Lottery will be available for sale.

Section 1.13 Maximum Jackpot

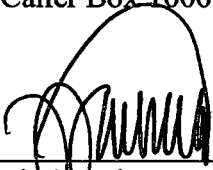
The maximum amount paid out for any one play program shall be limited to \$50,000

PUBLIC NOTICE

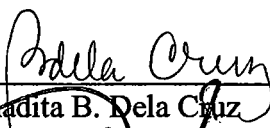
**PROPOSED AMENDMENT TO THE RULES AND REGULATIONS
GOVERNING THE ADMINISTRATIVE PROCEDURE OF THE
COMMONWEALTH FIRE SAFETY CODE**

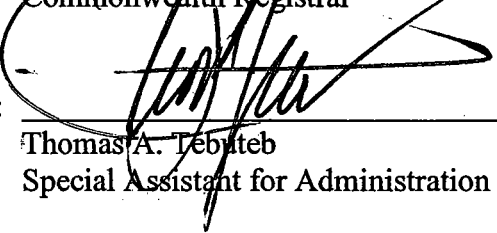
The Department of Public Safety, Fire Division's Fire Prevention Section, hereby proposes to amend the rules and regulations that will govern the administration, implementation, and enforcement of the Fire Safety Code of the Commonwealth of the Northern Mariana Islands. Public Law No. 11-56, to include all sections in the Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association. The rules and regulations to be promulgated are authorized pursuant to section 7304 of Public Law No. 11-56, "Commonwealth Fire Safety Code Act of 1998".

All written comments and/or recommendation regarding the amended rules and regulations are to be submitted within thirty (30) days after the date of this publication in the Commonwealth Register to Department of Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan's Building, Caller Box 10007, Saipan, and MP 96950.

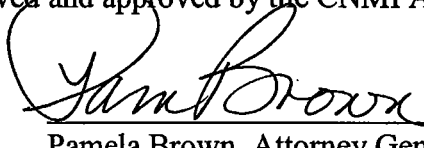
Certified By:  _____
Francis S. Taimanao
Acting Director of Fire
Date: 9/21/05

Approved By:  _____
Santiago F. Tudela
Commissioner of Public Safety
Date: 9/21/05

Filed By:  _____
Bernadita B. Dela Cruz
Commonwealth Registrar
Date: 9/21/05

Received By:  _____
Thomas A. Tebitob
Special Assistant for Administration
Date: 9/21/05

Pursuant to 1CMC§2153 as amended by PL 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

 _____
Pamela Brown, Attorney General
Date: 9/21/05


PUBLIC NOTICE

AMENDMENT TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATIVE PROCEDURE OF THE COMMONWEALTH FIRE SAFETY CODE

Citation of Statutory Authority:	To amend the rules and regulations pursuant to the Commonwealth Fire Safety Code, Public Law No. 11-56.
Short Statement of Goals and Objectives:	To amend the rules and regulations to provide uniform standards as mandated by the Commonwealth Fire Safety Code, Public Law No. 11-56.
Brief Summary of the Proposed Regulations:	To safeguard to a reasonable degree life and property from the hazards of fire and explosions arising from storage, handling and use of hazardous substances, materials and devices, and from any conditions hazardous to life and property in the use or occupancy of any buildings and premises.
Citation of Related and/or Affected Statutes, Rules, and Regulations:	Public Law No. 11-56, Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association.
For Further Information Contact:	Acting Director of Fire Francis S. Taimanao, Fire Division. Telephone numbers 664-9003/9004 or facsimile number 664-9009. Mailing Address: Caller Box 10007, Saipan, MP, 96950

Dated this 20th day of September ~~August~~ 2005.

Submitted by:

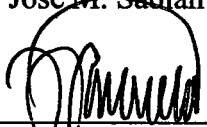

Santiago F. Tudela
Commissioner of Public Safety


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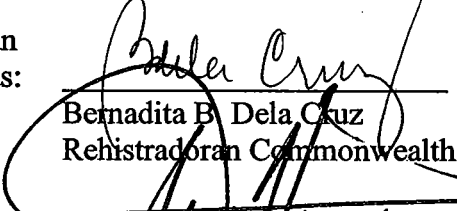
**MAN MA' AMENDA NA ARECKAMENTO YAN REGULASION I PARA U
GOBIETNA I KONDISION YAN MANERAN COMMONWEALTH FIRE
SAFETY CODE**

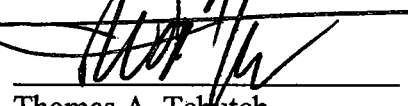
I Dipatamenton Public Safety, Fire Division Fire Prevention na seksiona, ginen este na propopne para u ma' amenda I areklamento yan regulasion I para u gubientna administrasion, implementasion, yan maenfuetsan I Fire Safety Code Commonwealth I Sankattan siha no Islan Marianas, Lai Publiku No. 11-56, para u enklusu todú I seksiona siha put Uniform Fire Code yan Areklamento ni pinepblikan International Conference of Building Official yan I San Lagu na Fire Chief's Association. I areklamento yan regulasion ni para u jama cho'gue ginen inaturisan Seksiona 7304 gi Lai Publiku No. 11-56 "Commonwealth Fire Safety Code Act of 1998".

Todu I manmatuge' siha na komentu / rekomendasion put I manmapropopne siha na arekamento yan regulasion u fanma satmiti halom trenta (30) dias despues di mapublika este na nutisia ge Rehistran Commonwealth para guatu gi Dipatamenton Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan Building, Caller Box 10007, Saipan, MP 96950.

Sinettfikka as:  _____ 9/21/05
Francis S. Taimanao Fecha
Dirktot, DPS Fire Division

Mabreba as:  _____ 9/21/05
Santiago F. Tudela Fecha
Commissioner of Public Safety

Ma file yan Rinekod as:  _____ 9/21/05
Bernadita B. Dela Cruz Fecha
Rehistradoran Commonwealth

Rinisibi as:  _____ 9/21/05
Thomas A. Tebuteb Fecha
Special Assistant for Administration

Sigun 1 CMC papa seksiona 2153 ni inamenda ni Lai Publiku 10-50, I areklamento yan regulasion ni chechetton guine esta manmarisibi yan apreba ginen Ofisinan Attorney General giya CNMI.


Pamela Brown Fecha
Attorney General

**MAN MAPRÓPONE NA AMENDASION PARA I AREKLAMENTO
YAN REGULASION SIHA NI GINIBEBIETNA I AREKLAMENTON
ADMINISTRASION POT I COMMONWEALTH FIRE SAFETY
CODE**

Annok I Aturidát I Lai:	Para u ma'amenda I areklamento yan regulasion siha sigun I Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhen Finiho yan Diniseha:	Para u ma'amenda I areklamento yan regulasion siha para u maprobeniyi <u>uniform standards</u> ni ma'otden ni Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhe pot I Man Mapropone na Regulasion siha:	Para u protehi I resonáple siha na piniligrun lina'la' yan propiedát ginen kimason pat pákpak bàm ginen soku yan I mapachan I man piligro siha na matiriát yan kosas, yan maseha háfa ni man na'ma'ñao na kondision kontra lina'la' yan propiedát kumo ma'usa yan guaha gi hálom maseha amino na fasilidát yan uriya.
Annok I Man Achule' yan/pat Inafekta na Lai, Areklamento , yan Regulasion siha:	Lai Publiku Numiru 11-56, <u>Uniform Fire Code</u> yan <u>Standards</u> ni mapublika ginen <u>International Conference</u> pot <u>Building Official</u> yan I <u>Association Western Fire Chiefs'</u>
Para Mäs Infotmasion Ágang si:	I Acting Director gi Fire as Frances S. Taimanao, gi Dibision Fire. Numirun Tilifon 664-9003/9004 osino facsimile 664-9009. Na hánao gi mailing address: Caller Box 10007, Saipan, MP 96950.

Mafecha gi este mina _____ na ha'áne gi Agostu 2005.

Ninaháлом as:


Santiago F. Tudela
Commissioner gi Sináfun Publiku

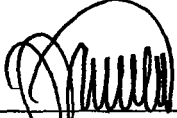
ARONGORONGOL TOULAP

**POMWOL LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM
ADMINISTRATIVE PROCEDURE MELLÓL COMMONWEALTH FIRE
SAFETY CODE**

Depattamentool Public Safety, Fire Division's Fire Prevention Section, ekke pomwoli bwe ebwe fillóoy allégh kkaal igha ebwe lemelem administrative, atotoolongol, me mwóghut ágheli Fire Safety Code mellól Commonwealth Téél Falúwasch Marianas. Alléghúl Toulap ye No. 11-56, igha ebwe atolongow alongal tánil kka llól mille Uniform Fire Code me Allegh kka e akkaté sáangi International Conference llo Building Officials me Western Fire Chief's Association. Allégh kkaal nge ebwe akkatééwow me re mweiti sáangi talil ye 7304 llól Alléghúl Toulap ye. 11-56, "Commonwealth Fire Safety Code Act sáangi 1998".


Alongal ischil mángemáng me/ aghiyegh bwelle reel ssiwelil allegh kkaal nge ebwe atotoolong llól eliigh (30) ráalil ngáre schagh aa allégheló mellól Commonwealth Register ngáli Depattamentool Public Safety, Fire Division, Fire Prevention Section, Jose Sablan's Building, Caller Box 10007, Seipel, me MP 96950.

Alúghúlúgh sáangi:


Francis S. Taimanao
Acting ngali Samwoolul Fire Division


9/21/05
Rál

Allégh sáangi:


Santiago F. Tudela
Samwoolul Public Safety

9/21/05
Rál

Ammwel sáangi:


Bernadita B. Dela Cruz
Commonwealth Registrar

9/22/05
Rál

Mwir sáangi:

Thomas A. Tebuteb
Sów Alillisil Sów Lemelem

9/22/05
Rál

Sáangi allégh ye 1CMC tánil 2153 iye aa ssiweló mereel Alléghúl Toulap 10-50, allégh kkaal ikka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Pamela Brown, Sow Bwungul Allegh Lapalap

Rál

ARONGORONGOL TOULAP

**LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM ADMINISTRATIVE
PROCEDURE MELLÓL COMMONWEALTH FIRE SAFETY CODE**

Akkatéél bwángil: Rebwe fillóoy allégh kkaal bwelle reel Commonwealth Fire Safety Code, Alléghúl Toulap ye 11-56.

Aweweel pomwol lliwel: Rebwe fillóoy allégh kkaal igha rebwe ayoora Uniform Standards iye e towoow mereel Commonwealth Fire Safety Code, Alléghúl Toulap ye. 11-56.

Aweweel pomwol allégh: Rebwe ammwela fischiy reel mwóghútúl melaw me bwuley mereel kkapasal angat me meeta kka e ghal llesch mellól leliyel isiis, akkamwaschul me yáyáál meeta kka e ammesagh, matiriyód me peirágh kkaal, me sáangi weires kka emmwel ebwe toori malawal aramas me falúw ye re yááli me yááyá ngáli iimw me bwuley kkaal.

Akkatéél bwángil akkááw allégh: Alléghúl Toulap ye. 11-56, Uniform Fire Code me Allégh kka e toowow mereel International Conference mellol Building Officials me Western Fire Chief's Association.

Reel ammataf faingi: Acting ngali Samwool reel Fire Francis S. Taimanao, Fire Division. Numerool tilifoon 664-9009. Mailing Addres: Caller Box 10007, Siepel, MP, 96950

Rállil ye _____ llól Agosto 2005.

Isaliyallong:



Santiago F. Tudela
Samwoolul Public Safety

Section 1000. Authority:

The Department of Public Safety Fire Division, Fire Prevention Section shall have the legal authority to enforce laws and regulations promulgated pursuant to the authority of Public Law 11-56, "Commonwealth Fire Safety Code" and all other adopted codes and standards.

Section 1001. Purpose:

The purpose of these rules and regulations is to govern the administration, implementation of governing Public Law 11-56, "Commonwealth Fire Safety Code."

Section 1002. Cooperation with other agencies;

- A. Other government agencies involved in reviewing plans for a new building and/or renovation of an existing building, or construction of underground and above ground storage tanks for flammable liquid and combustible liquid shall inform the applicant/business owner to obtain clearance from Fire Prevention Section in writing of such plans which pertain to Fire Safety in nature.
- B. Officials of other government agencies involved in permitting and/or Licensing of the following activities mentioned in section 1010, shall ensure clearance from the Fire Prevention Section is obtained prior to issuing permits and/or license.

Section 1003. Existing Buildings:

- A. The Fire Chief or his representative from the Fire Prevention Section shall have the authority to inspect existing building if he/she believes an imminent danger exist or has reason to believe that it is an unsafe building.
- B. At anytime a complaint is received by the Fire Division, Fire Prevention Section regarding a building having hazardous or unsafe conditions, The Fire Director or his designee may request to the owner to inspect the premises.

Section 1004. Unsafe Structures:

- A. Any building, dwelling, or structures found unsafe will be given notice of abatement. This notice will serve as a temporary closure of building and or operation until such time deficiencies rendering it unsafe is rectified.

Section 1005. Certificate of Fire:

- A. Any person whose house, property, or business establishment is damaged by fire will be given 3 working days prior to picking up Certificate of Fire report from the Fire Prevention office. This document will be sufficient for justification in requesting assistance from any organization.

- B. The office of Fire Prevention Section will not issue investigation report to any person without written permission from the Commissioner of Public Safety and/or Director of Fire. It will be the responsibility of the client to obtain approval from the Commissioner of Public Safety and/or Director of Fire before any report, other than certificate of Fire report, to be released.

Section 1006. Fireworks:

- A. It shall be unlawful for any person or business to distribute, store, or sell Class "C" Fireworks without a valid permit from the Fire Prevention Office.
- B. It shall be unlawful for any person or business to store, use, or sell Class "B" fireworks without approval from the Governor's office. After approval from the governor, office of Fire Prevention Section must be advised regarding such activities.

Section 1007. Fire Hydrant:

- A. It shall be unlawful for any person to use or draw water from any fire hydrants without proper written permission from the Director of Fire. Any person found will be cited for tampering with fire appurtenances.
- B. Any person who wish to use or draw water from a fire hydrant must obtain permit from the Fire Division. They will also be required to obtain clearance from the Commonwealth Utilities Corporation prior to obtaining permit from Fire Division.
- C. It shall be the responsibility of Fire Division to perform periodic maintenance on fire hydrants to determine serviceability, water pressure during peak and regular hours, landmark hydrants so that locating it would not be a problem during night or inclement weather. Any hydrants found with major damage shall be reported to proper agency for repair or removal.
- D. Any person or motorist responsible for damaging any hydrants will be liable for the cost of repairing the hydrant or for a new replacement.

Section 1008. Inspections For New Permits

I. First Inspection

- A. The Inspector shall conduct the inspection, if code compliance has been obtained, the permit will be processed. There is no charge for this First Inspection, it is included in the permit fee which payment must be received by the Commonwealth of the Northern Marianas Island (CNMI) Treasury, before permit is issued (see Issuance of permit schedule).
- B. If code compliance has not been obtained, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code, and, providing adequate time between inspection, dependent on the hazard and danger created by the

violations and the complexity of the work to be done, but generally, within 15 to 30 days or as felt adequate by the business owner, a schedule for "First Reinspection" date and time, to verify code compliance. Note: First Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).

- C. In all cases, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit and First Reinspection fees shall be payable to the CNMI Treasury, before the permit is issued (see Inspection Fee and Fees for Issuance of Permits schedules).
- B. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger create by the violation and the complexity of work to be done, but generally, within 15-30 days or as felt appropriate by the business owner, schedule a Second Reinspection date and time, to verify code compliance. Note Second Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).
- C. In all case, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report from(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit, First and Second Reinspection fee must be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of permits Schedules).
- B. If code compliance has not been obtained on the Third Inspection or the Second Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to done, but generally, within 1-15 days or as felt appropriate by the business owner, schedule a Third Reinspection date and time, to verify code compliance. Note: Third Reinspection will be at a fee double the Second Reinspection fee and payable to the CNMI Treasury, when code compliance is obtained and before permit is issued. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).

- C. In all case, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit. First, Second, and Third Reinspection fees must be shall be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of Permit Schedules). Note: Third Reinspection shall be at a fee double the Second Reinspection fee. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).
- B. If code compliance has not been obtained by the Fourth Inspection or Third Reinspection, the reinspection will continue in the fashion as previous inspection until compliance with the fire code has been obtained.
- C. In all cases, inspection report(s) shall be filled out the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

Section 1009. Unannounced Inspections for Existing Permit Holders

Unannounced inspections may conducted by any designated official of the Department of Public Safety Fire Division Fire Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The Fire Division's intention is to protect the integrity of its fire prevention program; to take reasonable measures to ensure that fire code compliance is continually maintained and not just occasionally on or about permit renewal date or on notice of inspection possibility; and to address citizen concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violations found if necessary; obtain all signatures indicated on the report form(s); and issue a copy of the report(s) to the person responsible for the premises and, fines. No inspection fee shall be imposed in this case.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a first inspection fee; and identify for the person responsible for the premises, specific violations of the applicable code and, dependent of the hazard and danger created by the violations and the complexity of the work to

be done, but generally, it is shall be the discretion of the inspector to impose the time frame for next inspection.

- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued upon the second inspection or first reinspection. If violations are encountered.
- D. Payments of fines must be paid to the CNMI Treasury 30 days of the first reinspection. If permit renewal date should fall within the 30 days, fines, and the regular permit fee shall all be due upon request for permit renewal.

II. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on the violations found; impose first reinspection fee; and inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.
- B. If code compliance has not been obtained by the second inspection or the first reinspection, the inspector shall issue a citation, fines depending on the violation(s) of the applicable code; impose a first reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally to be determined by the inspector, schedule a second reinspection date and time to verify compliance.
- C. Payment of fines, First Inspection and First Reinspection fees must be paid to the CNMI Treasury within 30 days of First Reinspection. If permit renewal date should fall within the 30 days, fines, first Inspection and First Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- D. In all cases, an inspection report shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a second reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines.
- B. If code compliance has not been obtained by the third inspection or the second reinspection, the inspector shall impose a second fee; providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done to be determined by the inspector,

schedule a third reinspection date and time to verify compliance; and issue a citation, a fine based on the fine fee schedule.

- C. The inspector should mention the possibility of permit being revoked and cessation of business operations. The fines issued at this point will be added to those already issued.
- D. Payment of fines, First Inspection, First and Second Reinspection fees must be paid to the CNMI Treasury within 30 days of Second Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First and Second Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a third reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and cessation of business operations.
- B. Payment of fines, First Inspection, First, Second Third Reinspection fees must be paid to the CNMI Treasury within 30 days of Third Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First, Second and Third Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- C. If code compliance has not been obtained by the fourth inspection or the third reinspection, the inspector shall impose a third reinspection fee; issue the person responsible for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operations due to a revoked permit; and place a sign at the entry points of the establishments stating, in effect, closure by order of the Department of Public Safety Fire Division Fire Prevention Section, and the reason(s) for closure.
- D. The business owner shall not resume business operations until hazards have been abated; a fourth reinspection is conducted and applicable code compliance has been obtained, it shall be the business owner's responsibility to call the Fire Prevention Section to coordinate the date and time of fourth reinspection; all fines, first inspection, first, second, third and fourth reinspection fees are paid, submitting receipts of payment as proof of payment; and an authority from the Fire Prevention Section has removed all posted signs and tags from the establishment.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the form(s); and a copy given to the person responsible for the

premises. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1010. Unannounced Inspections For Others Regulated by the UFC.

Unannounced inspections may be conducted by any designated official of the Department of Public Safety Fire Division, Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The D.P.S Fire Division, Prevention Section's intention is to protect the integrity of its Fire Prevention Program; to take reasonable measures to ensure that all fire code compliance is continually maintained and not just occasionally on or about Business License clearance date or on notice of inspection possibility; and to address concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating the owner, operator, occupant, and premises or other person responsible for that which is regulated by the applicable code, are in compliance with code. No inspection fee will be required.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a First Reinspection fee; and identify for the owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, specific violation of the code and, dependent on the hazard and danger created by the violations and complexity of the work to be done, but generally within 15-30 days, schedule a First Inspection date and time to verify code compliance. NOTE: First Reinspection will be at a fee in accordance with Section 1013 under "First Reinspection."
- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued after the second reinspection or depending on the violation involved.
- D. In all cases, proof of fee payment or receipt shall be presented to the Fire Prevention Office before the Second Inspection or First Reinspection is conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, and premises or other responsible for that which

is regulated by the applicable code, are in compliance with the code. Fee in accordance with Section 1013 under "First reinspection" shall be imposed.

- B. Payment of fines and First Reinspection fees must be received by the CNMI Treasury, within 30 days after the First Reinspection was conducted. If involved is a business, and Business License clearance date should fall within the 30 days, fines and First Reinspection fees shall all be due upon request for Business License clearance.
- C. If code compliance has not been obtained on the Second Inspection or the First Reinspection, the inspector shall issue a "Warning of Violation", depending on violation of the applicable code; imposed a Second Reinspection or Third Inspection fee and, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and complexity of the work to be done, but generally, within 10-15 days, schedule a Third Reinspection date and time to verify code compliance.
- D. In all cases, Inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, or person responsible for the premises or other person responsible for that which is regulated by the applicable code, are in compliance with the applicable fire code;
- B. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; schedule a Third Reinspection date and time to verify compliance, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days; and issued a citation, a fine based on the Fine Fee Schedule.
- D. If involved is a business, the inspector should mention the possibility of business license being revoked and cessation of business operation. (See Section 1013 for fines for each violations of the applicable code).

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, is/are in compliance with the code.
- B. If involved is a business, and code compliance has not been obtained by the Fourth Inspection or the Third Reinspection, the inspector shall issue the person responsible

for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operation due to hazards; and place a sign of establishment stating, in effect, closure by order of the DPS Fire Division Prevention Section and the reason(s) for closure.

- D The business owner shall not receive Business License clearance from the DPS Fire Division Prevention Section nor resume business operation until hazards have been abated; a Fourth Reinspection is conducted and applicable code compliance has been obtained (business owners are responsible to contact DPS Fire Division Prevention Section to coordinate the date and time); all fine payable to CNMI Treasury have been recieved, and an authorized DPS Fire Division Prevention Section Official has removed all posted signs and tags from the establishment.
- E. In all cases, proof of payment or receipts must be presented to the Fire Prevention Section before any inspection could be conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and copy given to the person responsible for that which is regulated by the code. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1011. Inspections For Permit Renewal

I. First Inspection

- A. The Inspector shall conduct the inspection. If applicable code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violation if necessary; obtain all signatures indicated on the report form(s); and issue a copy of report(s) to the person responsible for the premises and, if applicable, inform the same that repeat violations that encountered in future inspection may result in fines. There is no charge for this First Inspection, it is included in the permit fee which must be received, along with fines, by the Commonwealth Northern Mariana Island (CNMI), Treasury, before permit is renewed (see issuance of Permit Schedule).
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code; issued a citation, fines depending on violation if necessary; and, providing adequate time between inspection, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days, schedule a First Reinspection date and time, to verify code compliance.

First Reinspection fee and fines shall be payable to the CNMI, Treasury when code compliance is obtained and before permit is issued (see Inspection Fee Schedule)

- C. Citations normally will not be issued on the First Inspection. When routine violation of the applicable fire code are encountered, citations will generally be issued upon the Second Inspection or First Reinspection, if violations are encountered.

Exception: Citation issued for violations which present imminent life hazards such as trespassing in a closed area, smoking in closed or restricted areas, failure to obey the lawful orders of a fire inspector, faulty equipment or procedures, repeated violations of a similar nature will not required prior notice.

- D. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on violations if necessary; impose a First Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspection may result in fines.

- B. Payment of fines, First Reinspection fee and regular permit fee must payable to the the CNMI, Treasury before permit is renewed (see Inspection Fee and Fees for the Issuance of permit schedule.

- C. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall issue a citation, a fine depending on the violation of the applicable code; impose a First Reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of work to be done, but generally, within 1-15 days, schedule a Second Reinspection date and time, to verify compliance. Note Second Reinspection fees will the double First Reinspection fee (see Inspection Fee Schedule). Continued violations encountered upon Second Reinspection may result in citation, fines based on violation(s).

- D. In all case, inspection report shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Second Reinspection fee; inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.

- B. Payment of fines, First Reinspection and Second Reinspection fees, and regular permit fee must be received by the CNMI Treasury, before permit is renewed (see Inspection Fee Schedule and Fine Schedule).

- C. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; providing adequate time for compliance between inspections dependent on the hazard and danger created by the violation, but generally, within days, schedule a Third Reinspection date and time to verify compliance; and issue a citation, a fine based on the violation.
 - D. The inspector should mention the possibility of permit being revoked and cessation of business operation. The fine(s) issued at this point will be added to those already issued. Note Third Reinspection fee shall be double the Second Reinspection Fee (see inspection Fee schedule).
 - E. In all cases, the inspection report(s) shall be filled out by the inspector, signed by all parties indicating on the report form(s); and a copy given to the person responsible for the premises.
- IV. Fourth Inspection or Third Reinspection.**
- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Third Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and/or cessation of business operations.
 - C. Payment of fines, First, Second and Third Reinspection fees, and regular permit fee must be received by the CNMI, Treasury before permit is renewed.

Section 1012. Permits;

General; Any person, firm, or corporation who plans to engage in any of the following activities listed below, shall obtain permit from the Fire Division Fire Prevention Section. Prior to issuance of any permit, an application for permits and other necessary documents required by the Fire Prevention section must be submitted for review and scheduling of inspection if deemed necessary. Fees for each activity shall be payable to the

TYPE OF PERMIT	FEE	DURATION	CODE SECTION
Aerosol Products To store or handle an aggregate quantity of level 2 or level 3 aerosol products in excess of 500 lbs. net wt	\$20.00	Annually	UFC ARTICLE 88
Aircraft Refueling Vehicles To operate aircraft refueling Vehicles.	\$20.00	Annually	UFC ARTICLE 24
Aircraft Repair Hangar	\$20.00	Annually	UFC

To use any structure as an aircraft Hangar for Servicing or repair aircraft.			ARTICLE 24
Asbestos Removal To conduct asbestos-removal operations.	\$20.00	Annually	UFC ARTICLE 87
Automobile Wrecking Yark To operate an automobile wrecking yard.	\$20.00	Annually	UFC ARTICLE 34
Bowling Pin or Alley Refinishing To conduct a bowling pin refinishing or bowling alley resurfacing operation involving use and application of flammable liquids or materials.	\$10.00	Each Occurance	UFC ARTICLE 26
Candles and Open Flame Devices in Assembly areas To use open flame or candles in connection with Assembly areas, dining areas of restautants or Drinking establishments.	\$20.00	Annually	UFC ARTICLE 25
Carnivals and Fairs To conduct a carnival or fair (plans of grounds Required) To conduct a concession booth.	\$10.00 \$10.00	Each Occurance Each Occurance	UFC ARTICLE 25
Cellulose Nitrate Film To store, handle, use or display	\$20.00	Annually	UFC ARTICLE 33
Cellulose Nitrate Storage or Handling To store or handle more than 25 lbs.	\$20.00	Annually	UFC ARTICLE 27
Christmas Trees To use natural or resin-bearing cut trees in Public Areas.	\$10.00	Each Occurance	UFC APPENDIX IV-B
Combustible Fiber To store or handle more than 100 cu. Ft (exception: exterior storage of hay, straw, and similar agricultural materials).	\$20.00	Until Revoked	UFC ARTICLE 28
Combustible Materials To store more than 2500 cu. Ft. gross volume of Cumbustible empty packing cases, boxes, barrels or Similar containers, or rubber or cork. or other Similarly combustibile material.	\$20.00	Annually	UFC ARTICLE 11
Commercial Rubbish-Handling Operation To operate a commercial handling operation	\$20.00	Annually	UFC ARTICLE 11
Compressed Gases If compressed gases is in excess of amounts listed in UFC Table 105-A. Note: Additional requirements and exceptions in UFC Articles 74, 80, and 82. To store, transport on site, dispense, use or handle To install, repair, abandon, remove, place temporarily out of service, close or substantially modify a compress gas system.			UFC ARTICLE 74, 80, and 82.
Corrosive-Any amount	\$20.00	Annually	
Flammable-More than 200 cu. Ft. (except cryogenic fluids and liquified petroleum gas.			
Highly Toxic-any amount	\$20.00	Annually	
Inert- More than 6,000 cu. Ft.	\$20.00	Annually	
Oxidizing (including oxygen)-More than 500 cu. Ft.	\$20.00	Annually	
Pyrophoric- Any amount	\$20.00	Annually	
Radioactive- Any amount	\$20.00	Annually	
Toxic- Any amount	\$20.00	Annually	
Unstable (reactive)- Any amount	\$20.00	Annually	

Cryogenics To produce, store, or handle cryogenics in excess of the Amounts listed in Table 105-B. Exceptions: where federal or local regulations apply, and for fuel systems for vehicle.			UFC ARTICLE 75
Corrosive Over 1 gallon inside building Over 1 gallon outside building	\$20.00	Annually	
Flammable Over 1 gallon inside building Over 60 gallon outside building	\$20.00	Annually	
Highly Toxic Over 1 gallon inside building Over 1 gallon outside building	\$20.00	Annually	
Non-Flammable Over 60 gallon inside building Over 5000 gallon outside building	\$20.00	Annually	
Oxidizer (include oxygen) Over 50 gallons inside building Over 50 gallons outside building	\$20.00	Annually	
Dry Cleaning Plants To engage in business or to change to a more Hazardous substance.	\$20.00	Annually or Each Occurance	UFC ARTICLE 36
Dust Producing Operations To operate a grain elevator, flour starch mill, feed mill or plant pulverizing aluminum, coal, cocoa, magnesium, spices, sugar, or other material producing combustible dust as define in article 2.	\$20.00	Annually	UFC ARTICLE 30 and 76
Explosives or Blasting Agents Note: Additional requirements and exceptions in UFC Article 80. Permit shall be obtained: To manufacture, posses, store, sell, display or Otherwise dipose of explosive materials at any Location. To transport explosive materials To use or handle explosive materials To operate a terminal for handling explosive material.	\$20.00 \$20.00 \$20.00 \$20.00	Each Occurance Each Occurance Each Occurance Annually	UFC ARTICLE 77 and 80
Fire Hydrants and Water-Control Valves To use a fire hydrant or operate a water control valve Intended for fire-suppression purposes. (joint Approval with authority having jurisdiction)	\$10.00	Each Occurance	Public Law 11-56 Section 7311 UFC ARTICLE 9
Fireworks To conduct Fireworks display.(Fireworks 1.3G) Note: For Fireworks 1.3G Class "B", an approval Must be obtained from the governor prior to issuance	\$100.00	Each Occurance	Public Law 11-98 Section 7312 UFC ARTICLE 78.

Of permit. To use, store, handle fireworks 1.4G. (permit shall be Required by wholesalers and/or distributors of Fireworks 1.4G, commonly known as Class "C" Fireworks).	\$20.00	Annually	
Flammable and Combustible Liquids Exceptions: 1. As otherwise provided in other laws or regulations. 2. Alcoholic beverages in retail sales or storage uses, provided the liquids are packaged in an individual containers not exceeding 4 liters. 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable in retail sales or storage uses when packaged in individual containers not exceeding 4 liters. 4. Storage and use of fuel-oil tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and the Mechanical code. For abandonment of tanks, article 79 shall apply. 5. Refrigerant liquids and refrigerant oils within an approved closed-cycle refrigeration system complying with the Mechanical code. See Article 63. 6. Storage and display of aerosol products. See Article 88 7. Materials which are solid at 100 degrees F. or above. 8. Storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons. Permits shall be obtained: To use or operate, install, repair or modify a pipeline for the transportation of flammable or combustible liquids. To store, handle or use Class I liquids More than 5 gallons in a building. More than 10 gallons outside of a building. Exceptions: (I) Storage or use of class I liquids in the Fuel tank of a motor vehicle, aircraft, motorboat, Mobile power plant or mobile heating plant unless Such storage, in the opinion of the chief, would cause An unsafe condition. (II) The storage or use of paints, Oils, varnishes or similar flammable mixtures when Such liquids are stored for maintenance, painting or Similar purposes for a period of not more than 30 Days. To store, handle or use class II or class III-A liquids More than 25 gallons in a building Exceptions: (I) Fuel oil used in connection with oil-burning Equipment. More than 60 gallons outside a building. Exception: Fuel oil used in connection with oil -burning equipment. To remove class I or class II liquids from an	\$20.00 \$20.00 \$20.00 \$20.00 \$20.00 \$20.00	Annually Annually Annually Annually Each Occurance Each Occurance	UFC ARTICLE 79

<p>Underground storage tank used for fueling motor Vehicles by any means other than the approved, Stationary on-site pumps normally used for Dispensing purposes.</p> <p>To install, construct, alter or operate tank vehicles, Equipment, tanks, plants, terminals, wells, fuel -dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed, or used.</p> <p>To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 gal. \$20.00 Each Occurance Over 10,000 gal. \$20.00 Each Occurance</p> <p>To change the type of contents stored in a flammable or combustible liquid tank to a material other than that for which the tank was designed and constructed.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 \$20.00 Each Occurance Over 10,000 \$20.00 Each Occurance</p>	\$20.00	Annually	
<p>Fruit Ripening Processes In heated rooms and ripening processes where Ethylene gas is introduced into the room to assist the Ripening process.</p> <p>To operate a fruit ripening process.</p>	\$20.00	Annually	UFC ARTICLE 46
<p>Fumigation or Thermal Insecticidal Fogging Note: see article 80 for additional requirements and Exceptions.</p> <p>To Operate a business of fumigation or thermal Insecticidal fogging or to maintain a fumigation room, vault or chamber in which a toxic or flammable fumigant is used.</p>	\$20.00	Annually	UFC ARTICLE 47
<p>Hazardous Materials To store, transport on site, dispense, use or handle Hazardous materials or to install, repair, abandon, Remove, place temporarily out of service, close or Substantially modify a storage facility or other area Regulated by UFC Article 80 when the hazardous Materials in use or storage exceed amounts listed in UFC Table 105-C. Note: The hazardous materials that exceeds the permit amount shall be used in determining the hazard classification. If more than one hazardous material involved, the material that fit within the highest hazard classification described herein shall be used. The measurement method used in the UFC for the respective Hazardous materials shall be applicable.</p> <p>Minor Hazard Solids: not to exceed 500# of permit amount. Liquid: not to exceed 55 gals. of permit amount.</p>	\$20.00 \$20.00	Annually Annually	UFC ARTICLE 80

Gases: not to exceed 200-cu. Ft. of permit amount.	\$20.00	Annually	
Moderate Hazard Solid: 501-5000 lbs. (excess of permit amount)	\$30.00	Annually	
Liquid: 56-550 gals. (excess of permit amount)	\$30.00	Annually	
Gases: 201-2000 cu. Ft. (excess of permit amount)	\$30.00	Annually	
Major Hazard Solid: 5001-25000 lbs. (excess of permit amount)	\$40.00	Annually	
Liquid: 551- 2750 gals. (excess of permit amount)	\$40.00	Annually	
Gases: 2001-10000 cu. Ft. (excess of permit amount)	\$40.00	Annually	
Extreme Hazard Solid: 25001 lbs. and over (excess of permit amount)	\$50.00	Annually	
Liquid: 2751 gals. and over (excess of permit amount)	\$50.00	Annually	
Gases: 10001 cu.ft. and over (excess of permit amount)	\$50.00	Annually	
Special Hazard Based on type of occupancy, size, location, quantity and degree of hazard.	\$100.00	Annually	
Hazardous Production Materials To store, handle or use in group H, Div. 6 occupancy	\$20.00	Annually	UFC ARTICLE 51
High-Piled Combustible Storage To use any building or portion there of exceeding 2,500 sq.ft. for high-piled combustible storage (floor plan required)	\$20.00	Annually	UFC ARTICLE 81
Hot-Work Operations Permits are required for hot work including, but not limited to:			UFC ARTICLE 49
Public exhibitions and demonstrations where hot work is conducted.	\$20.00	Annually	
Use of portable hot-work equipment inside a Structure. Exception: Work that is conducted under a construction permit issued by the building official.	\$20.00	Annually	
Fixed-site hot-work equipment such as welding Booths.	\$20.00	Annually	
Hot-work conducted within a Hazardous fire area.	\$20.00	Annually	
Liquified Petroleum Gas To store, use, handle or dispense LP-gas Portable containers equal to or more than 125-gal. Aggregate water capacity but not more than 4,000 -gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.	\$20.00	Annually	UFC ARTICLE 82
Containers over 4,000 gals. aggregate water capacity or a container more than 2,000 gal. Water capacity.	\$20.00	Annually	
To Install or maintain LP-gas Portable containers equal to or more than 125-gals. Aggregate water capacity but not more than 4,000	\$20.00	Annually	

-gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.			
Containers over 4,000-gals. aggregate water capacity or a container more than 2,000-gals. water capacity. (Plans Required). Note: Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the Fire Chief or his authorized representative. Note: Installers shall maintain a record of installations for which a permit is not required by Section 105 and have such record available for inspection by the Fire Inspectors. Exception: Installation of a gas-burning appliance and replacement of portable cylinders.	\$20.00	Annually	
Liquid-or Gas-Fueled Vehicles or Equipment in Assembly Buildings. To display, compete or demonstrate liquid-or gas -fueled vehicles or equipment in assembly buildings.	\$20.00	Each Occurance	UFC ARTICLE 25
Lumber Yards To store lumber in excess of 100, 000 board feet.	\$20.00	Annually	UFC ARTICLE 30
Magnesium Working To melt, cast, heat treat, or grind more than 10 lbs. of Magnesium per working day.	\$20.00	Annually	UFC ARTICLE 48
Mall, Covered Permits shall be obtained to use a covered mall in the Following manner: To place or construct temporary kiosks, display Booths, equipment or the like in a mall. To use a mall as a place of Assembly To use open-flame or flame-producing devices To display any liquid or gas-fueled powered Equipment.	\$20.00 \$20.00 \$20.00 \$20.00	Each Occurance Each Occurance Each Occurance Each Occurance	UFC ARTICLE 35
Marinas To use open-flame devices for maintenance or repair of vessels, floats, piers or wharves To use portable barbecues, braziers or cooking Devices on vessels, floats, piers or wharves.	\$20.00 \$20.00	Annually Annually	UFC ARTICLE APPENDIX II-C
Motor Vehicle Fuel-Dispensing Stations To dispense flammable or combustible liquids, Liquefied petroleum gases or compressed natural gas at motor vehicle fuel-dispensing stations. (plans and specifications required) Note: Such operations shall include both public and private Accessible operations, automotive, marine fuel-dispensing stations.	\$20.00	Annually	UFC ARTICLE 52
Open Burning (not including barbecue) To conduct open burning	\$5.00	Annually or	UFC ARTICLE 11

(Joint approval with Division of Environmental Quality). Note: Open burnig is the burning of a bonfire, rubbish fire or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.		Each Occurance	
Organic Coatings To manufacture more than one gallon of organic Coating in a working day. Exception: Processes manufacturing nonflammable or water-Thinned coating and operations applying coating materials.	\$20.00	Annually	UFC ARTICLE 50
Ovens, Industrial Baking or Drying To operate an industrial baking or drying oven. Note: Industrial baking and drying which are heated with oil or gas fuel or which during operation contain flammable vaports from the products being baked or dried. (Plans of details and calculations required)	\$20.00	Annually	UFC ARTICLE 62
Parade Floats To use a parade float for public performance, Presentation, spectacle, entertainment, or parade each float.	\$10.00	Each Occurance	UFC ARTICLE 11
Repair Garages To use a structure as a place of business for servicing or repairing motor vehicles.	\$20.00	Annually	UFC ARTICLE 29
Rifle Ranges To establish, maintain or operate a rifle range. Note: Application must be referred to Police Division for approval	\$20.00	Annually	UFC APPENDIX II-D
Spraying or Dipping To conduct a spraying or dipping operation utilizing Flammable or combustible liquids or combustible Powders	\$20.00	Annually	UFC ARTICLE 45
Tire Storage (outdoor) To use an open area or portion thereof to store tires in excess of 1,000 cu.ft. (plans required)	\$20.00	Annually	UFC ARTICLE 11
Refrigeration Equipment A permit is required for regridgeration unit or system installations having a refrigerant circuit containing more than 220 lbs. of group A1 or 30 lbs. of any other group refrigerant.(plans and specification Required) To install or operate a mechanical refrigeration unit or system.	\$20.00	Annually	UFC ARTICLE 63
Tent, Canopies, and Temporary Membrane Structures To erect or operate a tent or air-supported temporary Membrane structure or a canopy.(except for camping) Tent or air-supported membrane more than 200 sq.ft. Canopy over 400 sq.ft. Note: Permit not to exceed 180 days within a 12 month period.	\$20.00 \$20.00	Each Occurance Each Occurance	UFC ARTICLE 32

Section 1012. Fines for Violations of the Code.

UFC SECTION	OFFENSE	
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103.4.3.1	Noncompliance with Orders or Notices.	\$500.00
103.4.3.2	Noncompliance with Tags.	\$500.00
103.4.3.3	Removal and Destruction of Tags and Signs.	\$500.00

Where work for which a permit is required is started or proceeded prior to obtaining said permit, the following fines shall apply.

Facility Value	Fine
\$1 - \$500	\$10.00
\$501 - \$2,000	\$25.00
\$2,001 - \$25,000	\$100.00
\$25,001 - \$50,000	\$200.00
\$50,001 - \$100,000	\$500.00
\$100,001 - \$500,000	\$1,000.00
\$500,001 - \$1,000,000	\$5,000.00
\$1,000,001 - UP	\$10,000.00

All other violations are \$75.00 and court costs. Fines are forfeitable on first offense and mandatory appearance is required on second offense.

UFC SECTION	VIOLATIONS	FINE
Section 101	Failure to comply with nationally recognized standards.	\$50.00
Section 101.2	Violation of provisions for the administration of any and all laws relating to firesafety.	\$75.00
Section 103.2.1.1	Violation of provisions for the prevention of fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the suppression or extinguishment of dangerous or hazardous fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the storage, use and handling of hazardous materials,	\$50.00
Section 103.2.1.1	Violation of provisions for the installation and maintenance and regulation of fire escapes.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under constructions.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of exits.	\$50.00
Section 103.2.1.1	Violation of the provisions for the investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.	\$50.00
Section 105	Violation of provisions for permits.	\$50.00
Section 105.8	Failure to have a required permit	\$50.00
Section 901.1	Violation of provisions for fire department access and water supply.	\$50.00
Section 1001.1	Violation of provisions for fire protection systems and equipment.	\$50.00
Section 1101	Violation of provisions for general safety precautions	\$50.00
Section 1201.1	Violation of provisions for the maintenance of exits and emergency escapes.	\$50.00
Section 1301.1	Violation of provisions for reporting of emergencies, emergency plans and emergency procedures.	\$50.00
Section 2401.1	Violation of provisions for airports, heliports, helistops, and aircraft hangers (Authority having Jurisdiction).	
Section 2501.1	Violation of provisions for places of assembly.	\$50.00
Section 2601	Violation of provisions for the storage, uses and handling of flammable and combustible liquids and woodworking operations within bowling alleys and	\$50.00

	pin-refinishing rooms.	
Section 2701	Violation of provisions for cellulose nitrate plastics (pyroxylin) storage and handling.	\$50.00
Section 2801	Violation of provisions for the storage and handling of combustible fibers.	\$50.00
Section 2901	Violation of provisions for garages used for service or repair of motor vehicles.	\$75.00
Section 3001	Violation of provisions for woodworking plants and exterior lumber storage.	\$75.00
Section 3201	Violation of provisions for tents and temporary membrane structures having an area in excess of 200 sq. ft., and canopies in excess of 400 sq. ft..	\$75.00
Section 3301	Violation of provisions for the storage and handling of cellulose nitrate motion picture film (nitrate film).	\$75.00
Section 3401	Violation of provisions for automobile wrecking yards.	\$50.00
Section 3501	Violation of provisions for the temporary use of the common pedestrian area within a covered mall building for promotional, educational, assembly, sales or similar activities.	\$75.00
Section 3601.1	Violation of provisions for dry-cleaning plants and systems.	\$75.00
Section 4501.1	Violation of provisions for: 1. The application of flammable or combustible paint, varnish, lacquer, stain or other flammable or combustible liquid applied as spray by compressed air, airless, or hydraulic atomization, steam, electrostatic or other methods or means in continuous or intermittent process, 2. Dip tank operations in which articles or materials are passed through contents of tanks, vats or containers of flammable or combustible liquids, including coating, finishing, treatment and similar processes, and 3. The application of combustible powders by powder spray guns, electrostatic powder spray guns, fluidized beds or electrostatic fluidized beds.	\$75.00
Section 4601	Violation of provisions for fruit-ripening processes in heated rooms and ripening processes where ethylene gas is introduced into a room to assist the ripening process.	\$75.00
Section 4701	Violation of provisions for fumigation and thermal insecticidal fogging operations.	\$75.00
Section 4801	Violation of provisions for the storage, handling and processing of magnesium, including the pure metal and alloys of which the major part is magnesium.	\$75.00
Section 4901	Violation of provisions for welding and cutting operations.	\$75.00
Section 5001	Violation of provisions for processes manufacturing protective and decorative finishes or coating for industrial, automotive, marine, transportation, institutional, household or other purposes, including the handling of flammable or combustible liquids, combustible solids and dust. Exception: Processes manufacturing nonflammable or water-thinned coating and operations applying coating materials.	\$75.00
Section 5101	Violation of provisions for semiconductor fabrication facilities and comparable research and development areas classified as Group H, Division 6 Occupancies.	\$75.00
Section 5201	Violation of provisions for automotive, marine, and aircraft motor vehicle fuel-dispensing, including both public accessible and private operations. (UFC Standard 52-1)	\$75.00
Section 6101	Violation of provisions for oil-burning equipment other than internal combustion engines, oil lamps and portable devices such as blow torches, melting pots and weed burners.	\$75.00
Section 6201	Violation of provisions for the location, construction and operation of industrial baking and drying ovens which are heated with oil or gas fuel or	\$75.00

	which during operation contain flammable vapors from the products being baked or dried. (UFC Standard 62-1)	
Section 6301	Violation of provisions for refrigeration unit and system installation having a refrigerant circuit containing more than 220 pounds of Group A1 or 30 pounds of any other group refrigerant. Exception: The chief is authorized to exempt temporary or portable installation.	\$75.00
Section 6401	Violation of provisions for stationary lead-acid battery systems having a liquid capacity of more than 100 gallons used for facility standby power, emergency power or uninterrupted power supplies.	\$75.00
Section 7401.1	Violation of provision for storage, use and handling of compressed gases containers, cylinder, tanks, and systems. Including those gases regulated in UFC. Partially full compressed gas containers, cylinders and tanks containing residual gases shall be considered as full for the purposes of the controls required.	\$75.00
Section 7501	Violation of provisions storage, use and handling of cryogenic fluids. Partially full containers, having residual cryogenic fluids shall be considered as full for the purposes of the controls required. Exception: Fluids within an approved closed-cycle refrigeration system complying with the mechanical code are not regulated by Article 75.	\$75.00
Section 7601.1	Violation of provisions for prevention of dust explosions.	\$75.00
Section 7701.1	Violation of provisions for manufacture, possession, storage, sale, transportation and use of explosive materials. Exception: 1. The armed forces of the United States, Coast Guard or National Guard; 2. Explosive in forms prescribed by the official United States Pharmacopoeia; 3. The sale, possession or use of fireworks 1.4G (Class C common fireworks); 4. The possession, transportation, storage, and use of small arms ammunition when packaged in accordance with DOT packaging requirements; 5. The possession, storage, transportation and use of not more than 5 pounds of commercially manufactured sporting black powder, 20 pounds of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption; 6. The transportation and use of explosive materials by the United States Bureau of Mines and federal, state and local law enforcement and fire agencies acting their official capacities; 7. Special industrial explosive devices which in the aggregate contain less than 50 pounds of explosive materials; 8. The possession, transportation, storage and use of blank industrial power load cartridges when packaged in accordance with DOT packaging requirement; 9. When preempted by federal regulation; 10. The use and handling of fireworks 1.3G (Class B Fireworks) as set forth in Article 78.	\$75.00
Section 7801	Violation of provisions for fireworks and temporary storage, use and handling of pyrotechnic special effects materials use in motion pictures, television, and theatrical and group entertainment productions.	\$75.00
Section 7901.1	Violation of provisions for storage, use, dispensing, mixing and handling of flammable and combustible liquids. Exception: 1. As otherwise provided in other laws or regulation; 2. Alcoholic Beverages in retail sales or storage uses, provided the liquids are packaged in individual containers not exceeding 4 liters; 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales or storage uses when packaged in individual containers not exceeding 4 liters; 4. Storage and use of fuel tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and Mechanical Code. For abandonment of tanks, article 79 Shall apply; 5. Refrigerant liquids and refrigerant oils within an approved Closed-cycle refrigeration system complying with the mechanical code. See Article 63; 6. Storage and display of aerosol products, see article 88; 7. Materials which are solid at 100 °F or above; 8- storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5; 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.	\$75.00

Section 8001	Violation of provisions for the prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials and information needed by emergency response personnel. Exception: 1. The quantities of alcoholic beverages, medicines, foodstuffs and cosmetics, containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales occupancies are unlimited when packaged individual containers not exceeding 4 liters; 2. Application and release of pesticide products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacture's instructions and label directions.	\$75.00
Section 8101	Violation of provisions for building containing high-piled combustible storage. In addition to the requirements of Article 81, aerosol shall be in accordance with article 88, flammable and combustible liquids shall be in accordance with Article 79, and hazardous materials shall be in accordance with Article 80.	\$75.00
Section 8201	Violation of provisions for storage, handling, transportation of LP-gas and the installation of equipment pertinent to system for such uses.	\$75.00
Section 8401	Violation of provisions for the use of ribbon-type cellulose acetate and other safety film in conjunction with electric arc, xenon or other light source projection equipment which develops hazardous gases, dust or radiation and the projection of ribbon-type cellulose nitrate film, regardless of the light source used in projection.	\$75.00
Section 8501	Violation of provisions for permanent and temporary use of electrical appliances, fixtures, motors and wiring. Exception: Low-voltage wiring, such as communications and signal wiring.	\$75.00
Section 8701	Violation of provisions for buildings undergoing construction, alteration or demolition.	\$75.00
Section 8801.1	Violation of provisions for storage and retail display of aerosol products. Exception: Level 1 aerosols in cartons which are clearly marked to identify their classification level are not regulated by Article 88.	\$75.00
Section 9001.1	Violation of provisions for the <u>Uniform Fire Code Standards</u> referred to in various parts of this code, which are also listed in Section 9002 and published in volume 2 of this code, are hereby declared to be part of this code and are referred to in this code as a "UFC standard."	\$75.00
Section 9001.2	Violation of provisions of Standard of Duty established for the recognized standards listed in section 9003 is that the design, construction and quality of materials of building, structure, equipment, processes, and methodologies be reasonably safe for life, limb, health, property, and public welfare.	\$75.00
Section 9001.3	Violation of provisions of the recognized standards listed in section 9003 are recognized standards. Compliance with these recognized standards shall be prima facie evidence of compliance with the standard of duty set forth in section 9001.2.	\$75.00
U.F.C Appendix I-A	Violation of provisions for life-safety requirements for existing buildings, other than high-rise, which do not conform with the minimum requirements of the Uniform Building Code. Exception: Group U occupancies and occupancies regulated by Appendix I-B, and Group R Division 3 occupancies, except that Group R Division 3 occupancies shall comply with section 6.	\$75.00
U.F.C Appendix I-B	Violation of Provisions for life-safety requirements for existing high-rise buildings constructed prior to the adoption of appendix I-B and which house Group B Office or Group R, Division 1 occupancies, each having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access.	\$75.00
U.F.C Appendix I-C	Violation of provisions for signs to provide information to the occupants and fire department personnel to minimize confusion during emergencies. Standardized signs shall be provided in new and existing buildings that are	\$75.00

	four or more stories in height. Such signs shall be installed in stairways to identify each stair landing and indicate the upper and lower termination of the stairway.	
U.F.C Appendix II-A	Violation of provisions for safeguards to prevent the occurrence of fire and to provide adequate fire-protection facilities to control the spread of fire which might be caused by recreational, residential, commercial, industrial, or other activities conducted in hazardous fire areas.	\$75.00
U.F.C Appendix II-B	Violation of provisions for protection of flammable and combustible liquid tanks in locations subject to flooding.	\$75.00
U.F.C Appendix II-C	Violation of provisions for marina facilities.	\$75.00
U.F.C Appendix II-D	Violation of provisions for rifle ranges.	\$75.00
U.F.C Appendix II-E	Violation of provisions for Hazardous Materials Inventory Statement (HMIS) and Hazardous Materials Management Plans (HMMP) which are required by the chief pursuant to Article 80 shall be provided for hazardous materials. Exception: 1. Materials which have been satisfactorily demonstrated not to present a potential danger to public health, safety or welfare, base upon the quantity or condition of storage, when approved. 2. Chromium copper, lead, nickel and silver need not be considered hazardous materials for the purposes of Appendix II-E unless they are stored in friable, powder or finely divided state.	\$75.00
U.F.C Appendix II-F	Violation of provisions for the storage and dispensing of motor fuels into the fuel tanks of motor vehicles from protected aboveground tanks located outside buildings.	\$75.00
U.F.C Appendix II-G	Violation of provisions for secondary containment for underground tank system containing flammable or combustible liquids. Also see C.F.R. Title 40, part 280, and UFC section 8001.4.5.1 for additional requirements related to secondary containment tanks containing hazardous materials other than flammable and combustible liquids.	\$75.00
U.F.C Appendix II-H	Violation of provisions for site assessment for determining the potential fire or explosion risk from a leak, spill or discharge from an underground flammable or combustible liquid storage tank. Also, see UFC section 7901.7.4.	\$75.00
U.F.C Appendix II-I	Violation of provisions for equipment having maximum ozone-generating capacity of 1/2 pound or more over a 24 hour period. Exception: Ozone-generating equipment used in Group R, Division 3 occupancies.	\$75.00
U.F.C Appendix II-J	Violation of provisions for storage of flammable or combustible liquids in tanks located within below-grade vaults.	\$75.00
U.F.C Appendix III-A	Violation of provisions for the procedure determining fire-flow requirements for building or portions of building hereafter constructed.	\$75.00
U.F.C Appendix III-B	Violation of provisions for fire hydrant location and distribution.	\$75.00
U.F.C Appendix III-C	Violation of provisions for inspection, testing and maintenance of water-based fire-protection systems.	\$75.00
U.F.C Appendix III-D	Violation of provisions for basement pipe inlets. Also, see UFC section 1005.	\$75.00
U.F.C Appendix IV-A	Violation of provisions for exposed floor surfaces of buildings, including coverings which are applied over a previously finished floor. Exception: Interior floor finish materials of a traditional type, such as wood, vinyl, linoleum, terrazzo, and other resilient floor covering materials.	\$75.00
U.F.C Appendix IV-B	Violation of provisions for the use of natural or resin-bearing cut trees in public buildings.	\$75.00
U.F.C Appendix V-A	Violation of provisions of Nationally recognized standards of good practice.	\$75.00
U.F.C Appendix	Violation of provisions for hazardous materials classifications. To provide	\$75.00

VI-A	information, explanations and examples to illustrate and clarify the hazard categories contained in Article 80. The hazard categories are base upon the code of Federal Regulations, Title 29. Where the numerical classifications are included.	
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Section 1014. Citation Process

A. SCOPE

The following regulations were done to prevent creating conflicting regulations with the U.F.C and at the same time, present for public awareness, review and use, a document that is useful in explaining pertinent department rules, regulations and procedures relative to inspections and citations.

The U.F.C., Uniform Building Code and other codes adopted under Public Law 11-56 were developed, and shall continually updated, with concern for consistency amongst these codes. The Fire Prevention Section intends to continue this practice, and thus, has developed these editions, and consequently, in conjunction with the editions of other codes, the department will make amendments to this document as new editions of the U.F.C. are automatically adopted; or, whenever amendments are necessary to address departmental administrative and operational needs, consistent with the U.F.C. 1997 and supplemental editions, and as determined by the chief.

This code prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazard of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

The provisions of this regulation shall supplement any and all laws relating to firesafety and shall apply to all persons without restriction unless specifically exempted. (U.F.C. section 101.2 scope.)

B. PURPOSE

1. To gain compliance with federal and local codes and regulations, when all reasonable efforts have been unsuccessful.
2. A course of action to be taken when a condition exists that causes a threat to life or property from fire and explosion.
3. It is the intent of the department to achieve compliance by traditional means of inspection, notification, granting of reasonable time to comply and reinspection. A citation shall be used only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the fire chief. Only those members of the fire division specifically designated by the fire chief may issue citation.

C. ADMINISTRATION AND ENFORCEMENT

The chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to:

1. The prevention of fires,
2. The suppression or extinguishment of dangerous or hazardous fires,
3. The storage, use and handling of hazardous materials,
4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipment,
5. The maintenance and regulation of fire escapes,
6. The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under construction,
7. The maintenance of exits, and
8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

For authority related to control and investigation of emergency scenes, see section 104. (U.F.C. section 103.2.1.1 General.)

D. CORRECTIVE ORDERS AND NOTICES

When the chief finds in any building or any premises combustibles, hazardous or explosive materials or dangerous accumulations of rubbish; or finds unnecessary accumulations of wastepaper, boxes, shaving or any highly flammable materials which are so situated as to endanger life or property; or finds obstruction to or on fire escapes, stairs, passageways, doors, or windows that reasonably tend to interfere with the operations of the fire department or the egress of the occupants of such building or premises; finds that the effectiveness of any exit door, attic separation or any fire separation wall is reduced; or finds that this code is being violated, the chief is authorized to issue orders as necessary for the enforcement of the fire prevention laws and ordinances governing the same and for the safeguarding of life and property from fire. (U.F.C. section 103.4.1 Authorization to issue corrective orders and notices. U.F.C. section 103.4.1.1 General.)

E. UNSAFE HEATING OR ELECTRICAL EQUIPMENT AND STRUCTURAL HAZARDS

When the chief deems any chimney, smokestack, stove, oven, incinerator furnace or other heating device, electric fixture or any appurtenance thereto, or anything regulated under a nationally recognized standard in or upon any building, structure or premises not specifically mentioned in this code, to be defective or unsafe so as to create a hazard, the chief is authorized to serve upon the owner or the person having control of the property a written notice to repair or alter as necessary and shall notify any other authority enforcing codes regulating such equipment. The chief is authorized to affix a condemnation tag prohibiting the use thereof until such repairs or alterations are made. When affixed, such tag shall only be removed by the order of the chief when the hazard to which the order pertains has been eliminated in an approved manner. Until removed, that item or device which has caused the hazard shall not be used or be permitted to be used.

When an apparent structural hazard is caused by the faulty installation, operation or malfunction at any of the items or devices listed in this subsection, the chief shall immediately notify the building official to investigate such hazard and cause such

hazard to be abated as required by the BuildingCode. (U.F.C. section 103.4.1.2 unsafe heating or electrical equipment and structural hazards.)

F. COMPLIANCE WITH ORDERS AND NOTICES

Orders and notices issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains, In cases of extreme danger to persons or property, immediate compliance is required.

If the building or other premises is not owner occupied, under lease or otherwise, and the order or notice requires additions or changes in the building or premises which would immediately become real estate and be the property of the owner of the building premises, such orders or notices shall be complied with by the owner. (U.F.C. section 103.4.3.1 Compliance with orders and notices.)

EXCEPTION: *When the owner and the occupant have agreed otherwise between themselves, in which event the occupant shall comply.*

G. COMPLIANCE WITH TAGS

A building, premises or thing shall not be used when in violation of this code as noted on a tag affixed in accordance with Section 103.4.1. (U.F.C. Section 103.4.3.2. Compliance with tags.)

Permit applicants and the applicants' agents and employees shall carry out the proposed activity in compliance with this code and other laws or regulations applicable thereto, whether specified or not, and in complete accordance with approved plans and specifications. Permits which purport to sanction a violation of this code or any applicable law or regulation shall be void and approvals of plans and specifications in the issuance of such permits shall likewise be void. (U.F.C. Section 105.2.3. Compliance.)

H. POLICE POWERS

The fire chief and members of the fire prevention shall have the powers of a police officer in performing their duties under this code.

When requested to do so by the chief, the chief of police is authorized to assign such available police officers as necessary to assist the fire department in enforcing the provisions of this code.

I. AUTHORITY TO INSPECT

The fire prevention section shall inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the

purpose or provisions of this code and of any other law or standard affecting firesafety. (U.F.C. Section 103.3.1.1. Authority to inspect.)

J. RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the chief has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the chief is authorized to enter such building or premises at all reasonable times to inspect the same or to perform any duty authorized by this code, provided that if such building or premises is occupied, the chief shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the chief shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the chief shall have recourse to every remedy provided by law to secure entry.

If the owner or occupant denies entry, the chief is authorized to obtain a proper inspection warrant or other remedy provided by law to secure entry. Owners, occupants or any other persons having charge, care or control of any building or premises shall, after proper request is made as herein provided, promptly permit entry therein by the chief for the purpose of inspection and examination pursuant to this code.

For the purpose of Section 103.3.1.2. [Tight of Entry], the term "Chief" shall include the chief officer of the fire department serving the jurisdiction and the officers named in Section 103.2.1.2. And 103.2.2.22 (U.F.C. Section 103.3.1.2 Right of Entry.)

K. SERVICE OF ORDERS AND NOTICES

Orders and notices authorized or require by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by verbal notification, personal service, or delivering the same to and leaving it with a person of suitable age and discretion upon the premises: or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to the person's last known address.

Orders or notices that are given verbally shall be confirmed by service in writing as herein provided. (U.F.C. Section 103.4.2 Service of orders and notices.)



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF FINAL ADOPTION OF THE PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT DEPARTMENT OF PUBLIC HEALTH FACILITIES

The Secretary of the Department of Public Health (DPH), Commonwealth of the Northern Mariana Islands (CNMI), which has promulgated Proposed Rules and Regulations Governing Medical Malpractice Coverage for Physicians Practicing at Department of Public Health Facilities, originally published in the Commonwealth Register, volume 27, number 5, page 024600, June 20, 2005, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been finally adopted with modification. I further request and direct this Notice, Certification, and attached final rule to be published in the CNMI Commonwealth Register. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 14 day of September 2005, at Saipan, in the Commonwealth of the Northern Mariana Islands.

[Handwritten signature]

Pedro Untalan, MHA
Designee for the Secretary of Public Health
Department of Public Health

Date 9-14-05

Received by: [Handwritten signature]

THOMAS TEBUTEB
Special Assistant for Administration

Date 9-19-05

Filed by: [Handwritten signature]

BERNADITA B. DELA CRUZ
Commonwealth Registrar

Date 9-19-05

Medical Malpractice Liability Coverage¹

A. Malpractice liability coverage is a mandatory requirement for Medical Staff membership at the Commonwealth Health Center.

B. Each physician shall provide proof to the Secretary of Public Health (“the Secretary”) that he/she has met this requirement by any one of the following means:

1. Indemnification by the CNMI for its government employee staff;
2. Proof of private medical malpractice liability insurance (occurrence type) coverage of at least \$100,000; or,
3. Proof of other security acceptable to the Secretary and the Attorney General, in favor of the CNMI Dept. of Public Health (for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services), of not less than \$100,000. Possible alternative security vehicles may include:
 - a. surety bond;
 - b. letter of credit from an FDIC insured banking institution;
 - c. pledge of collateral;
 - d. escrow account with an FDIC insured banking institution.

C. No physician shall be granted privileges at the Commonwealth Health Center until these requirements have been completed.

D. The Secretary shall, on an ongoing basis, review compliance. Those practitioners with privileges at CHC who do not have proof in their CHC physician files of current medical malpractice coverage as defined above will have 30 days to come into compliance with this requirement. Any practitioner who fails to comply with this requirement within the 30 day time period will have his or her hospital privileges immediately suspended, and then the case shall be referred to the Medical Executive Committee for further action, including permanent termination of privileges.

E. All physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative

¹ 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC section 2603 (f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities.

financial products described above shall not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

F. These regulations shall not supplant or affect any separate, additional requirements imposed on physicians by the Medical Professional Licensing Board.

DISCUSSION OF PUBLIC COMMENTS RECEIVED IN RESPONSE TO
PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL
MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT
DEPARTMENT OF PUBLIC HEALTH FACILITIES

At the time the proposed rules were published, the public was asked to provide comments and make suggestions for the modification or improvement of the Rules and Regulations. A hearing was held on August 10, 2005 at the Multi-Purpose Center in Saipan, and a number of comments, both oral and written, were received and considered by the Dept. of Health administration. Copies of the written comments received in response to the prior public notice are available for inspection at the Department of Public Health during regular business hours. As a result of this review of the public comments, various changes were made to the Rules and Regulations as originally proposed. A review of the comments and the response by the Department of Public Health follows.

Proposed Rule:

Prior to the proposed rules and regulations, the Commonwealth Health Center Bylaws required any private physician who wanted hospital privileges to prove malpractice insurance coverage of at least \$100,000. No other forms of proof of financial responsibility were authorized.

The rules and regulations, as proposed, required: 1) proof of malpractice insurance in the amount of \$100,000; or, 2) other security acceptable to the Secretary and the Attorney General for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services, of not less than \$150,000. The proposed rule attempted to expand the types of financial products that would be acceptable proof of financial responsibility and a source of indemnification to the Dept. of Public Health in lieu of malpractice insurance. It would have increased the required amount of these alternative types of coverage to \$150,000 to cover litigation and other costs over and above the capped liability amount under the Public Employee Legal Defense and Indemnification Act of 1986, 7 CMC 2301 et seq. of \$100,000.

Comments:

In general, the physician commenters and their clinic representatives opposed the proposed rule or any requirement related to malpractice coverage, in any form. These commenters indicated that malpractice insurance was extremely difficult to obtain, and that it was unaffordable to them. They indicated that the alternative forms of financial products anticipated by the proposed rules and regulations were not acceptable to them as they would tie up their assets and be financially burdensome. They stated that enforcement of the rule as proposed would result in private physicians losing hospital privileges and subsequent loss of the medical services provided by them.

A couple of private physicians argued that the CNMI government should cover and indemnify them as it does government employed physicians and that the liability cap of \$100,000 should be extended to private doctors. They argued that the government should pass legislation that limits expert witnesses who testify to those residing in Guam and Saipan, who know the standard of care in the CNMI community. They stated the government should establish a malpractice company that would provide malpractice insurance for the \$100,000 capped amount for the private physicians at minimal cost.

One physician argued that private practitioners spent less time at DPH facilities and so posed a lower risk to patients there so that the amount of financial responsibility required should be lowered, rather than increased. The commenter feared that hospital staff could commit a wrong and that it would be unfair to make doctors undertake that risk. The commenter stated that a doctor might have to seek legal recourse against the hospital to get his funds back. The commenter was concerned that this requirement would be added to any amounts required by the medical licensing board. The commenter indicated that the cost of coverage would make it less likely that off island specialists would come to the CNMI. This commenter too suggested that the government of the CNMI should indemnify all private physicians as they do government doctors.

Another physician pointed to the high cost of medical malpractice insurance, the small market for such insurance, and the unacceptability to the Attorney General's Office of a bond previously in use by one bonding company. The commenter indicated the financial alternatives posed too great a barrier to the private practice of medicine and were unreasonable, particularly in light of low and slow insurance and Medicare payments. The commenter said the proposed \$150,000 requirement would tie up too much capital that could be used for other purposes. The commenter stated that the financial requirement would make private doctors unwilling to see indigent patients at the hospital. The commenter suggested a commission be established to explore a self-insurance program, with mandatory arbitration of medical malpractice claims.

One Guam malpractice carrier indicated an interest in providing insurance to CNMI physicians. One CNMI bonding company indicated it would not be willing to adapt its bonds to CNMI government requirements.

Other commenters who claimed to represent the views of patients, and in some cases their lawyers, took the position that only malpractice insurance should be allowed for financial responsibility purposes and opposed the use of bonds. They argued that malpractice insurance requirements provided a social benefit. They submitted what they claimed to be surveys of several hundred persons who advocated requiring medical malpractice coverage in amounts from \$300,000 to \$1,000,000. They argued that requiring medical malpractice insurance causes a private financially interested company to oversee and regulate the risk of each doctor and nurse who they provide insurance to. They argued that either the hospital may not have the time, resources, or even the desire to investigate a doctor, but that an insurance company that is insuring a doctor's risk does have a financial incentive to research the individual's past. They alleged there was evidence to show that medical malpractice reforms cause an increase in infant mortality, and presumably in some other health indicators. They submitted a paper entitled, "Does Medical Malpractice Reform Help States Retain Physicians and Does It Matter," by

Jonathan Klick (American Enterprise Institute) and Thomas Stratmann (Professor of Economics at George Mason University) (2003). The abstract of the paper summarizes its findings as that some medical malpractice reforms may help states retain physicians but some may also diminish incentives to provide a high level of health care and worsen health outcomes.

Response:

The proposed rules and regulations were intended to protect the CNMI Dept. of Public Health and the public at large from the undue expense that might be caused by alleged physician malpractice occurring at government facilities. Use of government property, and activities carried on by private entities on government property, ordinarily carries with them an insurance requirement. When private physicians use the government hospital facilities as part of their business, they are not ordinarily subject to government control, and so some protection of the government and public interest is required so that taxpayers don't suffer losses caused by the private business of another.

If malpractice insurance were reasonably available, it would protect both the patient and the government hospital. However, the idea of other financial products was proposed as an alternative to given broader choice to physicians.

All of these comments and the interests they represent, as well as the needs of the community to be protected from losses due to the risk of physician malpractice, have been considered and carefully weighed. The rules and regulations as adopted strike a fair and reasonable balance between the need for coverage of losses, while taking into account the fact that costly malpractice insurance premiums could pose a significant barrier to the private practice of medicine in the CNMI.

The types of financial products to meet the fiscal responsibility concerns of the public have been expanded, while the amount required has been kept at the minimum amount necessary to protect the public, i.e. \$100,000.

Further, the rule has been clarified to provide that all physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative financial products may not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

Adoption of some of the particular alternatives to the proposed rule would require legislative action. The Dept. of Health will refer the various comments to the CNMI legislative committees with health care facility oversight.

MEDICAL PHYSICIAN'S INDEMNITY BOND
(Specimen)

Bond No. _____
Premium: _____
Issue Date: _____

KNOW ALL MEN BY THESE PRESENTS:

That we, (name of medical company), as Principal, both for itself and its member(s) _____ (insert names of members of the LLC) _____, and (name of bonding company), a corporation organized under the laws of the Commonwealth of the Northern Mariana Islands and authorized to execute bonds and undertakings, as Surety, are held firmly bound unto the COMMONWEALTH HEALTH CENTER, the DEPARTMENT OF PUBLIC HEALTH, GOVERNMENT of the COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, and their officers, employees and agents, hereinafter collectively called the Obligee, in an amount not to exceed the principal sum of \$(state amount here)) for the payment whereof well and truly to be made, said Principal and Surety bond them, themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Obligee has agreed to authorize and provide Medical Staff Membership and Privileges of the Commonwealth Health Center or its associate facilities to Principal;

WHEREAS, a condition of such agreement addendum thereto is that the Principal shall provide Medical Malpractice Liability Insurance and in lieu of such insurance coverage, Principal has agreed to provide a good sufficient indemnity bond in the amount stated above to indemnify the Obligee against any financial loss, costs, expenses, or damages, including, but not limited to malpractice claims, or any and all damage or loss occasioned to Obligee as a result or related to Principal's provision of services, medical or otherwise, at Commonwealth Health Center or its associate facilities;

NOW THEREFORE, the conditions of this obligation are that the Surety shall indemnify the Obligee against failure of the Principal to faithfully defend and pay all sums of money for any and all claims, losses, costs, or injury arising out of or in relation to the provision of any services, medical or otherwise, performed at or in connection with the Commonwealth Health Center and related facilities, including but not limited to malpractice claims or damage of loss of its property;

First: That at the earliest practical moment, and in any event not later than ninety (90) days after the failure of the Principal to pay to the Obligee any sums owed pursuant to a separate indemnification agreement between Principal and Obligee for any act or acts that would cause a claim to be made under the terms of this Bond, the Obligee shall give the Surety written notice thereof, which notice shall be made to the following address:

(list address of bonding company)

And within 90 days after such failure of the Principal, the Obligee shall file with the Surety affirmative proof of loss and shall upon request of the Surety render every assistance, not pecuniary, to facilitate the investigation and adjustment of any loss.

Second: Any suit or action to recover against the Surety on account of loss hereunder shall be brought before the expiration of 24 months from demand of Obligee against the Principal for payment of such loss but shall not be instituted before the expiration of three (3) months from the filing of proof as aforesaid.

Third: This Bond may be cancelled either by the Surety or this Obligee by written notice served upon the other, or sent by registered mail specifying therein the effective date of such cancellation, provided, however, that this notice is served or sent by the Surety, such effective date shall not be less than sixty (60) days after such service or after the date born by the sender's registry receipt. Notwithstanding a termination by either party, this Bond shall remain effective for any claim, loss or liability which may arise out of or be related to the Principal's actions during the time period in which the Bond was effective plus an additional twenty-four (24) months.

Fourth: The terms of this Bond shall be from _____ day of _____, 20__ to and including the _____ day of _____ 20__.

PRINCIPAL:

SURETY:

By: _____

By: _____

ACKNOWLEDGEMENTS

COMMONWEALTH OF THE)
NORTHERN MARIANA ISLANDS) SS.
MUNICIPALITY OF SAIPAN)

On this _____ day of _____, 20__, before me, a Notary Public in and for the Commonwealth of the Northern Mariana Islands, Municipality of Saipan personally appeared _____ known to me to be persons whose names are subscribed as the authorized representative of _____ and _____ and acknowledged to me that they executed the foregoing instrument on behalf of said corporation for the purposes and consideration contained therein.

Notary Public

IRREVOCABLE LETTER OF CREDIT
(Specimen)

To: Commonwealth of the Northern Mariana Islands
Department of Public Health (DPH)
Commonwealth Health Center and related facilities
And their respective employees, assigns, and agents

REFERENCE: Name of Company or Person authorized by DPH:
Company ID # as assigned by the DPH:
Irrevocable Letter of Credit Number:
Effective Date:
Expiration Date:

Sir/Madam:

You have requested of [**Name of Lending Institution**] (the "Lender") that we establish an irrevocable letter of credit which will remain available on behalf of [**Applicant**] (the "Company") who has applied to the Department of Public Health (the "DPH") for authority to provide medical and related services at the Commonwealth Health Center and its related facilities. The purpose of this letter of credit is to secure payment of any monetary sanction, cost, liability, or expense which may be imposed against the Company, its representatives, successors or assigns, for any loss, cost, expense, damage, or liability arising out of the Company's activities or services, medical or otherwise, at or in connection with the grant of permission by DPH to the Company to provide services at the Commonwealth Health Center or any of its related facilities.

We hereby establish and issue, in favor of the DPH, an irrevocable letter of credit in the amount of _____ thousand dollars (\$ _____) lawful money of the United States of America. The DPH may draw upon this letter of credit, at any time and from time to time, by delivering a Letter of Credit Notice, substantially in the form set forth below (a "Notice"), which Notice shall specify the amount (the "Draw Amount") to be drawn and the bank account (the "Bank Account") to which the Draw Amount should be delivered and shall be signed by an official designated and duly authorized by the DPH, to Lender at the address listed below, or to such other address as the Lender shall notify the DPH in writing by certified mail. Promptly after the delivery of each Notice, the Lender hereby covenants and agrees to deliver, by wire transfer of immediately available funds, the Draw Amount to the Bank Account.

This letter of credit shall be deemed automatically renewed without amendment for successive one-year periods and may be canceled by the Lender by giving thirty (30) days advanced written notice by certified mail of such cancellation to the DPH and the Company, it being understood that the Lender shall not be relieved of liability that may have accrued under this letter of credit prior to the date of cancellation.

The Lender hereby represents and warrants that it is qualified and authorized to issue this letter of credit and is a bank regulated by the Federal Deposit Corporation of the United States.

Except as otherwise expressly stated, this letter of credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision) International Chamber of Commerce Publication No. 500, or any revisions thereto.

Yours Very Truly,
[Name of Lending Institution]
Name:
Title:
Address of Lender:

APPROVAL AND INDORSEMENT

This is to certify that I have examined the foregoing letter of credit and found the same to be sufficient and in conformity to law and that the same has been filed with the Department of Public Health, Commonwealth of the Northern Mariana Islands, this day of _____, 20____.

Name:
Title:

**FORM OF
LETTER OF CREDIT NOTICE**

[Name of Lender]
[Address]

Re: Irrevocable Letter of Credit No. []

Dear Sir or Madam:

You are hereby notified, and the undersigned hereby certifies, that the undersigned is an official designated and duly authorized by the DPH to deliver this notice and that a monetary sanction in the amount of \$ (the "Draw Amount") has been imposed against **[Applicant]** its representatives, successors or assigns, arising out of or related to **[Applicant]** 's services or activities at the Commonwealth Health Center or its related facilities. Pursuant to that certain Irrevocable Letter of Credit referenced above, we hereby request that you deliver payment of the Draw Amount to the bank account listed below by wire transfer of immediately available funds:

Name of Bank Account:
Account Number:

ABA Routing Number:
Reference:
Name of Contact:
Telephone Number:
Facsimile Number:

Please confirm receipt of this Notice and the Federal Reserve wire confirmation number of the delivery of the Draw Amount by sending a facsimile to the person at the number listed above.

Sincerely,

DEPARTMENT OF PUBLIC HEALTH, CNMI

Name:
Title:


PUBLIC NOTICE


NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED AMENDMENTS TO BOARD OF EDUCATION REGULATIONS REGARDING PRAXIS AND TEACHER CERTIFICATION

I, Roman C. Benavente, the Chairman of the Ninth Board of Education for the Commonwealth of the Northern Mariana Islands ("Board") pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10 hereby adopt as permanent the proposed amendments to Public School System Regulations for Certified Personnel, Chapter 2 Sections (b)(10), (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(iv), and (f)(3)(A)(iv) and Chapter 1 Part F Sections 1601 through 1603, as published in Volume 27, Number 06 of the Commonwealth Register dated July 20, 2005 (pages 024670 - 024678). I hereby certify that these amendments have been adopted after the appropriate time for public comment without modification or amendment.

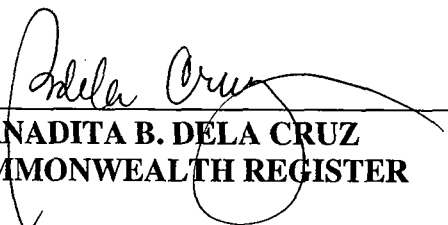
Accordingly, I request that this Notice and Certification of Adoption be published in the Commonwealth Register. Pursuant to 1 CMC sec. 9105(b), these amended regulations are effective 10 days after publication.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 22nd day of September, 2005, on Saipan, CNMI.

By: 
ROMAN C. BENAVENTE
BOARD OF EDUCATION CHAIRMAN

Approved By: 
PAMELA BROWN
ATTORNEY GENERAL, CNMI

Date: 9/22/05

Filed By: 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTER

Date: 9/22/05



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ATTORNEY GENERAL OPINION No. 05 -13

**To: Hon. Manuel P. Villagomez, Acting Chair
Marianas Public Lands Authority**

From: Alan J. Barak, Asst. AG, Civil Division
Through: Pam Brown, Attorney General
Date: 8/26/05

**Re: MPLA transfer to CUC emergency fuel fund during state of
emergency**
Within fiduciary duties and allowable

ISSUE AND SHORT ANSWER

Question

May the MPLA Board, consistent with its fiduciary duties, transfer \$1 million of unused CIP funds to the Emergency Fuel Contingency Fund in order to help avoid the disaster of losing power, water and sewage treatment due to the lack of CUC fuel oil?

Short Answer

Yes.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

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Summary

This Opinion examines whether the MPLA Board has acted within the scope of its fiduciary responsibilities in acceding to the Governor's request to transfer \$1 million of idle savings account funds to the CUC's Emergency Fuel Contingency Fund in order to help stave off the loss of power, water and sewage treatment in the CNMI.

By letter of August 24, 2005, the Acting Chairman of the MPLA, Manuel P. Villagomez, wrote the Attorney General, expressing his Board's interest in assisting Governor Juan N. Babauta in meeting the continued state of emergency caused by the high cost of fuel and the inability of CUC to provide power to the people¹. He asked the Attorney General to address the matter as a "top priority".²

This Opinion presents the background, history and authority for, the conclusion that the transfer is well within the scope of the Board's fiduciary responsibilities. The first section provides the background to the Acting Chair's request, including the Governor's Declaration of Disaster Emergency. The legal analysis appears in the second section.

Discussion

The first section of this memo, "Background", provides a description of the events and agencies related to this matter. The second section applies the tools of legal analysis, including review of relevant case law and principles of statutory construction.

1. Background

a. Description of MPLA Board and its duties

MPLA traces its beginnings to a Constitutional agency, the Marianas Public Lands Corporation ("MPLC"). MPLA is the product of the Governor's reorganization and three legislative enactments.³ Most recently, the Legislature renamed the agency "a public corporation to be known as the Marianas Public Lands Authority", headed by a "Commissioner" with a "Board of Directors." PL 12-71 (codified at 1 CMC, Division 2, Chapter 14, §§ 2801-08).⁴

Pursuant to the Constitution the Governor, by Executive Order "dissolved" MPLA, then the Legislature re-established the agency through a series of related enactments. See Law Revision Commission Comments to 1 CMC §§ 2001, 2801, as discussed in endnote 3. The Legislature sought to give MPLA broad powers. It stated its purpose in the most recent amendment to the agency's enabling act:

The Legislature finds that questions have arisen to the extent of the powers and duties of the Board of Public Lands. It is the intent of the Legislature that the Board of Public Lands be given broad powers over its operations, and the leasing of public lands.

PL 12-33, § 1. Findings. In re-enacting the agency, the Legislature repeated the language of the Constitution.

The Framers created two agencies to manage the Commonwealth's public lands and the funds relating to those lands. Article XI of the NMI Constitution, and the Legislature's reenactment, gave the MPLA broad powers within its mission. The following sections are excerpted from article XI:

Section 1: Public Lands. The lands . . . are **public lands belonging collectively to the people of the Commonwealth who are of Northern Marianas descent.**

Section 2: Submerged Lands. . . .

Section 3: Surface Lands. **The management and disposition of public lands except those provided for by N.M.I. Const. art. XI, § 2 shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

....

c) **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

....

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies in the performance of its responsibilities.**

....

b) **The corporation may not transfer a freehold interest in public lands for twenty years after the effective date of this Constitution, except for homesteads as provided under section 5(a), or for use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.**

....

e) **The corporation may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

....

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses**

reasonably necessary for the accomplishment of its functions. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added). The entirety of article XI is set out in the endnote.⁵ The Framers created a companion agency to manage the funds related to the MPLC/MPLA's activities, the Marianas Public Land Trust:

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

....

b) **The trustees shall make reasonable, careful and prudent investments.** For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

....
NMI Const. art. XI, § 6. (Emphasis added)

The statute re-enacting MPLC/MPLA differed in some respects from article XI:

There is established within the Executive Branch an independent public corporation of the Commonwealth. . . to be known as the Marianas Public Lands Authority.

1 CMC § 2801.

§ 2802. Board Powers and Duties.

(a) The Board of Public Lands shall have the following powers and duties:

....

(2) To be responsible for the management, use, and disposition of surface lands of the Commonwealth.

....

(c) The Board of Directors may select, employ, promote and terminate employees, employ contractors and consultants, employ legal counsels, sue and be sued in its own name, provide liability insurance as it considers necessary, make contracts, borrow money within the limitations contained in Article X of the Constitution [on public debt] . . . , **and take any other action necessary for the management or disposition of surface and submerged public lands.**

1 CMC § 2802. (Emphasis added)

§ 2803. Board Members.

(a) The Board of Public Lands shall be composed of five directors, appointed by the Governor with the advice and consent of the Senate, **who shall set policy with respect to public lands for the benefit of the people of the Commonwealth who are of Northern Marianas descent.** . . . No interest in public land shall be transferred except upon approval by the board of the particular

interest to be transferred . . . provided, that any provisions imposed as a condition of legislative approval pursuant to Section 2804 shall not require further approval by the board.

....

(d) . . . The directors shall be held to strict standards of fiduciary care. The governor may remove a director only for cause.

(e) The Board shall act only by the affirmative vote of the majority of the five directors.

....

1 CMC § 2803.

§ 2804. Public Lands: Fundamental Policies.

....

(c) The Board may not transfer a freehold interest in public lands for 20 years after the effective date of the Constitution, except for . . . use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.

....

(f) The Board may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Board may authorize construction of facilities for public purposes.

....

(h) The Board of Directors shall receive all moneys from public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 2804 (c), and shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the Board of Directors shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and nay [sic] other expenses reasonably necessary for the accomplishment of its functions. It shall prepare and submit a budget as a government corporation pursuant to 1 CMC § 7206.

1 CMC § 2804.

There are some limits to the MPLA's duties and powers. For instance, the CNMI Executive Branch, but not the MPLA, has the power, through its normal processes, to acquire and dispose of private land for the public good. *Romisher v. MPLC*, 1 CR 841, 860 (Tr. Ct. 1983) (preliminary injunction), 1 CR 873, 883 at n 3 (1983) (permanent injunction).⁶

This Opinion does **not** address the relationship between MPLA and MPLT, particularly the agencies' respective duties regarding the handling of funds relating to public lands and public land activities. This Opinion does **not** resolve the extent to which the "dissolution" and re-enactment of the MPLC/MPLA **continued** the agency and/or its functions or created a new agency with the same or similar functions. Rather, the Constitutional provisions are set out to present the context of the fiduciary analysis.

b. Description of the CIP funds at issue, including the two related appropriations acts

The Governor asked MPLA to transfer CIP matching funds that were previously obligated for MPLA-related purposes, but remained unused, to the CUC's Emergency Fuel Contingency Fund.⁷ The MPLA Board approved the request.⁸ The Governor restated his request on August 23, 2005, pursuant to the authority granted by the declared State of Emergency, as renewed.⁹

MPLA states that its funds are derived from public land revenues and are restricted for the benefit of NMI descent. (Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1) The amounts at issue are held in a savings account at Bank of Guam¹⁰, recorded on MPLA's books in General Ledger Account 102, "Operations Account"¹¹.

The Legislature was aware that MPLA had accrued these funds, identifying them as "public land lease payments", entrusting them to the Secretary of DPW and CUC's Director as the expenditure authority, and identifying projects for their use. PL 11-78 § 3; PL 11-79 §§ 4, 6, 7.

The two related FY 1999 appropriations acts must be read together. PL 11-79 repealed § 4 of PL 11-78 (Sources of Funds) and addressed certain line item vetoes. The acts permitted the use of the funds "as otherwise provided by law":

Use of public land lease payments for the purposes of the Act shall have priority over Public Law 11-41, and the amount identified herein shall be excluded from the resources available for expenditure pursuant to Public Law 11-41. Section 10 of Public Law 10-29 is not affected by this act, except that notwithstanding such section, the Secretary of Finance shall be required to maintain in the special trust fund only such amounts of the moneys received from public lands as the Marianas Public Land Trust (MPLT) determines will provide MPLT with adequate security for loans made pursuant to Public Law 10-029, as amended, and **the remainder shall be available as resources for the purposes of this Act and as otherwise provided by law.**

PL 11-78 § 3. (Emphasis added)

Another relevant part of the acts shows a nexus to the activities of the CUC:

Expenditure authority shall be as specified by Public Law 11-78, except expenditure authority for specific projects listed below shall be as indicated below . . . (b) Koblerville Homestead - New Power, Water and Wastewater Systems (Phase I) and Tanapag Homestead - New Power, Water and Wastewater Systems (Phase I): Expenditure Authority shall be the Secretary of the Department of Public Works with concurrence of the Executive Director of the Commonwealth Utilities Corporation.

PL: 11-79 § 7. The acts also recognized the general principal that retained MPLC/MPLA funds were to be used for the accomplishment of the agency's functions:

. . . the use of public land revenues is restricted by Article XI, Section 5(g) of the Commonwealth Constitution. Consistent with the Constitution, the public land lease revenues identified by this Act shall be used [sic] solely for the projects specifically related to homestead development.

PL 11-79 § 4. Section 5(g) addressed the uses of MPLC funds not turned over to the MPLT, which included "any other expenses reasonably necessary for the accomplishment of its functions."¹²

However, the projects were not constructed, and MPLA held onto the funds in a savings account.

c. Description of the CUC and the Office of the Governor.

Both the CUC and the Office of the Governor, the transferees of the CIP funds, are agencies of the Commonwealth Government.

CUC is a public power utility, owned by the CNMI Government. It is similar to municipal utilities and public power agencies found throughout the United States. See description in AG Opinion 05-11 (8/9/2005) The CUC is a public corporation of the Executive Branch of the CNMI government. 1 CMC § 8111 et seq. The CUC is part of the CNMI government. CUC is a "public corporation". AG Op 01-03-30, p 4. It has "corporation powers", is allowed to prepare and adopt its own budget, is granted specific exemptions from the CNMI Civil Service System for the hiring, retaining and compensation of its employees, and is permitted to conduct its own procurement, hire within certain limits, secure its own legal counsel, and is exempted from the payment of certain corporate duties and taxes. *Id.*, citing 4 CMC §§ 8121(a), 8123, 8133, 8151.

Presently CUC uses only one fuel, No. 2 diesel oil. The base rates recover 5.493 cents/kwh for it. CUC informational materials indicate that CUC fuel costs presently exceed the revenues recoverable by this base rate number by about 4.5 cents, due to fluctuating oil prices. (CUC Fuel Surcharge Presentation, Nov. 8, 2004, Tinian, pp 7-8 [on file]) Recently, CUC increased its rates through a fuel surcharge, by 3.5 cents/kWh.

CUC is an \$80 million/year company with a \$60 million/year fuel bill.¹³ CUC is on the edge of bankruptcy because, while its fuel costs have doubled over the past year, its base rates have remained static.¹⁴ Thus, while fuel has increased to roughly \$0.12/kWh, the base rate for fuel has remained at the 1993 level of \$0.05493.¹⁵ The under-recovery of fuel costs in CUC rates has ranged from \$3.7 million in 2002 to roughly \$16.6 million in 2004.¹⁶

The prices for CUC's fuel are increasing. As of this writing, crude oil has risen this week to a record \$68 per barrel.¹⁷

The Office of the Governor is an Executive Branch instrumentality of the CNMI government. N.M.I. Const. art. III, §§ 1, 14, 15;¹⁸ 1 CMC §§ 2051-53;¹⁹ 1 CMC § 2001.²⁰

d. The State of Disaster Emergency

The Governor declared a disaster emergency on May 19, 2005, based on the imminent failure of CUC to provide electricity to its customers. Declaration of State of Emergency: Commonwealth Utilities Corporation Lack of Power, May 2005 (Dated May 19, 2005), Com. Reg. Vol. 27, No. 5, p 24533 (6/20/2005) ("Governor's Emergency Declaration") (1 p).²¹

In particular, the Governor found that CUC would be "unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail." *Id.* He determined that "[t]hese conditions present an extreme,

immediate and imminent emergency.” *Id.* The emergency thus threatened the health and physical safety of the populations of Saipan, Rota and Tinian, as well as the economic life of the Commonwealth.

The Governor announced that he would take “all necessary measures”, including “[r]eprogram all necessary money to provide CUC the funds to address the conditions”. Emergency Declaration.

The Legislature subsequently affirmed the declaration in a joint resolution. H.J.R. 14-36 (transmitted June 21, 2005). The joint resolution “supported” the Governor’s declaration of state of disaster emergency and authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems”. *Id.*²²

The emergency declaration power is rooted in the Constitution:

Section 10: Emergency Powers. The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster, or other calamity as provided by law, and may mobilize available resources to respond to that emergency.

N.M.I. Const. art. III, § 10. The Local Disaster Relief Act of 1979, 3 CMC § 5101 et seq., PL 1-40 § 1 et seq., as amended, includes “man-made” disasters in its definition of “disaster” and “local disaster emergency”. 3 CMC § 5114.²³ The purpose of the Act include preparing for and avoiding disasters. 3 CMC § 5112.

The Act explicitly makes the Governor “responsible for meeting the dangers to the Commonwealth and the people affected by disasters.” 3 CMC § 5121(a). The Governor enjoys broad powers to prevent and respond to disasters under the Disaster Relief Act. Once he declares a “disaster emergency”, if the “threat” is “imminent”, these powers include: he may issue executive orders and regulations, provide for the use and distribution of supplies, equipment, and facilities, take control of and transfer forces, suspend regulations, and “[u]tilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth”.²⁴ See also, 1 CMC § 7403 (P.L. 3-68 § 403, as amended) (Governor may declare a “state of emergency” under his constitutional emergency powers).²⁵

In 1981 the Attorney General advised that the Administration could declare an emergency in order to stave off a threatened power shutdown. AG Op. 81-31 (7/23/81), “Declaration of Emergency in Threatened Power Shutdown”.²⁶ In addition to the authority relied on (see just preceding endnote), he noted that CNMI Const. art. III, § 1 implied emergency powers, *citing* Sterling v. Constantin, 287 U.S. 378 (1932) (Governor’s determination of exigency is conclusively correct, but court will determine that action taken is lawfully connected to the exigency).

The Framers of the CNMI Constitution, in their Analysis, commented on the broad powers given the Governor to address a disaster:

Section 10: Emergency Powers of the Governor. **This section authorizes the governor to declare a state of emergency in the event of** attack on the commonwealth, civil disturbance, natural disaster or **other calamity, such as a serious crisis caused by the unavailability of public utilities**, transportation or communications. It is intended that the governor have all the discretionary authority customarily possessed by the chief executive of a state or city in the United States. For example, the governor may reassign government employees from their normal tasks during an emergency if that is necessary to keep order or protect the public welfare. The governor may deputize citizens on a temporary basis for law enforcement purposes or use the militia if one has been established. **The governor may use contingency funds for disaster aid and divert**

from regular programs during the state of emergency with legislative approval. The governor may institute a curfew or other temporary emergency regulations, which regulations expire when the state of emergency ends.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, Pp 77- 78.^{1,27} (Emphasis added)²⁸

2. Legal Analysis

The Opinion examines the identified funds, their planned use to address the State of Emergency, and the duties of the MPLA Directors.

This Attorney General's legal analysis is binding on CNMI agencies and instrumentalities unless and until overturned by the courts. AG Opinion No. 86-16 (Castro). See, e.g., *People v. Penn*, 302 N.W.2d 298 (Mich. App. 1981). The Constitution and the Commonwealth Code provide that the Attorney General is the attorney for the Commonwealth government:

....The Attorney General shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law.

N.M.I. const., art III, § 11. The CNMI Code provides that the Attorney General is counsel to government agencies.²⁹ The Attorney General must review, and approve as to form and legal capacity, all contracts of the CNMI and its instrumentalities.³⁰ The Attorney General has a statutory and ethical responsibility to advise government clients to refrain from violating the law. The Attorney General can also bring statutory proceedings and common-law-writ-based proceedings to foreclose the pursuit of illegal activities.

The Courts are not bound by Attorney General Opinions, but tend to regard them as "highly persuasive". *United States v. Borja (Mayor of Tinian)*, 2003 MP 8 (2003), citing *Cedar Shake and Shingle Bureau v. City of Los Angeles*, 997 F.2d 620, 625 (9th Cir. 1993). An opinion of the Attorney General should be treated as persuasive authority for the judiciary so far as it is properly and thoroughly researched. *Borja (Mayor of Tinian)* 2003 MP at ¶¶ 20-21.³¹ See, generally, *State Attorneys General: Powers and Responsibilities*, Lynne M. Ross, editor (NAAG 1998).

Both statutory language and court decisions govern this analysis. The CNMI Supreme Court enunciates the governing common law. The Legislature has required the adoption of the common law as presented in the Restatements of the Law.³²

This interpretation adheres to the rules of Constitutional/statutory construction. Ordinarily, Constitutional language must be given its plain meaning. *In re Tenth Legislature Bills*, 5 N.M.I. 155 (1998). Also, *Camacho v. Northern Marianas Retirement Fund*, 1 N.M.I. 362 (CNMI 1990). See also, *Northern Marianas Housing Corp. v. Northern Marianas Land Trust*, 5 N.M.I. 150, 1998 MP 1, 1998 WL 34073630 (CNMI 1998) (The basic principle of statutory construction is that language must be given its plain meaning).

¹The Analysis must be cited with care. It is clarification, approved by the Constitutional Convention, not authority. See endnote 27 for the LRC's discussion.

In particular, for purposes of constitutional interpretation, the express mention of one thing implies the exclusion of another which might logically have been considered at the same time. *Aldan-Pierce v. Mañas*, 2 N.M.I. 122 (1991), *rev'd on other grounds*, 31 F.3d 756 (9th Cir. 1994), *cert. den*, 513 U.S. 1116, 115 S. Ct. 913, 130 L. Ed. 2d 794 (1995). See *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB").³³

- a. A fiduciary duty is the duty to act for another's benefit.

"Fiduciary Duty" is defined in Blacks Law Dictionary as a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person. It is the highest standard of duty implied by law. *Black's Law Dictionary*, Sixth Edition 625 (1990). *Govendo v. Marianas Public Land Corp.*, 2 N.M.I. 482, 491 n.5, 1992 WL 62888, p. 3 n.5 (CNMI Supreme Ct. 1992).

Beneficiaries of a fiduciary relationship require the "undivided loyalty" of a trustee, and, as such, the trustee must act "honestly [and] faithfully." *Govendo*, 2 NMI at 491, 1992 WL 62888 at 3, citing *Romisher v. MPLC*, 1 CR 843 (1983).

Generally, the provisions of the Restatement of Trusts 2d would govern the nature of the MPLA Board's trusteeship of public lands. "In the Commonwealth, the rules of the common law as expressed in the Restatements of the Law as approved by the American Law Institute serve as the applicable rules of decision, in the absence of written or local customary law to the contrary." 7 CMC § 3401. *Ito v Macro Energy, Inc.*, 4 N.M.I. 46 (1993). In determining the terms of the trust by which MPLA's Board is bound, "[a]mong the circumstances which may be of importance in determining the terms of the trust are the following: . . . (2) the value and character of the trust property; (3) the purposes for which the trust is created; . . . (5) the circumstances under which the trust is to be administered; (6) the formality of informality . . . with which any instrument containing the manifestation is drawn. Restatement of Trust 2d, § 164, comment "c".

Thus, as a fiduciary, the MPLA is responsible for public lands and the proceeds therefrom (until proceeds are turned over to the MPLT). As the statute (and Constitution) state, the beneficiaries are people of Northern Marianas descent. The circumstances of the administration are those of a public agency, of the Commonwealth government.

The documents establishing the fiduciary relationship are formal – the laws of the CNMI. The CNMI courts have addressed government fiduciary duty within the context of the US Government toward the people of the Northern Marianas:

In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965).

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).³⁴ In the instant case there is no issue of ethical or moral conduct; if anything, the moral position of the Board in helping to stave off the health and economic disaster of the failure of the CUC is a high one.

Thus, the typical controversy of a corporate board's fiduciary responsibilities may not apply here. There is a rule of "strict fiduciary responsibility" to a corporation. A breach of fiduciary duty occurs when an injury or loss to the corporation results from a director's: (1) negligence; (2) fraudulent misappropriation of corporate property to benefit the director or a third party; (3) acquisition of any undue personal advantage, benefit, or profit; or (4) other similar conduct sustaining injury or loss to the corporation. *South Seas Corp.*

v. Sablan, 525 F.Supp. 1033 (D.N. Mariana Islands 1981). The “injury or loss” is relative – the depletion of a bank account versus the termination of power, water and sewage treatment for the beneficiaries.

As a general rule, a corporate director should acquire at least a rudimentary understanding of the business of a corporation. The “business judgment rule” will ordinarily protect a director’s decision, unless s/he is grossly negligent and completely abdicates responsibility, and fails to exercise judgment as director. *F.D.I.C. v. Benson*, 867 F.Supp. 512 (S.D.Tex. 1994).³⁵ There is no question that the Board members understand the MPLA’s management of the public lands or of the proceeds therefrom. Further, they had at their disposal more than two weeks between the Governor’s first letter for assistance, on July 29, 2005, and their action, August 16, 2005. They were further informed by the Governor’s Declaration almost three months’ before, and the intervening public debate.³⁶

A board’s decision on an artificial crisis, taken without proper information, will be reversed. *Smith v. Van Gorkom*, 488 A.2d 858 (Del.Supr. 1985) (Board of directors did not reach “informed business judgment” in voting to sell company for low price, but rather, were grossly negligent in approving sale of company upon two hours’ consideration.) By contrast, the instant crisis is real, has been ongoing, and has been confirmed in the Governor’s Declaration and the Legislature’s subsequent Joint Resolution.

It has been held that specific statutory or constitutional provisions control over the general. *McDonald v. Schnipke*, 155 N.W.2d 169, 172 (Mich. 1968). Thus, where a State constitution’s general provision empowered the governor to remove executive branch officials for, *inter alia*, gross neglect, but a more specific constitutional provision on the militia had not yet been executed by statute, the governor’s removal of the commandant of the state’s national guard under the more general constitutional provision was void. *Id.* In the instant case specific statutory provisions regarding the declaration of a disaster emergency and the reprogramming of unused funds would control over the general duties to the MPLA Board to the beneficiaries. Further, the specifics of the MPLA enabling act control over the general responsibility to the beneficiaries. See part 2.b, just *infra*.

It would seem, therefore, that the decision of the MPLA Board, whether to provide the unused savings account funds to the CUC Emergency Fund in order to keep power on for MPLA’s beneficiaries, should be examined in light of the circumstances, the extent to which the Board members understood the relationship of the requested action to MPLA’s “business” and the related statutes.

- b. The MPLA Board owes a fiduciary duty to its beneficiaries, persons of Northern Marianas descent to “benefit” them.

By its terms the Constitution charged the MPLA’s Directors with “direct[ing] the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.” NMI Const. art. XI, § 4(a). The directors shall be held to strict standards of fiduciary care. NMI Const. art. XI, § 4(c).

The question presented for this Opinion is whether the Board’s use of funds in its care, as requested to help avert a disaster involving the elimination of electric power, water pumping, and sewage conveyance and treatment is a “benefit” within the scope of the fiduciary’s activities.

- c. The Board acted within its fiduciary duty when it used MPLA idle resources to maintain essential electricity services to stave off the failure of CUC services to the CNMI’s people.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the

CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

At the time the MPLA considered transferring the requested savings account funds, the validity of the public purpose in doing so was well settled. There was in place a lawful declaration of a state of emergency. Indeed, the Legislature had affirmed the Governor's Declaration and provided him with 100% fiscal reprogramming authority in order to address it. The only issue for the Board was whether their action comported with their fiduciary responsibilities.

i. The transfer is "as provided by law".

First, the appropriations acts, PL 11-78 and PL 11-79, addressed directly funding CUC-related facilities and indirectly defaulted to the Governor's Emergency Declaration to assist CUC. The acts looked to funding power, water and sewer for Koblerville. They included CUC as a concurring expenditure authority. Then, the language boldfaced *supra*, page 7, as a default, allowed the available public land funds to be allocated as "otherwise provided by law". The Governor's Emergency Declaration is "law" in this sense. Therefore, the Board's use of the idle funds is not only acceptable; it may be viewed as contemplated in the appropriations act.

ii. The Board may transfer property to another government agency for a "public purpose".

Second, MPLA can transfer funds to CUC, another Government agency. MPLA has a special relationship to the CNMI's Government and to the public purposes of the Government. The MPLA enabling act specifically empowers the Board to transfer property and authorize works for "public purposes". 1 CMC § 2804(c) and (f). Further, the restrictions on transfer of freeholds are waived for transfers to another government agency. 1 CMC § 2804(c). This relationship is embodied not only in the statute, but was evidenced in the Constitution.

An emergency will support strong measures. A recent well-publicized Pennsylvania decision supports the use of extraordinary measures by trustees in the midst of a financial crisis seeking to preserve the essence of the trust. *In re Barnes Foundation*, 871 A.2d 792 (Pa. Apr. 27, 2005) (Appeal of non-full-party student will be quashed, allowing for immediate implementation of trial court's restructuring and relocation of internationally-recognized nonprofit art gallery). A review of the history of the Barnes Foundation controversy shows that the late trustor had firmly required that his internationally-acclaimed art collection stay in his suburban Philadelphia house. The trustees successfully petitioned the trial court to revise the terms of the trust, because the building was deteriorating, the location made it impossible to accommodate enough of the public to continue the gallery's operations or care for its paintings, and potential funders would not contribute to the trust unless the facility was moved and its governance restructured.

In the instant case, no revision of the MPLA or its mission was sought. The Board members, as fiduciaries, were simply asked to contribute unused funds during an emergency to protect their beneficiaries.

Thus, for instance, if the Board had transferred a \$1 million piece of real estate to the Government, so that the Government could sell or lease the land to generate cash for a "public purpose"³⁷ – e.g., to pay for the imported oil required to keep the power on – the Board could have done that. And the Board could have done that without reference to the interests of the people of Northern Marianas descent.

In this instance it has been asked to transfer funds, not land. Therefore, a fortiori, it may transfer funds deriving from the land to use for a public purpose by the CUC, another agency of the Government. See also, Attorney General letter 02-443, Re: PL 13-16 (\$2.6 million appropriation to MVA) (Aug. 16, 2002) (Legislature's direction to MPLA to transfer to MVA landing fees held in trust account shall be presumed lawful).

iii. The Board may transfer its discretionary funds.

Third, while the Board must transfer land proceeds to the MPLT each year, it is permitted to retain funds for "any other expenses reasonably necessary for the accomplishment of its functions". 1 CMC § 2804(h). The Legislature recognized this in PL 11-78 § 3's citing to article XI, § 5(g), which contains this language. Its functions include benefitting people of Northern Marianas descent. Those people were the same people who rely on the continued flow of power, water and sewage treatment to maintain their homes, families and businesses. The Board acted responsibly in seeking to keep these services available to them in the emergency.

iv. The Board was required to transfer lawfully reprogrammed funds.

Fourth, the Governor had the legal power and authority to reprogram the unused funds. The appropriations acts provided for reprogramming by an appropriation bill or pursuant to 1 CMC § 7302. PL 11-79 § 8.³⁸ The statute allows for such reprogramming, of 25% of the appropriation. 1 CMC § 7402(b). The Legislature's subsequent joint resolution 14-34 authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems.

Thus, the Board was presented with a valid order for reprogramming funds to a public purpose concurred in by both the Legislative and Executive branches of government.

This subsection alone might support the agency's providing the savings funds during an emergency in order to keep power, water and sewage treatment flowing to its beneficiaries. In light of the three other provisions, just discussed, the MPLA Board is well within its fiduciary responsibilities in making the requested transfer.

d. The MPLA Board acted within its fiduciary duties because it could not deny the lawful request to use the identified funds to help stave off the power-related disaster emergency.

The MPLA Board's acceding to the Governor's request was not only within its fiduciary responsibilities, it was not optional. The Governor had lawfully declared a State of Disaster Emergency, affirmed by the Legislature. His emergency powers included employing such resources as the MPLA savings account containing the unused CIP funds to stave off the power emergency. It was not for the Board to determine independently whether the emergency powers should be exercised with respect to the idle funds. Thus, there was no violation of a fiduciary duty.

- e. The *Analysis* to the Constitution indicates the Framers' intent that MPLA's Board have the flexibility to manage its revenues for proper purposes.

To the extent that the purposes for the MPLA Board's activities are traceable to the Constitution, the expressions of the Framers are relevant. The Framers addressed the MPLC/MPLA in their comments to the Constitution, explaining that the Constitution had given the corporation broad powers to address funds from the public lands and broad discretion in handling those funds:

Section 4: Marianas Public Land Corporation.No further action is needed on the part of the corporation or any branch of government to constitute the corporation as a legal entity. . . .The provisions of sections 4 and 5 of this article constitute the basic rules of organization and governance that would ordinarily be found in the charter, articles of incorporation or bylaws of a corporation. **Organizational and policy matters not specified by the Constitution are left to the discretion of the corporation.** . . .

....

Section 4(d). This provision specifies that the directors may take action by a majority vote of the total number of directors. Action by any smaller number does not bind the corporation.

This provision specifies that **the corporation shall have all of the powers available to a corporation under Commonwealth law. This means that the corporation can exercise any power or privilege given to corporations that is not inconsistent with the limitations imposed on the corporation by the Constitution.**

Section 3 gives a broad grant of powers to the corporation to manage and dispose of the public lands. This provision in section 4(d) that gives the public land corporation all of the power available to a corporation under Commonwealth law is intended only to add to or clarify the powers of the public land corporation. It does not permit the legislature to enact any limitations on the powers of corporations and then require that such a limitation be applied to the public land corporation at the expense of the powers granted by the Constitution.

....

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, 150-51. (Emphasis added)

Section 5: Fundamental Policies. **This section sets out the fundamental policies** that must be followed by the corporation in carrying out its responsibilities. **All matters not specifically mandated by the Constitution or delegated to the legislature are left to the discretion of the corporation.** The corporation is not subject to any of the limitations imposed by article X [regarding public debt and indebtedness].

....

Section 5(g). This section provides for the disposition of funds derived from the public lands. These funds include the payments made by the United States for property leased under article VIII of the Covenant. The funds from the public lands are placed in a

trust fund that is an entity separate from the corporation. This separates the functions of land management and money management. This provision requires that the corporation turn over the proceeds from the public lands to the trust fund but does not include any time requirement that the moneys be turned over promptly.

The corporation is permitted to retain a portion of the funds for administration purposes with two restrictions: the funds must be necessary for administration and the expenses of administration must be reasonable.

Administration includes administration of the management of the public lands and administration of the disposition of public lands. **The determinations with respect to what is necessary and reasonable are made by the corporation.**

It is intended that the Marianas Public Land Corporation be financially independent of the legislature and that it meet its expenses with the retained funds. There is no limitation on the percentage of the total revenues received that the corporation may retain except the limitation of reasonableness and necessity set out in the last clause. The corporation also has the power to borrow to meet expenses.

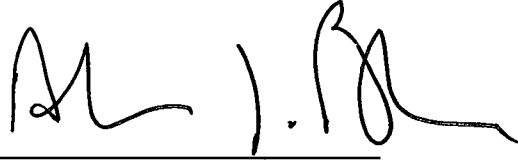
This provision does not prohibit the legislature from appropriating funds for expenditures by the public land corporation for management or disposition of the public lands or other responsibilities assigned to the corporation by the legislature.

. . . . All revenues from the public lands received on and after the effective date of the Constitution go to the public land corporation. This includes payments for the transfer of freehold, leasehold, and other interests made before the effective date of the Constitution by the government of the Northern Mariana Islands or nay [sic] predecessor entity and transfers made by the corporation. Any payment made to any agency or entity other than the corporation is of no effect and the corporation may hold the payee in default.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 152, 158-59. Thus, the Framers expressed the intention for the Board to address flexibly the care and disposition of public lands and the proceeds therefrom. The instant emergency and the Board's response, by transferring idle funds to a sister agency in order to stave off the disaster of no power, no water and no sewage treatment, is just such flexibility.


Conclusion

A careful analysis of the MPLA, the MPLA Board and the Board's duties, and the present disaster emergency demonstrates that the Board of the MPLA has operated well within its fiduciary duties and responsibilities in agreeing to transfer its idle savings account funds to the use of the CUC's Emergency Fuel Contingency Fund. Such a transfer is within the Board's fiduciary duties and responsibilities.



Date: August 26, 2005

Alan J. Barak, Asst. AG, Civil Division



Date: August 26, 2005

Concurred by: Pam Brown, Attorney General

ENDNOTES

1. Governor Babauta reasserted his request for emergency assistance in an August 22, 2005, memo to the Chairwoman of the MPLA:

To: Ana Demapan-Castro, Chairwoman, Marianas Public Lands Authority Board of Directors
Cc: Attorney General; Secretary of Finance; Members, [MPLA] Board of Directors; Commissioner, [MPLA]; Special Assistant for Management & Budget; Special Assistant for Administration
From: Governor
Subj: TRANSFER OF FUNDS

On July 29, 2005 I wrote to Marianas Public Lands Authority (MPLA) regarding the continued State of Emergency in the Commonwealth that exists as a result of the high cost of fuel and the inability of the Commonwealth Utilities Corporation (CUC) to provide power to our people. I requested MPLA to assist the Executive Branch and CUC to address this emergency situation by identifying and transferring funds for reprogramming to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated July 29, 2005 . (Attached).

On August 9, 2005, the Office of the Governor was informed by MPLA that it had identified CIP matching funds that were previously obligated, but remained unused. I subsequently requested that MPLA approve the transfer of these unused CIP matching funds to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated August 11, 2005 (Attached).

As such, pursuant to the approval of the MPLA Board of Directors and the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution, 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, as invoked in the Declaration of State of Disaster Emergency on May 19, 2005, the renewal/continuation of such Declaration of State of Disaster Emergency issued on June 19, 2005, July 18, 2005 and August 17, 2005, respectively; and, pursuant to the authority granted by the adoption of House Joint Resolution No. 14-36, I hereby request you to transfer One Million dollars (\$1,000,000.00) from the account of the Marianas Public lands Authority (General Saving Account No. 0203-429012) located at the Bank of Guam, Garapan Branch to the CUC Emergency Fuel Contingency Fund (Business Unit #1608).

To effectuate this transfer, I respectfully request the MPLA Commissioner to authorize the funds to be remitted to:

.....

This action is necessary to address critical fuel, generator rehabilitation and maintenance issues facing CUC and the people of the Commonwealth. Furthermore, the Special Assistant for Management and Budget and the Secretary of Finance are directed, by copy of this memorandum, to transfer the entire amount remitted by MPLA to the CUC Emergency Fuel Contingency Fund (Business Unit #1608.47210).

If you have any question related [sic] matter or require any additional information, please do not hesitate to contact my office.

/s

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

Juan N. Babauta

2. Letter of Aug. 24, 2005, fr Acting Chairman MPLA, M.P. Villagomez to Attorney General P. Brown:

VIA HAND DELIVERY

Re: Legal Opinion

Dear Attorney General Brown:

As you may be aware, Governor Juan N. Babauta is requesting that MPLA transfer \$1,000,000.00 from its Bank of Guam account to the CUC Emergency Fuel Contingency Fund, to be used to assist the Commonwealth in the continued State of Emergency. Enclosed is a copy of the Governor's most recent Memorandum.

Although the MPLA Board of Directors approved the Governor's request at a special public meeting held in Rota, lengthy discussion over the legality of the transfer took place in executive session prior to the Board action. As a result of those and subsequent discussions on the subject, the MPLA Board continues to be troubled by application of the cited authority for using NMI descent funds for such purposes.

As you know, MPLA funds derived from public land revenues are restricted for the benefit of NMI descent, and the MPLA Board is held to a strict fiduciary responsibility over the disposition of such funds.

In order to satisfy the Governor's request, the MPLA Board requests that you provide an official Attorney General Opinion, limited to this specific request by the Governor. MPLA stands ready and willing to accommodate the Governor immediately upon receipt of your opinion if you find that the request is allowable and will not be a violation of the Board Members' fiduciary responsibilities.

We ask that you give this request your top priority, as the Governor and CUC require prompt action on our part.

Thank you for your assistance,

Sincerely,

/s

Manuel P. Villagomez
Acting Chairman

Enclosure

cc: Governor
Board Members
Commissioner
Comptroller
Legal Counsels

3. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The Comment set out E.O. 94-3 in its entirety, including the section dissolving the MPLC and moving it to the Department of Land and Natural Resources:

Section 306. Department of Lands and Natural Resources. [Section 306 VACATED by PL 10-57, § 4]

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

Executive Order 94-3. The Legislature repealed the change. PL 10-57. The Legislature then repealed PL 10-57 and substituted a new Board of Public Lands, Office of Public Lands, and Administrator of Public Lands, as an independent agency. PL 12-33 (effective Dec. 5, 2000) (ordered codified as 1 CMC, Division 2, Chapter 14). The Legislature again amended the statutory scheme with PL 12-71.

4. According to the Law Revision Commission Comment to § 2801 there were technical deficiencies in the repeal and reenactments of PL 12-33 and PL 12-71, some of which the Commission corrected:

The Commission assigned a different number sequence to the reenacted sections than that provided in PL 12-33.

PL 12-71 became effective November 13, 2001 and contained some technical deficiencies. The first deficiency is the amendment of subsection (a) above without conforming amendments to subsection (b) and the remainder of the act; a global amendment provision was not included in PL 12-71. Additionally, the reference in subsection (a) above to the term of the Board of Directors is unclear and also in conflict with 1 CMC § 2803(d). Furthermore, it appears that in the last sentence of subsection (a) above, the reference to "effected" should have been "affected." Finally, the reference in PL 12-67 to "H.B. 12-257" should instead be to "PL 12-33."

1 CMC § 2801, Comment.

5. Article XI of the NMI Constitution gave the MPLA and MPLT broad powers within their missions:

Section 1: Public Lands. The lands to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under Covenant Article VIII, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are **public lands belonging collectively to the**

people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands. The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Surface Lands. **The management and disposition of public lands** except those provided for by N.M.I. Const. art. XI, § 2 **shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

b) One director shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, and three shall be residents of the third senatorial district; provided that of the five directors, at least one shall be a woman and at least one shall be a person of Carolinian descent. Each director shall be a citizen or national of the United States, a resident of the Commonwealth for at least five years immediately preceding the date on which the director takes office, a person with at least two years management experience, a person who has not been convicted of a crime carrying a maximum sentence of imprisonment of more than six months, a person who is able to speak Chamorro or Carolinian and a person of Northern Marianas descent.

c) The directors shall serve a term of four years except that two of the first five directors appointed shall serve a term of two years and three shall serve a term of four years. A director may not hold a paid position in the corporation. **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

e) The directors shall make an annual written report to the people of the Commonwealth describing the management of public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in Commonwealth land.

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies** in the performance of its responsibilities.

a) The corporation shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and one village homestead. A person may not receive a freehold interest in a homestead for three

years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least fifteen years as of the effective date of this Constitution. At any time after receiving the freehold interest, the grantee may mortgage the land provided that all funds received from the mortgagee be devoted to the improvement of the land. Other requirements relating to the homestead program shall be provided by law.

b) **The corporation may not transfer a freehold interest** in public lands for twenty years after the effective date of this Constitution, **except** for homesteads as provided under section 5(a), or **for use for a public purpose by another agency of government**, or for land exchanges to accomplish a public purpose as authorized by law.

c) The corporation may not transfer a leasehold interest in public lands that exceeds twenty-five years including renewal rights. An extension of not more than fifteen years may be given upon approval by three-fourths of the members of the legislature.

d) The corporation may not transfer an interest in more than five hectares of public land for use for commercial purposes without the approval of the legislature in a joint session.

e) **The corporation may not transfer an interest**, and may prohibit the erection of any permanent structure, **in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

f) The corporation shall adopt a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate.

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary** to meet reasonable expenses of administration and management, land surveying, homestead development, and **any other expenses reasonably necessary for the accomplishment of its functions**. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added)

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

a) The trust shall have three trustees appointed by the governor with the advice and consent of the senate. After this Constitution has been in effect for ten years, the number of trustees appointed by the governor with the advice and consent of the senate shall be increased to five. Three shall be from Saipan, one from Rota, and one from Tinian. At least one trustee shall be a woman and at least one trustee shall be of Carolinian descent. The trustees shall serve for a term of six years except that the term of office shall be staggered, accomplished as follows: three trustees shall serve for four years and two trustees shall serve for six years as determined by drawing of lots.

b) **The trustees shall make reasonable, careful and prudent investments.**
For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

c) If the legislature authorizes a Marianas development bank and provides that all United States economic assistance for economic development loans provided under Covenant § 702(c), shall be deposited as capital in that bank, the trust shall use up to fifty-five percent of its receipts in a year to increase the total capital available to the bank to the sum of ten million dollars. After the bank has more than ten million dollars in total capital, the bank shall pay the excess above ten million dollars to the trust until the trust has been fully repaid for its contribution to the bank.

NMI Const. art. XI, § 6. (Emphasis added)

6. The Court in *Romisher* held that the MPLC lacked the Constitutional authority to receive funds for, and negotiate a deal regarding, **private** interests in the US military's acquisition of Tinian real estate. *Romisher v. MPLC*, 1 CR at 860 (Tr. Ct. 1983) (preliminary injunction), upheld in 1 CR 873, 883 n 3 (1983) (permanent injunction). MPLC's power went to the disposition of public lands, held the Court. The Executive was to negotiate the value of the private interests, disburse the funds and acquire title in the sale.

7. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors from Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

8. Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

9. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

10. The \$1 million is held in Bank of Guam General Savings Account No. 0203-429012. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

11. Source, phone conversations with MPLA counsel of 8/25/05 and 8/26/05.

12. The Constitution's article XI, § 5(g) says:

(g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses reasonably necessary for the accomplishment of its functions.** The annual budget of the corporation shall be submitted to the legislature for information purposes only.

13. See, e.g., CUC's most recent annual financial report, most recent cash flow statement (6/27/05) and its sole fuel oil contract with Mobil Oil Co., #CUC-PG-05-0013. [all on file]

14. CUC's Comptroller describes a "financial crisis" and has projected negative cash flow by the beginning of Year 2005 into the indefinite future, **without** increasing the rates for the fuel surcharge. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 1.

CUC's oil price per gallon never rose above 88 cents/gal for the years 2001-02, then increased for 4 months in 2003 to almost \$1.00/gal, to drop to 78 cents/gal in June, then finish 2003 at about 92 cents/gal, then climb in 2004 to a high of \$1.17 in September, dropping to about \$1.12 in December. Source: Chart I, Production Fuel, Average Monthly Purchase Price Per Gallon, January 2001 to December 2004 (author, Ed Williams, CUC Comptroller's Office).

15. Memo Fr CUC Comptroller, Thru: Executive Director, CUC, to CUC Board of Directors, re: Financial Crisis Situation at CUC, dated Tuesday Jan 25, 2005. (2 pp):

I am writing you this letter to inform you of the serious financial situation that is facing CUC today. We face a situation that, if it is not addressed immediately, could lead to power shedding and ultimately to island wide black outs in Saipan, Tinian and Rota within the next few months.

With these black outs will also come the disruption of our water and sewer services. The ripple effect of our power shut down will cause wide spread negative economic impact on all aspects of our lives; it will be felt by our businesses, health care systems, education systems, tourism industry, etc.

By the end of this week we will have to deal with the fact that CUC can not meet the \$2 Million advance payment requested by Mobil on January 28 to stay within our credit limit of \$10 Million. This may jeopardize the fuel delivery in February.

Three weeks from today our Cash Flow projection shows that we will have a shortfall of \$1.1 Million. This is the day on which we are to pay Mobil for December's fuel. Failure to make this payment could possibly delay further deliveries until a credible payment plan can be established.

Our projections for cash flow without a fuel surcharge show CUC going further into debt. (See Attached) We must also realize that forecasting revenue may be unrealistic if we are forced into load shedding. If we are not supplying 24-hour power, our revenues will drop dramatically.

One suggestion to address our crisis has been to float a bond. However, while we may wish to pursue this in addition to a fuel surcharge, we must realize that it will take a minimum of 4 to 6 months at best to float a bond and we may have to seek the assistance of the Legislature and Governor if the bond underwriters will require a Full Faith and Credit from CNMI Government, which could even further lengthen the time until any funds became available.

At the present moment, because of the cost of fuel, the cost of production of Electricity exceeds the revenues generated by its sale. This cannot be allowed to continue. The actual costs of fuel must be recovered and the fuel surcharge is the most direct and rational approach to this problem.

I urge the Board to adopt the proposed emergency regulations today so that we may begin to address our revenue shortage immediately.

Thank you for your attention and assistance.

/s

Sohale Samari
CUC Comptroller

16. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 2.

17. "Oil Leaps to Record \$68 on Storm, U.S. Gasoline Draw", NY Times (www.nytimes.com) (Reuters) (Aug 25, 2005). The run-up in oil prices is likely to continue for a long time, given the multiple factors affecting prices – weather, production capacity, political events and worldwide demand:

August 25, 2005
Oil Hits Record \$68 on Storm, Gas Draw
By REUTERS

Filed at 6:10 a.m. ET

LONDON (Reuters) - Oil surged to a record \$68 a barrel on Thursday, hounded by supply concerns due to a growing threat to oil facilities from an Atlantic storm and a large fall in U.S. gasoline stocks.

U.S. light crude was up three cents at \$67.35 a barrel by 0958 GMT, pausing after hitting \$68 in early trade, the highest since U.S. crude futures started trade in 1983. London Brent crude was up 12 cents to \$66.13.

Dealers are concerned about a thin stock cushion after a rash of disruptions and tensions in oil-producing countries cut crude output and propelled prices to a series of record peaks.

Gasoline stockpiles in the United States, the world's top oil consumer, beat forecasts to register a slide of 3.2 million barrels in the week to August 19, widening the supply gap from a year ago, the government Energy Administration Agency said.

Stocks of the auto fuel have contracted for eight straight weeks, led by higher demand as the peak driving season has almost two weeks to run its course.

Compounding the fears, a tropical storm is swirling toward Florida, threatening U.S. oil and gas production facilities in the Gulf of Mexico.

"The market is really starting to get unhinged," said John Brady at ABN AMRO in New York. "The majority can be attributed to the storm, and some geopolitical concerns as well."

Tropical storm Katrina, which formed in the Bahamas on Wednesday, was moving on a path that would likely cut across southern Florida and into the Gulf of Mexico later this week, the U.S. National Hurricane Center said.

The storm was expected to hit the Miami area by Friday as a weak hurricane moving slowly across the state into the Gulf.

Market participants fear the storm may threaten oil and gas producing areas in the central and eastern Gulf of Mexico, where the United States derives between 20 and 25 percent of domestic crude and natural gas production.

gas production.

The unusually active Atlantic hurricane season has produced 11 named storms and could culminate in as many as 21 tropical storms and 11 hurricanes, forecasters have said.

SUPPLY WOES LINGER

Refinery snags have also skewed risks to the upside as the oil industry struggles to keep pace with demand growth, which has thus far proven remarkably resilient amid soaring costs.

"There is very strong demand and we don't see that demand receding," the International Monetary Fund's chief Rodrigo Rato, said in a teleconference on Thursday. "Prices are not going back to the levels seen at the beginning of 2004."

Adding to the list was Shell Oil Co.'s 153,000 barrel-per-day (bpd) refinery in Martinez, California, which suffered a malfunction in a production unit on Tuesday.

Tesoro Corp. said a 70,000-bpd gasoline-producing unit at its 168,000-bpd Golden Eagle refinery in Martinez, California, was shut on Wednesday following a fire.

And Huntsman Corp. declared a force majeure on Wednesday on a large part of its production of methyl tertiary butyl ether (MTBE), a gasoline octane-booster, from its refinery in Port Neches, Texas. Trade sources said the force majeure would last for 45 days.

Output in Ecuador, which mostly supplies crude to California, is still down to around 80 percent of its 530,000-bpd level after attacks on oil infrastructure last week.

Protesters, who have choked off oil exports, are threatening a hunger strike to pressure the government on their demands, dealing a blow to settlement talks.

The market also watched for disruption in Nigeria, where some fuel stations shut down ahead of an expected 60 percent hike in fuel prices. Previous government attempts to raise prices have led to crippling general strikes in the world's 8th largest oil exporter.

18. Sections 1 and 14 of the Constitution make the Governor the head of the Executive Branch, and Section 15 empowers him to reorganize the Executive:

Section 1: Executive Power. The executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws.

.....

Section 14: Heads of Executive Departments. Each principal department shall be under the supervision of the governor and, unless otherwise provided by law, shall be headed by a single executive. The governor shall appoint the heads of executive departments with the advice and consent of the senate. The governor may remove the heads of executive departments. The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth.

Section 15: Executive Branch Departments. Executive branch offices, agencies and

instrumentalities of the Commonwealth government and their respective functions and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them so far as practicable according to major purposes. . . Regulatory, quasi-judicial and temporary agencies need not be a part of a principal department. The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law. The legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions and duties. **The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders** which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

N.M.I. Const. art. III, §§ 1, 14, 15.

19. The Office of the Governor was created by PL 1-8:

§ 2051. Office of the Governor.

There is in the Commonwealth government the office of the Governor, composed of the Governor, the Governor's Council and persons appointed by the Governor to the following positions:

- (a) A Special Assistant for Administration;
- (b) A Special Assistant for Planning and Budgeting;
- (c) A Special Assistant for Programs and Legislative Review;
- (d) An Executive Assistant for Carolinian Affairs;
- (e) A Public Information and Protocol Officer; and
- (f) A private secretary.

§ 2052. Office of the Governor: Staff.

The Governor may employ other staff as required to assist the office of the Governor in performing its functions, subject to budgetary appropriation. The staff shall be within the civil service.

§ 2053. Office of the Governor: Duties.

The Governor has the powers and duties as provided in the Commonwealth Constitution or as provided by law. In addition, the Governor shall receive official visitors and conduct official ceremonies of the Commonwealth. These duties and responsibilities may be delegated to the Lieutenant Governor or to elected or appointed officials of the Commonwealth.

1 CMC §§ 2051-53. E.O. 94-3 and PL 11-47 added staff to the Office and converted staff to the Excepted Service. See next endnote.

20. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The "Office of the Governor" is, for the most part assumed, rather than designated in the reorganization. However, it is mentioned as an agency in which all employees are subject to the Excepted Service. E.O. 94-3 § 509(b)(1). See also PL 11-47 (return of certain positions to Office of the Governor).

21. The text of the Governor's State of Emergency Declaration was as follows:

Declaration of State of Emergency:
Commonwealth Utilities Corporation
Lack of power May 2005

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

I find that CUC will be unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail. These conditions present an extreme, immediate and imminent emergency.

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

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

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

/s

Juan N. Babauta,
Governor

Dated this __19th__ day of May, 2005

22. The resolution stated as follows:

House Joint Resolution No. 14-36

Supporting the Governor's declaration of state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation and authorizing the Governor 100 percent reprogramming authority of available CNMI funds to remedy the power generation problems.

Whereas, on May 19, 2005, Governor Juan N. Babauta declared a state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation (CUC) for CUC's inability to provide service; and

Whereas, CUC will be unable to pay for its fuel oil supplies in the immediate future; and

Whereas, CUC's power generation levels are currently reduced to almost zero reserves; and

Whereas, without electricity the CUC water and wastewater pumping systems will also fail; and

Whereas, the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation; and

Whereas, it is the intent of the Legislature to authorize the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Whereas, the Commonwealth Constitution, Article 10 Section 3, provides that "public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature"; and

Whereas, the Commonwealth Constitution, Article 10 section 4, also provides in pertinent part the "public indebtedness may not be authorized for operating expenses of the Commonwealth government or its political subdivisions."

Now, therefore, be it resolved by the House of Representatives, Fourteenth Northern Marianas Commonwealth Legislature, the Senate concurring, that the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation and authorizes the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Be it further resolved that the Speaker of the House of Representatives and the President of the Senate shall certify, and the House Clerk and the Senate Legislature [sic] Secretary shall attest to the adoption of this joint resolution and thereafter the House Clerk shall transmit a certified copy to the Honorable Juan N. Babauta, Governor of the Commonwealth of the Northern Mariana Islands.

Adopted by the House of Representatives on May 25, 2005 and by the Senate on June 15, 2005

Certified by:

Benigno R. Fitial
Speaker of the House

Joaquin G. Adriano
President of the Senate

Attested to by:

Evelyn C. Fleming
House Clerk

Joseph M. Mendiola
Senate Legislative Secretary

23. The man-made disaster appears as part of the definition of "disaster" and "local disaster emergency":

(a) **"Disaster" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, fires, oil spills, or other water contamination **requiring emergency action to avert** danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in any part of the Commonwealth **which, in the determination of the Governor is of sufficient severity and magnitude to warrant assistance by the Commonwealth to supplement the efforts and available resources of the political subdivisions thereof and relief organizations** in alleviating the damage, loss, hardship or suffering caused thereby.

(b) "Emergency" means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, drought, fire, explosion, or other catastrophe in any part of the Commonwealth which requires federal emergency assistance to supplement the Commonwealth and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(c) "Major disaster" means any typhoon, tornado, storm, floods, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, fire or other catastrophe in any part of the Commonwealth which, in the determination of the President of the United States, causes damage of sufficient severity and magnitude to warrant major disaster assistance under U.S. Disaster Relief Act (42 U.S.C. § 5121 et seq.), above and beyond emergency services by the federal government to supplement the efforts and available resources of the Commonwealth and its political subdivisions.

(d) **"Local disaster emergency" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, highwater, wind-driven waters, tidal waves, earthquakes, fires, oil spills, water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in one particular political subdivision.

(e) "Political subdivision" means any district, village, community or other unit of local government recognized as such by laws or customs of the Commonwealth.

3 CMC § 5114 (Emphasis added).

24. The Governor has very broad powers to prevent and respond to disasters:

§ 5121. The Governor and disaster emergencies.

(a) The Governor is responsible for meeting the dangers to the Commonwealth and the people affected by disasters.

(b) Under this chapter, the Governor may issue executive orders and regulations and may amend or rescind them. Executive orders shall have the force and effect of law when promulgated in accordance with the procedures set forth in this chapter. The Governor shall issue regulations as provided by law, for the administration and enforcement of this chapter, and such regulations shall have the force and effect of law if they are not in conflict with the expressed provisions of this chapter or other laws of the Commonwealth.

(c) A disaster emergency shall be declared by executive order of the Governor if the Governor finds a disaster has occurred or that occurrence or the threat thereof is imminent. The state of disaster emergency will remain in effect until the Governor finds that the threat or danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order, but no state of disaster emergency may continue for longer than 30 days unless renewed by the Governor. The Governor shall issue an executive order which may terminate a state of disaster emergency at any time. An executive order issued under this subsection shall be filed promptly with the Commonwealth Disaster Control Office and the Attorney General's office, and shall immediately be disseminated to the general public.

(d) An executive order declaring a state of disaster emergency shall serve to activate the disaster response and recovery aspects of the Commonwealth, local, and inter-jurisdictional disaster emergency plans applicable to the political subdivisions or area in question, and the authority for the deployment and use of any forces to which the plan or plans apply, and for use or distribution of any supplies, equipment and materials and facilities assembled, stockpiled or arranged, to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

(e) During the continuance of any state of disaster emergency, the Governor shall be in charge of all forces and personnel, and the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate regulations, but nothing herein restricts the Governor's authority to do so by executive orders issued at the time of the disaster emergency.

(f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary-action in coping with the emergency;

(2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;

(3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Subject to any applicable requirements for compensation under 3 CMC § 5132, utilize any private property if the Governor finds this necessary to cope with the disaster emergency; provided, however, that any such property that is not destroyed or totally damaged shall be returned to the owner immediately following the termination of the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Commonwealth if the Governor deems this action is necessary for the preservation of life or public health or safety; provided, however, that any person so evacuated shall be permitted to return to the place from which he or she

was evacuated immediately following the termination of the disaster emergency;

(6) Prescribe routes, modes of transportation, and destination in connection with evacuation, and requisition and take possession and control of any government vehicle for any reasonable period of time in order to assist with evacuation or with other necessary emergency functions or duties;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(9) Make provisions for the availability and use of temporary emergency housing.

3 CMC § 5121.

25. The general emergency powers provision is as follows:

(a) Whenever the Governor uses his authority pursuant to N.M.I. Const. art. III, § 10, the Governor shall as soon as practicable transmit to the legislature a report describing in detail the emergency which required exercise of such authority, the measures being taken to deal with the emergency, and a financial plan for meeting the cost of these measures. This plan shall indicate any function, program, or project which will have to be curtailed or deferred during the emergency due to the emergency itself or due to fiscal constraints, any additional revenues which may be needed to ensure sufficient funds, and any additional information which the Governor deems appropriate. This plan shall also include, if a determination can be made at that time, the recommendations of the Governor for any necessary reprogramming, appropriations, or any other statutory changes which the Governor deems advisable to deal with the emergency or to adjust the fiscal position of the government subsequent to the emergency. If this determination cannot be made at that time, the recommendation shall be transmitted to the legislature as soon as practical. A state of emergency shall automatically terminate within 60 days of its proclamation; unless the Governor shall, prior to the end of the 60 day period, notify the presiding officers of the legislature that the state of emergency has been extended, for a like term, and giving the reason for extending the state of emergency.

(b) If the legislature is not in session when the Governor prepares the report required by subsection (a) of this section, the Governor shall call the legislature into special session for the purpose of receiving the report, and of taking other action as may be necessary under the circumstances, as soon as it is physically prudent to hold a special session.

1 CMC § 7403.

26. The Chief of Civil Litigation, Peter Van Name Esser, concluded that a utility shortage or stoppage constitutes a "calamity" under Art. iii, § 10 of the CNMI Constitution.

He cited the Analysis of the Constitution, which presents "...a serious crisis caused by the unavailability of public utilities, transportation or communications," as an example of an emergency.

And he relied on Webster's definition of "emergency" as "any event or occasional combination of circumstances which calls for immediate action or remedy, pressing necessity; exigency," citing *People v. Ansen*, 105 P2d 321 (Cal. 1937) (Municipal streetcar driver was entitled to show in defense of prosecution for running "stop" signal that "emergency" supported continued travel through intersection); *Geisendorfer*

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

v. Mayor and City Council of Baltimore, 3 A.2d 860 (Md. 1947) (Emergency is lack of funds for school system); and Mullins v. Henderson, 170 P2d 118 (1942) (Mayor may use emergency powers to avert shutdown of street railway).

AG Op. 81-31 (7/23/81).

27. The LRC's "Constitution Annotated" discusses the *Analysis*, its stated purpose of explaining each section of the Constitution, and its limited use as authority:

Courts have cited the *Analysis* in several decisions. According to the *Analysis*' brief preface:

The purpose of this memorandum is to explain each section of the Constitution of the Commonwealth of the Northern Mariana Islands and to summarize the intent of the Northern Marianas Constitutional Convention in approving each section. This statement was approved by the Convention on December 6, 1976 with the direction that it be available to the people along with the Constitution for their consideration before the referendum on the Constitution.

Id. at 1. The 1976 *Analysis* was approved by the Convention, and published in a small, blue paperback booklet, 215 pages in length. The *Analysis* is mentioned in article III, § 23(b) (directing the resident executive for indigenous affairs to "coordinate the translation and distribution of such official documents as the Constitution of the Northern Mariana Islands and the Covenant and analysis thereof").

Comments to many sections in this publication include quotations from the *Analysis*. It is important to note that while courts have often cited the *Analysis* in support of rulings, they are not obligated to follow its interpretation of Constitutional provisions. In short, "the *Analysis* does not have the force law." *Camacho v. Civil Service Commission*, 666 F.2d 1257, 1264 (9th Cir. 1982) (rejecting *Analysis* interpretation of article III, § 16). According to a Commonwealth Trial Court decision:

The *Analysis* is not the law. It was not voted on by the electorate. At most, it is an attempt to clarify what the law is as stated in the Constitution. To use the *Analysis* as authority to overcome the clear language of the Constitution is not permissible.

Camacho v. Camacho, 1 CR 620, 628-29 (Trial Ct. 1983) (rejecting *Analysis*' interpretation of schedule on Transitional Matters. § 4).

Comm.. Law Rev. Com'n, Constitution of the Commonwealth of the Northern Mariana Islands, annotated, 1st ed. (June 1995), p xiii-xiv. (Fn's omitted)

28. The *Analysis* refers to legislative approval – "The governor may use contingency funds for disaster aid and divert from regular programs during the state of emergency with legislative approval." – but there is no such language on legislative approval in article III, § 10.

29.1 CMC § 2153(h): Attorney General Duties

The Attorney General shall have the powers and duties as provided in the Commonwealth Constitution. In addition, the Attorney General shall have the following powers and duties:

....

(h) To act, upon request, as counsel to all departments, agencies and instrumentalities of the Commonwealth, including public corporations, except the Marianas Public Land Trust. Subject to availability of funds by budgetary appropriation, separate legal counsel may be retained for particular matters.

1 CMC § 2153(h).

30.1 CMC § 2153(g).

31. Faced with two conflicting opinions of the CNMI Attorney General, the Supreme Court, responding to a certified question from the U.S. District Court, rejected the earlier, four-sentence-long opinion containing "ninety words with no reference to case law or legislative history" as "unpersuasive" in favor of the Attorney General's thoroughly researched brief. *Borja (Mayor of Tinian)*, 2003 MP ¶ 21.

32. *Castro v. Hotel Nikko Saipan, Inc.*, 4 N.M.I. 268, 275 (1995), citing 7 CMC § 3401.

33. The Mafnas' court's decision was "The absence of any language excluding such interests from the restriction in Article XII leads us to conclude that they are within the restriction." *Aldan-Pierce v. Mafnas*, 2 N.M.I. 122 (1991), at n 24.

The principle of "expressio unius est exclusio alterius" was addressed in the legislative context as the existence of express exceptions to a rule gives rise to a presumption that no other exceptions were intended. *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB"). The case cited *Andrus v. Glover Constr. Co.*, 100 S. Ct. 1905, 1910 (1980); Norman J. Singer, 2A *Sutherland Statutory Construction* § 47.11 (5th ed. 1993). MVB, p 28. See also *E-Tours Inc. v. Marianas Visitors Authority*, Civ. No. 00-0078D, p 7 (Super. Ct. 2000).

34. The full text of the District Court's statement is as follows:

It is now settled that the United States stands in relation to the peoples of Micronesia as a trustee. See, e.g., *Palacios v. Commonwealth of the Northern Mariana Islands*, Civ.App. No. 81-9017 (D.N.M.I. (App. Div.) 1983); *Gale v. Andrus*, 643 F.2d 826, 830 (D.C.Cir. 1980) ('the entire authority of the United States in the Trust Territory is derived from a trust'); *Ralpho v. Bell*, 569 F.2d 607, 619 (D.C.Cir. 1977) ('the United States does not hold the Trust Territory in fee simple, as it were, but rather as a trustee'). In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965). The nature of the fiduciary obligations which the United States shoulders in its capacity as a trustee to a race or nation of peoples is well summarized in *Smith v. United States*, 515 F.Supp. 56, 60 (N.D.Cal. 1978), a decision based on the United States-Indian trust relationship. In *Smith*, Judge Sweigert describes those fiduciary duties as duties that must be exercised with 'great care,' *United States v. Mason*, 412 U.S. 391, 398, 93 S.Ct. 2202, 2207, 37 L.Ed.2d 22 (1973), in accordance with 'moral obligations of the highest responsibility and trust,' that must be measured 'by the most exacting fiduciary standards.' *Seminole Nation v. United States*, 316 U.S. 286, 297, 62 S.Ct. 1049, 1054, 86 L.Ed. 1480 (1942). This Court previously has held that the 'very purposes which engendered the judicially created Indian fiduciary doctrine apply a fortiori to the Micronesian-U.S. relationship.' *Palacios*, supra, slip op. at 10.

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).

35. With respect to the business judgment rule, see also *Francis v. United Jersey Bank*, 432 A.2d 814 (N.J.1981) (A director should become familiar with fundamentals of business in which corporation is engaged and because directors are bound to exercise ordinary care, they cannot set up as a defense lack of knowledge needed to exercise the requisite degree of care; and if one feels that he has not had sufficient business experience to qualify him to perform the duties of a director, he should either acquire the knowledge by inquiry, or refuse to act).

36. This Opinion will not catalogue the almost-daily press coverage of the CUC emergency, as it is well known, and the press clippings can be assembled if needed.

37. The Constitution's language was "for use for a public purpose by another agency of government", NMI Const. art. XI, § 5(c), and, with respect to an interest in public lands located within 150 feet of the high water mark of a sandy beach, specifically excepted to authorize construction of facilities "for public purposes", NMI Const. art. XI, § 5(e).

38. The appropriations act restricted reprogramming to the same senatorial district:

Section 8. Reprogramming. Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reprogrammed by an appropriation bill of the CNMI Legislature or pursuant to the process specified in or 1 CMC 7302, all or in part among the projects funded by this Act to alternative projects included in the CIP Plan adopted by Section 5 of Public Law 11-78. However, notwithstanding other provisions of law, funds can only be reprogrammed from one project in a senatorial district to another project in the same senatorial district. Reprogramming of funds to alternative projects not included in the CIP Plan, must comply with the Plan Amendment Process as specified in Section VII of the CIP Plan.

PL 11-79 § 8. Since the overwhelming majority of CUC's power is consumed on the Island of Saipan, the reprogramming presented to the Board was to the same Senatorial District as the Koblerville project. As to the CIP Plan process, the State of Emergency supercedes the necessity to revise the CIP Plan, as a one of the regulatory provisions subject to suspension.



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

Civil Division
Tel: (670) 664-2341/42
Fax: (670) 664-2349

Criminal Division
Tel: (670) 664-2366/67/68
Fax: (670) 234-7016

Investigative Unit
Tel: (670) 664-2310/12
Fax: (670) 664-2319

**Division of
Immigration**

Saipan
Tel: (670) 236-0922/23
Fax: (670) 664-3190


Rota
Tel: (670) 532-9436
Fax: (670) 532-3190

Tinian
Tel: (670) 433-3712
Fax: (670) 433-3730

**Domestic Violence
Intervention Center**
Tel: (670) 664-4583/4
Fax: (670) 234-4589

MEMORANDUM AND ORDER

TO: All Immigration Personnel

FROM: Pam Brown, Attorney General 

DATE: September 1, 2005

RE: Admission of Bangladeshi Citizens

As of today, the CNMI will no longer admit citizens of Bangladesh for any purpose. This is due to the high frequency of document fraud in that country. We are unable to verify the authenticity of travel documents originating there and therefore must deny entry in the best interests of the Commonwealth. Please do not process any entry permit applications from citizens of Bangladesh.



Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Division of Environmental Quality



P.O. Box 501304 C.K., Saipan, MP 96950-1304
Tels.: (670) 664-8500 /01
Fax: (670) 664-8540

**Public Notice of Erratum
CNMI Aboveground Storage Tank Regulation**

The CNMI Division of Environmental Quality hereby gives notice of a printing error in Volume 27, Number 4 of the Commonwealth Register (May 2005); the final page of the recently adopted CNMI Aboveground Storage Regulations was inadvertently excluded. The excluded page, reproduced herein, addressed, in part, procedures for the issuance of administrative orders; severability of regulatory provisions; and delaying the effective date of the regulation 10 (ten) calendar days after the notice of adoption was published.

The complete version of the CNMI Aboveground Storage Regulations was available to the general public for review and comment at the DEQ Offices, on the DEQ webpage, and by written request or telephone request to DEQ. The printing error that excluded the final page of the regulations was limited solely to the Commonwealth Register. DEQ did not receive comments regarding the provisions that appeared on the last page of the regulations. Therefore, the duly adopted DEQ Aboveground Storage Tank regulations will remain in full force and effect with the addition of the final page.

SEP 21 2005

Date

John I. Castro, Jr., Director
Division of Environmental Quality

- 23.2.3 Any person subject to an Order imposing penalties pursuant to 23.2.2 may request, in writing, a hearing before the designated hearing officer. Request for a hearing shall be served upon the Division within seven (7) calendar days from the date the Order is received. Failure to request a hearing within seven (7) calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the Order.
- 23.2.4 Persons subject to orders issued pursuant to the Act and these regulations may also request an informal Settlement Conference. An informal Settlement Conference shall not affect the person's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.
- 23.2.5 Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, et seq.

PART 24 SEVERABILITY

Should any provision of these regulations or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and/or the application of the affected provision to other persons or circumstance shall not be affected thereby.

PART 25 EFFECTIVE DATE

These regulations will take effect (ten) 10 calendar days after notice of adoption is published in the Commonwealth Register.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 01-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **SAIPAN** and **TINIAN** effective **02:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, and **TINIAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta", written over a circular stamp.

JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 001

DATE: August 30, 2005

TIME: 2:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.3 DEGREES NORTH AND LONGITUDE 149.8 DEGREES EAST, OR ABOUT 365 MILES SOUTHEAST OF AGRIHAN, 330 MILES SOUTHEAST OF PAGAN, 270 MILES EAST OF SAIPAN, 280 MILES EAST OF TINIAN, AND 320 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST-NORTHWEST AT 13-MILES PER HOUR. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 12 TO 24 HOURS.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON LATER TODAY.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS DECLARED TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND TROPICAL STORM WARNING FOR THE ISLAND OF ROTA AS OF 2:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, AND SAIPAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 02-2005

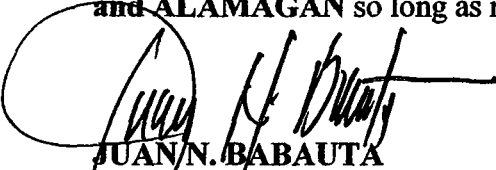
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** effective **05:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **05:30 P.M., AUGUST 30, 2005**, on the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 002

DATE: August 30, 2005
TIME: 5:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 4:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 151 DEGREES NORTH AND LONGITUDE 149.1 DEGREES EAST, OR ABOUT 340 MILES SOUTHEAST OF AGRIHAN, 300 MILES SOUTHEAST OF PAGAN, 280 MILES SOUTHEAST OF ALAMAGAN, 225 MILES EAST OF SAIPAN, AND 230 MILES EAST OF TINIAN, AND 370 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS. TROPICAL STORM NABI 14W WILL MAINTAIN ITS CURRENT SPEED WITH A GRADUAL TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON TONIGHT. TROPICAL STORM FORCE WINDS EXTEND OUTWARD UP TO 90 MILES.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND UPGRADED TROPICAL STORM WARNING TO TROPICAL STORM CONDITION III FOR THE ISLAND OF ROTA, AGRIHAN, PAGAN, AND ALAMAGAN AS OF 5:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, SAIPAN, ALAMAGAN, AGRIHAN, AND PAGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 03-2005

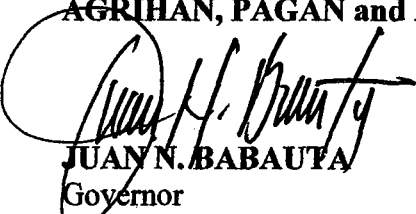
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **UPGRADED TROPICAL STORM CONDITION III** to **TROPICAL STORM CONDITION II** for the islands of **SAIPAN** and **TINIAN**, and maintains **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN, PAGAN** and **ALAMAGAN** effective **08:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **08:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN** and **ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TROPICAL STORM NABI 14W
BULLETIN NO. 003

DATE: August 30, 2005
TIME: 8:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 7:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS LOCATED NEAR LATITUDE 15.1 DEGREES NORTH AND LONGITUDE 148.5 DEGREES EAST, OR ABOUT 315 MILES SOUTHEAST OF AGRIHAN, 275 MILES SOUTHEAST OF PAGAN, 250 MILES SOUTHEAST OF ALAMAGAN, 185 MILES EAST OF SAIPAN, 190 EAST OF TINIAN, AND 230 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS...TROPICAL STORM NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 65 MPH. NABI WILL CONTINUE TO STRENGTHEN....

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W. GOVERNOR JUAN N. BABAUTA HAS UPGRADED TROPICAL STORM CONDITION III TO TROPICAL STORM CONDITION II FOR THE ISLANDS OF SAIPAN AND TINIAN AND MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF ROTA, AGRIHAN, PAGAN AND ALAMAGAN AS OF 8:30 P.M. THIS EVENING ACCORDING TO NATIONAL WEATHER SERVICE, TIYAN, GUAM TROPICAL STORM NABI 14W WILL INTENSIFY INTO A TYPHOON BY EARLY TOMORROW MORNING.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN AND SAIPAN, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ROTA, ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 04-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **UPGRADED TROPICAL STORM CONDITION II** to **TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **TYPHOON CONDITION II** for the island of **ROTA**, and **TYPHOON CONDITION III** for the islands of **AGRIHAN**, **PAGAN** and **ALAMAGAN** effective **11:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **11:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, **TINIAN**, **ROTA**, **AGRIHAN**, **PAGAN** and **ALAMAGAN** so long as required by the emergency situation.

Handwritten signature of Juan N. Babauta in black ink.

JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 004

DATE: August 30, 2005
TIME: 11:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS UPGRADED TO TYPHOON NABI 14W AND WAS LOCATED NEAR LATITUDE 14.6 DEGREES NORTH AND LONGITUDE 147.9 DEGREES EAST, OR ABOUT 325 MILES SOUTH-SOUTHEAST OF AGRIHAN, 280 MILES SOUTH-SOUTHEAST OF PAGAN, 250 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 150 MILES EAST-SOUTHEAST OF SAIPAN, 155 EAST OF TINIAN, AND 185 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 14 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS... TYPHOON NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE **75 MPH**. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**. GOVERNOR JUAN N. BABAUTA HAS UPGRADED **TROPICAL STORM CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND **TYPHOON CONDITION II** FOR THE ISLAND OF ROTA, AND **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 11:30 P.M.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE **RESIDENTS OF TINIAN, SAIPAN AND ROTA**, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 05-2005

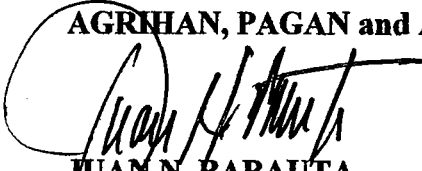
DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **UPGRADED TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the island of **ROTA**, and **MAINTAINS TYPHOON CONDITION III** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **02:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 005

DATE: August 31, 2005
TIME: 2:30 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 A.M. THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR LATITUDE 15.0 DEGREES NORTH AND LONGITUDE 147.5 DEGREES EAST, OR ABOUT 290 MILES SOUTH-SOUTHEAST OF AGRIHAN, 240 MILES SOUTH-SOUTHEAST OF PAGAN, 215 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 120 MILES EAST-SOUTHEAST OF SAIPAN, 125 MILES EAST OF TINIAN, AND 165 MILES EAST-NORTHEAST OF ROTA. **TYPHOON NABI 14W** IS MOVING WEST AT 14-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS, THIS GENERAL MOTION WILL CONTINUES WITH A SLIGHT TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 75 MPH. **NABI 14W** WILL COTNINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**, GOVERNOR **JUAN N. BABAUTA** HAS MAINTAIN **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND HAS UPGRADED **TYPHOON CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLAND OF ROTA, AND MAINTAIN **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN, AND ALAMAGAN AS OF 2:30 A.M. THIS MORNING.

GOVERNOR **JUAN N. BABAUTA** IS STRONGLY ADVISING **THE RESIDENTS OF TINIAN, SAIPAN, AND ROTA** TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT CLOSELY APPROACHES THE ISLANDS. **RESIDENTS OF ALAMAGAN, PAGAN AND AGRIHAN** SHOULD CONTINUE TO MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 06-2005

DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN, TINIAN and ROTA** and **UPGRADED TYPHOON CONDITION III** to **TYPHOON CONDITION II** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **10:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **10:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta".

JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 009

DATE: August 31, 2005
TIME: 10:30 A.M.

HERE IS THE LATEST INFORMATION ON TYPHOON NABI 14W AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 A.M. THIS MORNING, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.5 DEGREES NORTH AND LONGITUDE 146.3 DEGREES EAST, OR ABOUT 230 MILES SOUTH OF AGRIHAN, 185 MILES SOUTH OF PAGAN, 155 MILES SOUTH OF ALAMAGAN, 45 MILES NORTHEAST OF SAIPAN, 60 NORTHEAST OF TINIAN AND 120 MILES NORTHEAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 10 MILES PER HOUR., DURING THE NEXT 12 HOURS.... TYPHOON NABI 14W IS EXPECTED TO TURN WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 85 MPH. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 12 HOURS.

BECAUSE OF THE CONTINUING THREAT OF TYPHOON NABI 14W, GOVERNOR JUAN N. BABAUTA MAINTAINS TYPHOON CONDITION I FOR THE ISLANDS OF SAIPAN, TINIAN AND ROTA, AND UPGRADE TYPHOON CONDITION III TO TYPHOON CONDITION II FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 10:00 A.M. THIS MORNING.

DAMAGING WINDS ARE IMMINENT OR OCCURRING. NORTH WINDS 40 TO 50 MPH BECOMING NORTHEAST AND INCREASING TO TYPHOON FORCE 65 TO 75 MPH WITH GUSTS TO 100 MPH IN THE MORNING...THEN SHIFTING TO THE SOUTHEAST IN THE AFTERNOON. WINDS WILL SHIFT TO SOUTHWEST TONIGHT AND GRADUALLY DECREASE TO 30 TO 40 MPH AS TYPHOON NABI 14W MOVES WEST OF THE MARIANAS.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, ROTA, TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF TYPHOON NABI 14W AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CONTINUE TO CLOSELY MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TYPHOON NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

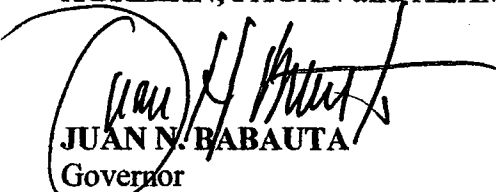
EMERGENCY DECLARATION NO. 07-2005 DATE: 9/01/05

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "ALL CLEAR CONDITION" for the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN effective 5:00 A.M., SEPTEMBER 01, 2005; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be terminated, effective 5:00 A.M., SEPTEMBER 01, 2005, on the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 016

DATE: September 01, 2005
TIME: 5:15 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT **05:00 A.M** THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR **LATITUDE 16.9 DEGREES NORTH AND LONGITUDE 142.2 DEGREES EAST**, OR **250 MILES WEST-NORTHWEST OF SAIPAN, 245 MILES WEST-NORTHWEST OF TINIAN, 265 MILES NORTHWEST OF ROTA, 230 MILES WEST-SOUTHWEST OF ALAMAGAN, 230 MILES WEST-SOUTHWEST OF PAGAN...AND 250 MILES WEST-SOUTHWEST OF AGRIHAN.**

TYPHOON NABI 14W IS MOVING **WEST-NORTHWEST** AT **13 MPH**. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 24 HOURS. **MAXIMUM SUSTAINED WINDS ARE 120 MPH** AND CONTINUE TO INTENSIFY OVER THE NEXT 24 HOURS.

BECAUSE **TYPHOON NABI 14W** IS MOVING AWAY AND NO LONGER CONSIDER A THREAT TO OUR AREA, GOVERNOR **JUAN N. BABAUTA** HAS DECLARE "**ALL CLEAR CONDITONS**" FOR THE ISLANDS OF **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN AND ALAMAGAN** AS OF **4:30 A.M.** THIS MORNING.

AS A RESULT OF THE ALL CLEAR CONDITION, **ALL GOVERNMENT EMPLOYEE** ARE TO **REPORT BACK TO WORK THIS MORNING (THURSDAY, SEPTEMBER 01, 2005)**

GOVENOR **JUAN N. BABAUTA** IS STILL REMINDING THE RESIDENTS TO TAKE CAUTION AGAINST HEAVY RAINFALL AND POSSIBLE FLOODING ALONG ROADWAYS AND IN LOW-LYING AREAS, AND HAZARDOUS SURF CONDITIONS ALONG COASTAL AREAS.

THIS WILL BE THE FINAL BULLETIN ON TYPHOON NABI 14W UNLESS CONDITION CHANGE.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:


**COMONWEALTH UTILITIES CORPORATION
LACK OF POWER AUGUST 2005.**

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on July 18, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. In addition, Engine Numbers 3, 4 and 8 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Reports for Power Plant I dated August 3, 2005 and August 17, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

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

The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of this authority for the first ninety (90) days of the State of Disaster Emergency shall be transmitted to the presiding officers of the Legislature as soon as practicable.


JUAN N. BABAUTA

Dated this 17th Day of August 2005.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:

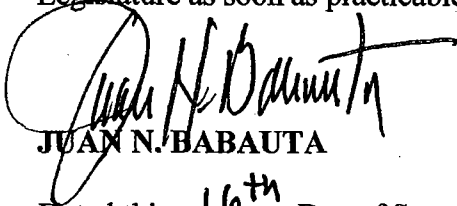
COMONWEALTH UTILITIES CORPORATION
LACK OF POWER SEPTEMBER 2005.

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on August 17, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. Although Engine Number 8 is now online and in full operation after undergoing emergency replacement of its foundation bolts, Engine Numbers 3 and 4 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Report dated September 14, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

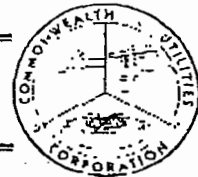
I further find that this Declaration is necessary to insure the continued provision of power to critical CNMI public health and public safety facilities, the continued provision of electricity to our schools, homes, and work places, and the continued operation of our water and wastewater systems. This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

The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005, the Declaration of State of Disaster Emergency dated August 17, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of my authority during the State of Disaster Emergency will be transmitted to the presiding officers of the Legislature as soon as practicable.


JUAN N. BABAUTA

Dated this 16th Day of September 2005.

**GENERATION STATUS
AS OF SEPTEMBER 14, 2005**



Power Plant	Design MW	Available MW	Restriction %	Std. Run hours for PMI	Run hours to-date	Overdue hours	Remarks
PP I							
D/E 1	7.27	6.5	89.4	36000	60,170	24,170	Overdue for 36,000 hrs. PMI
D/E 2	7.27	6.5	89.4	4,000	8,018	4,018	Overdue for 4,000 hrs. PMI
D/E 3	7.27	0.0	0.0	12000	20,701	8,701	Down due to crankpin seizure (8/1/05)
D/E 4	7.27	0.0	0.0	36000	44,690	8,690	Down due to crankpin seizure (7/16/05)
D/E 5	13.04	10.0	76.7	12000	26,188	14,188	Overdue for 12,000 hrs. PMI
D/E 6	13.04	10.0	76.7	4000	5,974	1,974	Overdue for 4,000 hrs PMI
D/E 7	13.04	10.0	76.7	12000	26,200	14,200	Overdue for 12,000 hrs PMI
D/E 8	13.04	10.0	76.7		118		Operational
Total	81.24	53					
PP II							
D/E 1	2.5	1.6	64.0				Operational
D/E 2	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 3	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 4	2.5	0.0	0.0				Completion of power packs on progress
D/E 5	2.5	0.0	0.0				Operational (off-line for inspection 9/14/05)
D/E 6	2.5	0.0	0.0				Governor problem (elect'l. limit switch)
Total	15.0	1.6					
PP III							
D/E 1	1.5	0.0	0.0				Not operational
D/E 2	1.5	0.0	0.0				Not operational
D/E 3	1.5	0.0	0.0				Not operational
Total	4.5	0					
PP IV							
D/E 1	3.50	0.00	0.0				Down / Crankshaft problem
D/E 2	2.50	2.00	80.0				Operational
D/E 3	2.50	1.80	72.0				Operational
D/E 4	2.50	2.00	80.0				Operational
D/E 5	2.50	2.10	84.0				Operational
D/E 6	1.00	0.00	0.0				Down \ Generator bearing problem
D/E 7	1.00	0.90	90.0				Operational
D/E 8	1.00	0.90	90.0				Operational
D/E 9	1.00	0.90	90.0				Operational
Total	17.50	10.60					
Grand Total	118.24	65.20					

Remarks:

ecgilboy

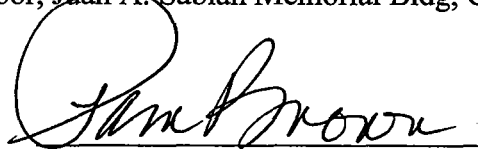
PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement a program to provide emergency short-term humanitarian aid to abandoned, unemployed alien workers. These regulations are promulgated as a necessary component of the administration of funds given to the Commonwealth by the United States Department of the Interior for Labor and Immigration Reform. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Commonwealth Register subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: The United States Department of the Interior has granted the Commonwealth Office of the Attorney General funds for the purpose of providing humanitarian aid to abandoned alien workers. Effective October 1, 2005 Karidat, Social Service, an agency that has been providing emergency relief to abandoned workers, will no longer be administering that program. Therefore, it is necessary to immediately adopt these regulations to eliminate a lapse in providing short-term emergency assistance to persons in crisis due to abandonment and who are unable to provide adequate food or shelter for themselves.

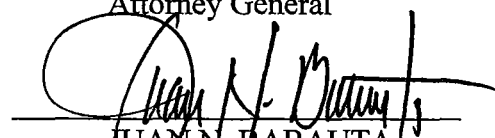
INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

Submitted by:


PAMELA BROWN
Attorney General

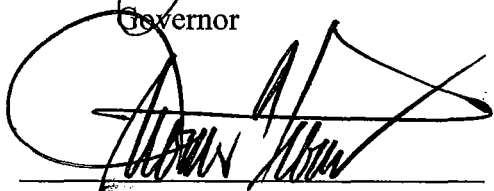
9/9/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

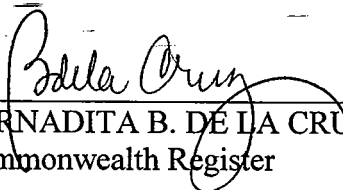
9/9/05
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

9/12/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/12/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9th day of September 2005


PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Office of the Attorney General is adopting rules and regulations governing the provision of short-term humanitarian aid to abandoned alien workers.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

These emergency regulations govern how, and to whom, short-term emergency financial assistance may be provided from funds received from the United States Department of the Interior for that purpose, and from other sources.

Brief Summary of the

Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of funds given to that office by the United States Department of the Interior for the purpose of providing financial assistance to abandoned, unemployed alien workers.
- (2) Establish criteria for eligibility for relief.
- (3) Establish the amount and length of time for which relief is available, and conditions that may accompany the granting of relief.

For Further

Information Contact:

Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations:**

None

Dated this 14th day of September 2005.

Submitted by:

A handwritten signature in cursive script, appearing to read "Pamela Brown".

PAMELA BROWN
Attorney General

HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

I. These Regulations establish and govern the provision of short-term humanitarian aid to alien workers who have been abandoned by their employers and who have been unable to secure new temporary or permanent employment. Exclusive jurisdiction over this program is vested in the Attorney General or her or his designee. The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible aliens and their employment status and in facilitating implementation of the program.

II. Definitions:

- a. *Abandoned*: A person is considered abandoned if her or his employer has left the jurisdiction or ceased business operations and any of the following circumstances exist;
 1. without fully compensating the worker(s) in full for all hours worked, or
 2. without following the procedures to be followed under the Alien Labor Rules and Regulations and employment contract for termination of employees due to reduction in force or cessation of business activity, and worker repatriation, or
 3. without providing to the worker (s) one-way airfare to the point of hire, or
 4. if the employer provided food and/or housing, without providing for adequate food and shelter for the worker(s) for a reasonable period of time following cessation of the business activity.
- b. *Alien worker*: A person whose most recent entry into the Commonwealth was for purposes of employment under Immigration Regulation 706 (K), or any person who falls within the definition of "Nonresident Worker" as defined in the Nonresident Workers Act, 3 CMC § 4412(i).
- c. *Humanitarian Aid*: Short-term assistance provided to an alien worker for food, other necessities, and shelter.
- d. *Voucher*: A monetary instrument issued by the Office of the Attorney General Humanitarian Aid Fund, not to exceed a sum certain, that identifies the person in whose favor the voucher is issued, that may be used for the purchase of food, other necessities, or housing. Vouchers are non-transferable and shall expire 30 days from their date of issuance. Vouchers may not be redeemed for cash or used for purchase of items other than food, other necessities, or housing.

III. The Fund:

There is a Fund administered by the Office of the Attorney General for the purpose of providing short-term humanitarian aid to abandoned alien workers. Expenditures from the Fund shall be made on a first-come-first served basis. The money in the fund shall come from sources identified by the Attorney General and shall not be

subject to reappropriation. Disbursements may be made by voucher redeemable at a specified location or locations, or may be made by cash or check.

IV. Eligibility determination:

Eligibility for humanitarian aid is based on need. The alien worker must show by proof acceptable to the Attorney General their status and eligibility for humanitarian aid. The Attorney General may perform such additional investigation into the worker's circumstances as is necessary to verify the status and request, and may ask the worker to provide such documents as may be necessary to a fair determination of eligibility. The Attorney General may require proof that the worker has actively been seeking work but has been unable to become employed.

V. Amount and conditions of grant:

The Attorney General may grant a worker not to exceed an aggregate total of \$200.00 for food, necessities, and housing allowance. The Attorney General may condition receipt of the aid upon the worker's promise to reimburse the Fund for moneys received in the event the worker becomes reemployed, or upon the worker's assignment of rights to an administrative or judicial award up to the amount of the humanitarian aid provided to the worker. Any such repayments shall be without interest.

Humanitarian aid is available only for emergency assistance.

The Attorney General may provide actual meals and/or lodging instead of a disbursement to the worker from the fund if warranted by the circumstances.

VI. Termination of Eligibility:

Humanitarian aid is available only one time, and only for a 30-day period from the first award. An application for aid is not subject to renewal.

VII. Other Eligible Persons:

The Attorney General may designate other persons eligible for humanitarian aid because of circumstances occurring outside the labor laws, such as foreign students abandoned by their sponsors, or other unusual circumstances as may from time to time arise. While the humanitarian aid program is intended primarily for short-term emergency assistance to alien workers, nothing shall prohibit the Attorney General from designating other persons or groups of persons as eligible for assistance based on need.

VIII. Miscellaneous:

1. Humanitarian aid may be denied to a person making a false statement or representation in connection with an original application or renewal application for humanitarian aid.
2. A person receiving similar assistance from another provider is not eligible for aid from the Office of the Attorney General.
3. A worker must attempt to become lawfully employed and thereby eliminate their need for aid.
4. Humanitarian aid may be denied to a person who, after receiving aid, uses the funds provided for purposes other than food and necessities and shelter.

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS IMPLEMENTING P.L. 11-66 (3 CMC § 4701 *et seq.*).

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement P.L. 11-66 (3 CMC § 4701 *et seq.*) These regulations are promulgated pursuant to the authority given in 3 CMC § 4702, and the transfer of responsibility for Immigration matters to the Attorney General by Executive Order 03-01. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Registrar of Corporations, subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: P.L. 11-66 creates a fund administered by the Attorney General to provide payments of uncollected administrative awards and for repatriation of alien workers who have been abandoned by their employers. During the first quarter of this year three employers of alien workers ceased operations and stranded a large number of alien workers in the Commonwealth without a means for them to repatriate. One company also owes workers a substantial amount in unpaid wages. The burden fell to the Commonwealth to use the fund created by P.L. 11-66 to return workers to their places of recruitment. The large demand placed on the fund by these recent events has demonstrated the need to clarify how the fund is to be administered in order to provide relief to the largest number of people and resolve uncertainties regarding the operation of the fund.

INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

Submitted by:


PAMELA BROWN
Attorney General

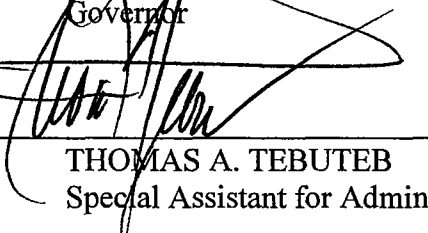
8/29/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

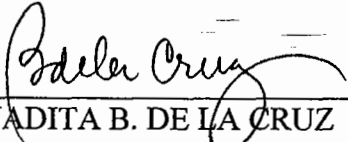
8/30/05
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

9/1/05
Date

Filed and Recorded by:

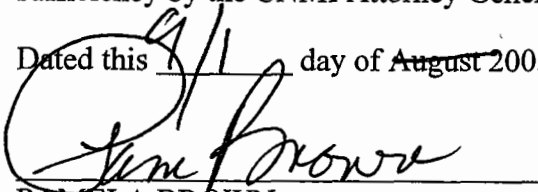


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/1/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9/1 day of August 2005



PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS IMPLEMENTING

P.L. 11-66 (3 CMC § 4701 *et seq.*).

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, *et seq.* The Office of the Attorney General is adopting rules and regulations to implement P.L. 11-66, the Nonresident Workers Relief Act.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

The emergency implement the Nonresident Workers Relief Act by defining terms and eligibility for relief, establishing the amount of payments, and by stating time limits and restrictions on requests for relief.

Brief Summary of the Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of the fund created by P.L. 11-66, 3 CMC § 4701 *et seq.*
- (2) Provide that workers must be unemployed in order to claim relief under the Act, and must execute an assignment of rights in favor of the Commonwealth in the event unpaid wages or repatriation funds are collected on behalf of the worker.
- (3) Provide that the amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.
- (4) Provide a 5-year time limit for claiming relief, and prohibit a worker who has received an award from reentering the Commonwealth for any reason for 180 days.

For Further

Information Contact:

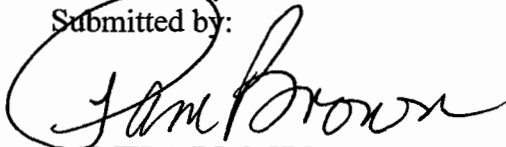
Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

P.L. 11-66, as codified in 3 CMC § 4701 *et seq*, Executive Order 03-01 regarding the transfer of Immigration-related duties from the Secretary of Labor and Immigration to the Attorney General.

Dated this 9/1 day of ~~August~~ 2005.

Submitted by:



PAMELA BROWN
Attorney General

**NOTISIAN PUBLIKU POT ENSIGIDAS NA REGULASION SIHA
YAN NOTISIAN INTENSION PARA U MA'ADOPTA
AREKLAMENTO YAN REGULASION SIHA POT PARA U
MA'ENFUETSA I LAI PUBLIKU 11-66
(3 CMC SEKSIONA 4701 *et seq.*).**

ENSIGIDAS: I Commonwealth I Sankattan Siha Na Islas Marianas, gi Ofisinan I Abugâdu Henerât (AGO) masodda' na papa I lai 1 CMC Seksiona 9104(b), na I enteres publiku a gâgâgao para I mapâsan I regulasion siha pot para u ma'enfuetsa I Lai Publiku 11-66 (3 CMC Seksiona 4701 *et seq.*). Este na regulasion siha man ma'establesi sigun I aturidât ni ma'entrega gi hâlom 3 CMC Seksiona 4702, yan I matransferin I responiblidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01. I Abugâdu Henerât a sodda mâs na I enteres pu

RASON I ENSIGIDAS: I Lai Publiku 11-66 a fatitinas I ma'atministreha na fundu ginen I Abugâdu Henerât para u probeniyi âpas I ti man marikokohi na premiun atministrasion yan para I dipottasion I estrangheru siha ni man ma abandona ni mu'empleleha siha. Durânten I fine'nina na quarter gi este na sâkkan tres na man empleleha estrangheru siha ma na pâra I operasion I bisnis niha ya ma'abandona kantidâha na estrangheru siha gi hâlom I Commonwealth sen hâfa na ditension pot dipottasion Guaha un kompania lakkue a didibe' I empleao-ña siha la'meggai na âpas suetdu. Todu este siha na problema man popodong gi Commonwealth ni para u ma'usa I man ma'establesi na fundu gi Lai Publiku 11-66 para u mabira tatte' I estrangheru siha amânu nai man ma'enlista para u fan macho'chu'. I tutât gâstum este siha na sinesedi gof tatkilo ya enao na manisisita para u ma na klâru hâfa taimanu para u ma'atministreha I fundu yanggen para u maprobeniyi ayudu para I mâs tatkilo' na tutât taotao ya u masâiba I ti man siguru na operasion I fundu.

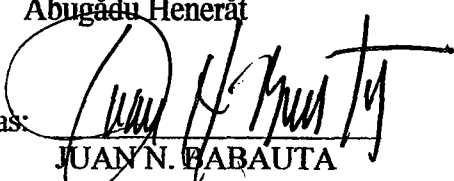
INTENSION PARA U MA'ADOPTA: I intension I Abugâdu Henerât para u adopta este siha na Ensigidas na Regulasion siha sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2). Des pues na, an hâyi enteresao na petsona siña muna halom tinige' opinion siha pot este ensigidas na rekomendasion siha para as Pamela Brown, I Abugâdu Henerât, osino as Kevin A. Lynch, Ayudânten I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950.

Ninahalom as:

PAMELA BROWN
Abugâdu Henerât

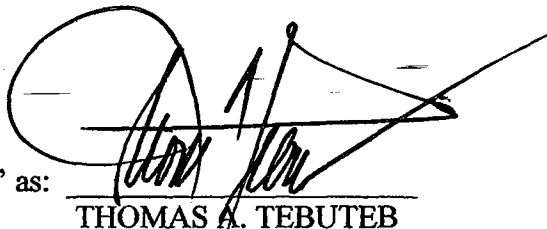
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Kinonfotme as:



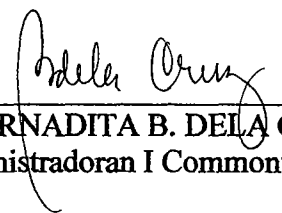
JUAN N. BABAUTA
Gubietno

9/22/05
Fecha



Marisibe' as: THOMAS A. TEBUTEB
Espisiât Na Ayudânte Para I Atministrasion

Fecha



Pine'lo yan Rinikot as: BERNADITA B. DELA CRUZ
Rehistradoran I Commonwealth

9/22/05
Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I Ensigidas Na Regulasion siha ni man che'che'ton esta man ma'ina yan ma'apueba pot para u fotma yan ligât suficiente ginen I Ofisinan I Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi _____, 2005.

PAMELA BROWN
Abugâdu Henerât

NOTISIAN PUBLIKU

MAN MAPROPONE NA ENSIGIDAS NA REGULASION SIHA MA'ENFUETSA I LAI PUBLIKU 11-66 (3 CMC Seksiona 4701 *et.seq.*).

Este na amendasion ma'establesi ni para u konsiste ni Administrative Procedures Act, I CMC Seksiona 9101, *et.seq.* I Ofisinan I Abugâdu Henerât ma'adodopta I areklamento yan regulasion siha para u enfuetsa I Lai Publiku 11-66, I Nonresident Workers Relief Act.

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para u enfuetsa I Nonresident Relief Act, lai 3 CMC Seksiona 4701 *et seq.* ginen I lai 3 CMC Seksiona 4702 yan I matransferin I responsabilidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01.

Kada'da' Na Finiho

Yan Diniseha:

I ensigidas na enfuetsamenten I Nonresident Workers Relief Act a dififina I palabrâ siha, yan I kuâlifikaon I ayudu, ma'establelesi I tutât I âpas, yan u mamensiona I tiempo yan I pribision I man gâgâgao ayudu.

Kada'da' Na Mensâhe

Pot I Man Mapropone

Na Regulasion siha: Este I ensigidas na regulasion siha man ma'establesi para; uma

1. Entrega I Abugâdu Henerât responsabilidadât para I atministrasion pot I ma'establesin fundu ginen I Lai Publiku 11-66, 3 CMC Seksiona 4701 *et seq.*
2. Probeniyi na I man machochochu' ti ma'empleleha yanggen para u ma'ayuda papa I Akto, ya debi di u fan laknos assignment of rights ni a supopotta I Commonwealth pot asunton I ti man ma'apâpâsi na suetdu yan I dipottasion salâpe an marikohi para I empleao siha.
3. Probeniyi na I tutât I âpas debi di u akto na tutât I premium atministrasion dumaña yan I âpas ticket batkonaire para I dipottasion, gi I tutât ti debi di u upus \$3,000.00

4. Probeniyi na I singko años na tiempo para I ginagaon ayudu, ya u probidu I macho'cho'chu' ni a risibe' I premiuna para u hálom talo' gi Commonwealth para maseha háfa na rason gi hálom sientu-ochienta (180) diha siha.

Para Mås

Infotmasion Ágang: Si Kevin A. Lynch, Ayudánten I Abugádu Henerát, gi Ofisinan I Abugádu Henerát, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950. Numirun Tilifon (670) 664-2341 (voice) osino (670) 664-2349 (fax).

**Annok I Man Achule'
Yan/pat Man Inafekta
Na Lai, Areklamento,
Regulasion, yan Otden**

Siha: Lai Publiku 11-66, ni makodigu gi 3 CMC Seksiona 4701 *et seq.*, Executive Order 03-01 ni tineteka I matransferin I responibilidadat I asuntun I Imigrasion ginen I Sekretarion I Labor yan Immigrasion para I Abugádu Henerát.

Mafecha gi este fine'nina na ha'áne gi Septiembre, 2005.

Ninahalom as:

PAMELA BROWN
Abugádu Henerát

**-ARONGOL TOULAP REEL GHITIPWOTCHOL ALLÉGH KKAAL ME
ARONGOL AGHIYEGHIL IGHA EBWE FILLÓÓY ALLÉGH KKA EBWE
ATOTOOLONG P.L. 11-66 (3 CMC táilil 4701 et seq.).**

GHITIPWOTCHOL: Commonwealth Téel falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap (AGO) e schungi bwe faal 1 CMC táilil 9104(b), bwe llól tipeer toulap bwe rebwe mweiti ngáli fféerúl allégh igha rebwe ayoora P.L. 11-66 (3 CMC táilil 4701 et seq.) allégh kkaal nge e akkaté bwelle bwáng ye toowow mereel 3 CMC táilil 4702 me alusul bwángil immigration ngáli Sów Bwungúl Allégh sáangi akkúleyal Sów Lemelem 03-01. AGO ebwal schungi bwe tipeer toulap bwe rebwe tabweey fillóól allégh kkaal llól eliigh (30) rállil yaal arongowow, me bwelle igha allégh kkaal ebwe schéeschéél ammwello llól Register of Corporations, kkapasal igha ebwe alughulughulo mereel Sów Lemelem, me ebwe fischeló llól ebwughúw ruweigh (120) rááilil.

AWEWEEL GHITIPWOTCHOL: P.L. 11-66 e ayoora fundo ye e toowow mereel Sów Bwungúl Allégh Lapalap igha ebwe ayoora óbwóssul administrative awards me assáfalil schóóy angaang kka aramasal lúghúl ikka samwoolur e lighitiiló mwirimwiril. Ótol first quarter llól rágh yeel élésháy employers kka samwoolur schóóy angaang e ayuwuló yaar angaang me re ssogh schóóy angaang kka aramasal lúghúl rebwe asáfaliir ló wóól falúweer. Eyoor kkompania ye esáál kke óbwósuur layúr schóóy angaang. Weires yeel nge a lo ngáli Commonwealth bwe ebwe yááli salaapi ye e fféer sáangi P.L. 11-66 iye ebwe asefáaliir schóóy angaang kka aramasal lúghúl ló wóól falúweer bwelle recruitment. Llapal salaapi ye ekke tittingór bwelle reel mwóghútúl yeel nge ebwe affatewow ebwe faisúl yaar mwóghút ágheli salaapi yeel igha ebwe alisiir aramas kkaal me aghatchúwuló meeta kka ese welepakk bwelle reel fundo.

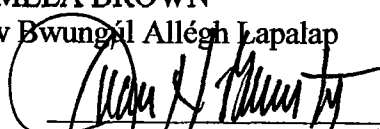
AGHIYEGHIL FILLÓ YEEL: Aghiyeghil Sów Bwungúl Allégh Lapalap bwe ebwe fillóóy ghitipwotchol Allégh kkaal bwelle 1CMC talil 9104 (a)(1) me (2). Schéeschéél, schóókka eyoor mángemángiir nge rebwe ischilong reel Pamela Brown, Sów Bwung, me ngáre Kevin A. Lynch, Sów Alillisil Sów Bwung, Bwulasiyool Sów Bwungul Allegh, Aruwowal pwo, Juan A. Sablan Memorial Bldg, Capitol Hill, Seipél MP 96950.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Rál

Alúghúlúgh sáangi:



JUAN N. BARAUTA
Sów Lemelem

9/22/05

Rál

Mwir sáangi:



THOMAS A. EBEUBEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Commonwealth Register

Ral

ARONGOL TOULAP
POWMOL GHITIPWOTCHOL ALLEGH KKAAL IYE EBWE AYOORALONG
ALLEGHUL TOULAP 11-66 (3 CMC TALIL 4701 et seq.).

Lliwel yeel nge ebwe akkate bwelle reel Administrative Procedure Act, 1 CMC talil 9101, et seq. Bwulasiyool Sów Bwungúl Allégh nge ebwe fillóóy allegh kkaal bwe ebwe ayoora Alléghúl Toulap 11-66, ammwelil schóóy angaang kkaal (Nonresident Workers Relief Act.).

Akkatéél bwángil: Bwulasiyool Sów Bwungúl Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl ammwelil schóóy angaang kka aramasal lúghúl, 3 CMC talil 4701 et seq. sáangi 3 CMC talil 4702 me alusul mwóghútúl immigration ngáli Sów Bwungúl Allégh Lapalap sáangi Akkuleyal Sów Lemelem 03-01.

Aweweel pomwol lliwel: Ghitipwotchol atotoolong reel Ammwelil schóóy angaang kka aramasal lúghúl iye ebwe aweweey yaal term me aghatchú fillongol, atotoolong llapal salaapi, me abwáári ótol aighúghúl me restriction sangi tigorol relief.

Akkateel akkááw bwángil allegh: Ghitipwotchol Allégh kkaal nge ebwe akkaté bwelle ebwe:

- (1) Ngalleey Sów Bwungúl Allégh bwángil reel ebwe mwóghut agheli fundo ye e toowow mereel P.L 11-66, 3 CMC talil 4701 et seq.
- (2) Ayoorallong bwe schóóy angaang kka aramasal lughul nge rese kke angaang igha rebwe tingorol relief sangi allegh yeel, me rebwe alleghelo bwangil iye toowow mereel Commonwealth ngare rese obwossuur me assefalil salaapi ikka re bwughi sangi yaal angaang.
- (3) Ayoorallong llapal obwos ye ebwe scheescheel llapal yaal administrative award fengal me meel air fare, iye ebwal toolong llapal iye essobw luulo eliigh sangaras (3000.00).
- (4) Ayoora otol limoow raagh (5-year time limit) reel tingorol relief, me ayuulo schooy angaang kka raa bwughil award meigha re sefallong llo Commonwealth bwelle meeta llo ebwughuw waliigh (180)raalil.

Sáangi allégh ye 1 CMC talil 2153, iye a lliwel mereel Alléghúl Toulap 10-50, alléghúl ghitipwotchol yeel nge raa takkal amweri fischiy me allégheló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ llól _____ 2005

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Aramas ye ubwe faingi:

Kevin Al. Lynch, Sow Alillisiil Sow Bwungul Allegh Lapalap, Bwulasiyool Sow Bwung, Aruwowal pwo, Juan A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950. (670) 664-2341 (voice) me ngare (679) 664-2349 (fax).

Akkateel akkaaw bwangil allegh: P.L.11-66, iye raa alleghelo lloil 3 CMC talil 4701 et seq, akkuleyal Sow Lemelem 03-01 bwelle reel alullusul ngare mwoghutul Immigration ye e ghil ngali yaal angaang mellol Secretary of Labor me Immigration ngali Sow Bwungul Allegh Lapalap.

Rallil ye _____ lloil _____ 2005

Isaliyallong:

PAMELA BROWN
Sow Bwungul Allegh Lapalap

REGULATIONS IMPLEMENTING P.L. 11-66

I. Definitions:

- a. *Administrative award*: An administrative award is a finding or order issued by the Department of Labor, Division of Administrative Hearings stating that an employer is financially liable to a current or former employee as a result of a cause of action arising from the employment relationship.
- b. *Air fare*: Air fare is the cost of air transportation for the alien worker from the Commonwealth to the point of recruitment.
- c. *Unemployed*: An alien worker is unemployed if he or she is not subject to a contract approved by the Director of Labor or his designee and does not have an application for a work permit pending with the Department of Labor.

II. Administration:

The Office of the Attorney General has primary responsibility and authority for the administration of the Commonwealth Nonresident Worker Relief Act of 1999, P.L. 11-66, 3 CMC § 4701 *et seq.* (the Act). The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible nonresident workers and their status and in facilitating implementation of the Act.

III. Eligibility and amount of payment:

To be eligible for funds and air fare under the Act the worker must be unemployed. If an application for a work permit is pending with the Department of Labor when the worker requests relief, the worker must resign by written notice provided to the Department and the prospective employer. If a worker is on Temporary Work Authorization (TWA) awaiting relief under the Act, the TWA will expire upon the issuance of the repatriation ticket.

The alien worker must execute an assignment of rights in favor of the Commonwealth government to any amounts collected on behalf of the worker. The assignment of rights shall be on a form and in a manner proscribed by the Attorney General. The form shall also provide that any amounts collected by the Commonwealth in excess of the amounts spent for repatriation and payment of the administrative award shall be remitted to the worker, provided the worker notifies the Attorney General of the worker's address in his or her home country.

The amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.

IV. Time limits:

- a. To be eligible for relief under the Act the alien worker must make a claim for payment and repatriation within five (5) years from the date of the Administrative Order granting the administrative award. For persons eligible for relief under this regulation who have been granted administrative awards but have not requested relief, the five-year period shall commence on the date of adoption of this regulation. Claims made after expiration of the five-year period shall be barred except for good cause shown to the Attorney General.

- b. An alien worker who avails of relief pursuant to the Act shall not be permitted to reenter the Commonwealth for any reason for 180 days from the date of departure.

V. Restrictions:

- a. Employers and employees are not eligible for reimbursement under the Act for airfare provided to repatriated workers.
- b. Exclusive jurisdiction to resolve disputes arising under the Act or these Regulations is vested in the Attorney General by virtue of the Attorney General's authority to administer the Immigration laws.



Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs
Office of the Secretary

Caller Box 10007
Saipan, M.P. 96950



**NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENTION
TO ADOPT AMENDMENTS TO EXISTING MANUAL OF OPERATIONS
GOVERNING THE NUTRITION ASSISTANCE PROGRAM**

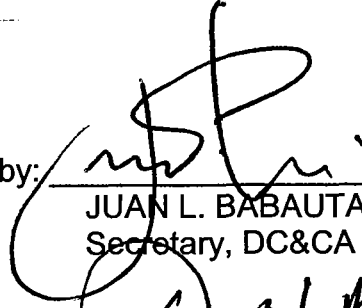
EMERGENCY: The Secretary of the Department of Community and Cultural Affairs finds that, pursuant to 1 CMC § 9104(b), the public interest requires the adoption of Emergency Regulations, upon concurrence by the Governor, to implement changes to the existing MANUAL OF OPERATIONS governing the Nutrition Assistance Program (NAP). The proposed Amendments would create a greater degree of security against counterfeiting or other misuse of Nutritional Assistance Food Stamp Coupons. The Secretary further finds that the public interest requires adoption of these amendments within fewer than thirty (30) days notice for the reasons stated below. These amendments in the MANUAL OF OPERATIONS shall become effective upon publication, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

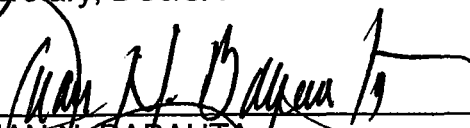
REASON FOR EMERGENCY: The counterfeiting and other fraudulent misuse of Nutritional Assistance Food Stamp Coupons has become more frequent and sophisticated in nature. In order to protect unsuspecting vendors and the banks who redeem these coupons, it is necessary to change the physical look of the coupons and to institute additional requirements to insure that only coupons issued to eligible participants of the Nutritional Assistance Program are used at the stores of authorized retailers.


CONTENT: Attached to this Notice of Emergency are the amendments to the Manual Of Operations.

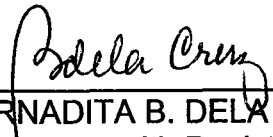
INTENT TO ADOPT: The Secretary intends to adopt these amendments to the existing regulations, requirements, policies and procedures contained in the Nutritional Assistance Program Manual Of Operations as permanent regulations, requirements, policies and procedures pursuant to 1 CMC § 9104(a)(1) and (2), and therefore publishes in the Commonwealth Register this notice of opportunity to submit comments. If necessary, a Hearing will be provided. Comments on the amendments to the Nutritional Assistance Program Manual Of Operations may be sent to: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

AUTHORITY: The Secretary is authorized to promulgate these regulations pursuant to 2 CMC § 5522(a).

Issued by:  8/29/05
 JUAN L. BABAUTA
 Secretary, DC&CA
 Date

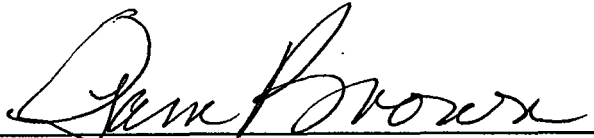
Concurring by:  8/29/05
 JUAN N. BABAUTA
 Governor
 Date

Received by:  8/29/05
 THOMAS A. TEBUTEB
 Special Assistant for Administration
 Date

Filed and Recorded by:  8/29/05
 BERNADITA B. DELA CRUZ
 Commonwealth Register
 Date

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 29th day of August, 2005.


 PAMELA BROWN
 Attorney General

Public Notice
Department of Community and Cultural Affairs

**EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS**

Citation of Statutory Authority: Pursuant to Article X, Section 8 of the Commonwealth Constitution and 1 CMC § 2553(j) and 1 CMC § 2557.

Short Statement of Goals and Objectives: To insure the use of only legitimate Food Stamp coupons by NAP authorized recipients.

Brief Summary of The Amendments: Nutritional Assistance Program Manual of Operations is amended to provide that NAP Food Stamp Recipients when redeeming coupons must do the following; 1) present a valid photo I.D. 2) present a valid Food Stamp Identification card. 3) Print the Photo I.D number and Food Stamp I.D. card number along with printing and signing their name on the back of each coupon. All this must be done in the presence of the vendor cashier.

For further Information Contact: The Nutritional Assistance Program at 235-9889.

Citation of Related and/or Affected Statutes, Regulations and Orders: NAP Manual of Operations Chapter VIII

EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS

Nutritional Assistance Program Manual of Operations Chapter VIII Section (K)(4) is hereby amended to read as follows:

4. Use of Identifications Cards. The **Adult Head of Household** or its Authorized Representative shall present his Nutrition Assistance Program Identification Card and a Photo Identification, and on the back of each coupon, print the NAP I.D. card number & Photo I.D. number and their name and then sign each coupon in the presence of the cashier for the Authorized Retailers when exchanging **Nutrition Assistance Program Coupons** for eligible food and other eligible items enumerated on item K.2 and 3 above. The Adult Head of Household or its Authorized Representative shall also present his Nutrition Assistance Program Identification Card and a Photo Identification when performing Recertifications at Certification Unit, and picking up benefits at the designated Issuance Agent Location.

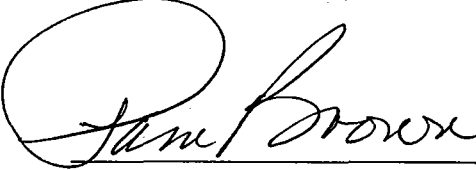

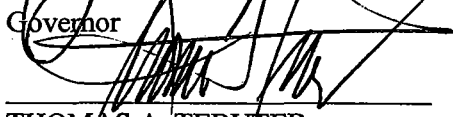
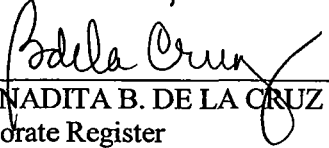
To be added to the NAP Manual of Operations Chapter VIII is the following:

- L. All NAP Program Coupons issued on or before August 31, 2005 must be redeemed at NAP authorized retailers on or before August 31, 2005.

PUBLIC NOTICE

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General, notifies the general public of proposed amendments to Immigration Regulations §§706 and 707. It is the intent of the Attorney General to adopt such amendments, proposed on an emergency basis in May of 2005 pursuant to 1 CMC §9104(a)(1) and (2), as permanent. This publication of the proposed amendments in the Commonwealth Register provides notice and opportunity for comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendments to Pamela Brown, Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950 or by fax at (670) 664-2349 during the thirty (30) day period immediately following the publication of these proposed amendments.

Submitted by:	 PAMELA BROWN Attorney General	<u>8/19/05</u> Date
Concurred by:	 JUAN N. BABAUTA Governor	<u>8/22/05</u> Date
Received by:	 THOMAS A. TEBUTEB Special Assistant for Administration	<u>8/23/05</u> Date
Filed and Recorded by:	 BERNADITA B. DE LA CRUZ Corporate Register	<u>8/23/05</u> Date

Pursuant to 1CMC §2153, as amended by Public Law 10-50, amendments attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 19 day of August 2005.


PAMELA BROWN
Attorney General

PUBLIC NOTICE
PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

**Citation of
Statutory Authority:**

The Office of Attorney General is authorized to promulgate regulations for entry and deportation of aliens in the Commonwealth of the Northern Marianas pursuant to Executive Order 03-01 and 3 CMC § 4312(d).

**Short Statement of
Goals and Objectives:**

The Attorney General finds that it is in the public interest to amend Immigration Regulations §§706K, 706P and 707 to require that all non-resident workers entering the Commonwealth of the Northern Mariana Islands to work in establishments licensed to serve alcohol be at least twenty-one (21) years of age. Specifically, the Attorney General finds that the employment of non-resident workers under the age of 21 in alcohol establishments has created problems for both criminal and immigration enforcement authorities, has led to inexperienced workers entering the CNMI, and is not consistent with the efficient enforcement of the liquor laws.

The Attorney General further finds that the current Immigration Regulation §706P is not sufficiently defined as falling outside of the Non-resident Workers Act and is therefore not effective in its present form.

The Attorney General further finds that it is in the public interest that Immigration Regulation §707 be amended to include reference to an "Overseas Employment Certificate" or OEC. An OEC is an official document issued by the Government of the Philippines to workers applying for employment abroad. The Attorney General finds that, in the case of Filipino workers, this certificate can be the best evidence of the worker's identity, employment eligibility, and job category.

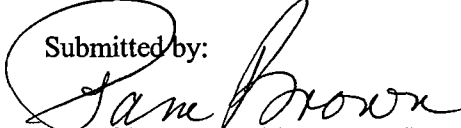
**For Further
Information Contact:**

Ian M. Catlett, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2366 or facsimile (670) 234-7016.

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

The proposed amendments affect or are related to Immigration Regulations Sections 706 and 707.

Dated this 19 day of August 2005.

Submitted by:

PAMELA BROWN
Attorney General

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

I Ofisinan I Abugâdu Henerât, gi Commonwealth I Sankattan Siha Na Islas Marianas, a notifikika I publiku henerât pot I man mapropone na amendasion siha gi Regulasion Imigrasion Seksiona 706 yan 707. I intension-ña I Abugâdu Henerât para u adopta I man ma'amenda, I mapropone gi ensigidas na manera gi Mâyu 2005 sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2), petmanente. Este na publikasion I man mapropone na amendasion gi Rehistradoran I Commonwealth a probeniyi notisia yan opotunidât para u guaha opinion siha. Yanggen nisisârio, u maprobeniyi inekungok publiku. Todu I man interesao na petsona siña u mana fan hâlom tinige' opinion siha pot I man mapropone na amendasion guatto as Pamela Brown, I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina Segundo na bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi (670) 664-2349 durânten I trenta (30) diha siha na tiempo imidiâmente tinitiyi I publikasion este man mapropone na amendasion siha.

Ninahâlom:

PAMELA BROWN
Abugâdu Henerât

Fecha

Kinonfotme as:

JUAN N. BABAUTA
Gubietno

9/22/05

Fecha

Marisibe' as:

THOMAS A. TEBUTEB
Espisiât Nâ Ayudânte Para I Atministrasion

9/22/05

Fecha

Pinelo' yan
Marikot as:

BERNADITA B. DELA CRUZ
Rehistradoran I Koporasion

9/22/05

Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I amendasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan suficiente ligat ni Ofisinan I Abugadu Henerat I CNMI.

Mafecha gi este mina _____ na ha'ane gi Agostu 2005.

PAMELA BROWN
Abugadu Henerat

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para I entrâda yan dipottasion I estrangheru siha gi Commonwealth I Sankattan Siha Na Islas Marianas sigun I Executive Order 03-01 yan I lai 3 CMC Seksiona 4312 (d).

Kada'da' Na Mensâhe

Pot I Finiho yan

Diniseha siha:

I Abugâdu Henerât masodda' na I enteres publiku para u ma'amenda I Regulasion Imigrasion Seksiona 706 K, 706P yan 707 para u ma'otden todû I hotnalerun Estrangheru siha ni man hâhâlom gi Commonwealth I Sankattan Siha Na Islas Marianas ni para u fan macho'chu' gi I man malisensia na bisnis ni man man bebende maneska na debi di u bente-uno (21) años na idât. Spesifikâtmente,

I Abugâdu Henerât a sodda' na I ma'emplea na estrangheru siha ni papa I idât bente uno (21) años gi bisnis siha ni man man bebende maneska ma na guaguaha prublema siha para I kriminât yan aturidât enfuetsamenten imigrasion, muna fan ekspirinsao siha na hotnaleru ya man hâhâlom gi CNMI, ya ti man konsiste ni enfuetsamenten I lai siha gi bândan maneska. I Abugâdu Henerât masodda' más na I presente na Regulasion Imigrasion Seksiona 706P ti madefina sufisiente na popodong gi sanhiyong I Non-Resident workers Act ya enao na ti efektibu gi presente na fotmasion.

I Abugâdu Henerât masodda' más na gaige gi I enteres publiku na I Regulasion Imigrasion Seksiona 707 na u ma'amenda ya u enklusu I refiriensian I "Overseas Employment Certificate" osino OEC. I OEC, ofisiât na dokumento ni malaknos ginen I gubietnamenton I Filipinas para I hotnaleru siha ni man aplilika para u fan ma'emplea gi otro tâno'. I Abugâdu Henerât a sodda' na, gi I kaosan I hotnalerun Filipina siha, este na setifiku siña un maolek na ebidensian I aidentifikasion I hotnaleru, kuâlifikaon empleao, yan I katigorian cho'chu'.

Para Mås

Infotmasion Ågang: Si Ian M. Catlett, Ayudånten I Abugådu Heneråt, gi Ofisinan I Abugådu Heneråt, Numirun Tilifon (670) 664-2366 osino Facsmile gi (670) 664-7016.

**Annok I Man Achule'
Yan/pat Inafekta Na
Lai, Areklamento,
Regulasion yan Otden**

Siha: I man mapropone na amendasion siha a afekta osino man achule' yan I Regulasion Imigrasion Seksiona 706 yan 707.

Mafecha gi este mina _____ na ha'åne gi Agosto 2005.

Ninahålom as:

PAMELA BROWN
Abugådu Heneråt

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707:

Regulasion Imigrasion Seksiona 706K ma'amenda pot para u taitai:

Petmisun Entrádan Hotnalerun Estrangheru – I estrangheru ni humáháloom gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI) pot para u pofotma tempuláron na setbisiu osino hotnát ni masetifika na kuálifikao na estrangherun hotnaleru ginen I Dipáttamenton I Hotnát siña ma'entrega petmisun entráda kumo kinonfotme ni Lai Publiku 3-66, fuerra di maseha háyi na estrangheru papa I bente-uno (21) años na idát debi di u ma'aprueba para u háloom papa este na seksiona para u facho'chu' gi I malisensia na bisnis ni man man bebende maneska.

Regulasion Imigrasion Seksiona 706P ma'amenda pot para u taitai:

Petmisun Entrádan Espisiát na Manera siha – masedi I estrangheru papa I espisiát na manera siha para u saga ligát ya u facho'chu' háloom I Commonwealth sen más aturisasion papa I lai Commonwealth. I gumugu'ot I petmisu papa este na seksiona madespensa ni probension siha gi Non-Resident Act (3 CMC sect. 4411 et.seq.). Este na petmisu debi di u marinueba kada sakkan sigun I disision I Ofisinan Abugádu Henerát. Siña madiroga este na petmisu yanggen masodda' ni Abugádu Henerát na I espisiát na manera papa I petmisu ni malaknos ti eksiste esta.

Regulasion Imigrasion Seksiona 707 ma'amenda pot para u taitai:

Areklamenton Aturisasion Para Aplikasion Entráda.

- A. Aplikasion siha para I Aturisasion I Petmisun Entráda debi di u mana fan háloom gi Ofisinan I Imigrasion. Todu I aplikasion yan I dokumenton supottasion siha humuyong iyun I Ofisinan I Imigrasion. I aplikasion siha debi di u ma'arekla gi entre siette (7) diha siha ni todú I man aplikátble na nisisidát siha. I Aturisasion I Petmisun Entráda siempre man mafitma solamente ni Ofisiát Imigrasion fuerra di I Petmisun Entrádan Kada'da' Na Tiempo Bumisnis. Todu I dokumento siha debi di u fan mafitma papa I Penan I Chatmanhula.
- B. I Man Nisisário siha na Dokumeto Yanggen Para u Mapolu' gi Rihistradora.
1. Kabáles na Aplikasion
 2. Kopian Setifikun Finañágu ni masetifika,
 3. Maseha háfa na dokumento makonsidera ni I Ofisiát Imigrasion ya u

nisisário para u ma'apueba na dokumenton supottasion I katigorian aplikasion entráda, a enklulusu, I disision I Abugádu Henerát, I Overseas Employment Certificate (OEC) malaknos ni Gubietnamenton I Filipinas para I aplikánte.

- C. I ápas I aplikasion debi di u madipositu guatto I CNMI Treasurer an u polu I nisisário na dokumento siha gi Rehistradoran. Ti siña manana'lo tatte' I ápas aplikasion guatto gi aplikánte. I aplikasion siña u mahañágue guatto I Ofisinan I Imigrasion. Yanggen para un tugi'e' chek tugi'e' I CNMI Treasurer.
- D. Ti siña man ma'aksepta I aplikasion siha ginen I estrangheru siha yanggen man gaige gi hálom CNMI pot rason na man gaige sa pot man gai'kaosa gi Labor, Imigrasion osino asunton ligát siha. Lao, yanggen esta masátba I asunto, siña I estrangheru man aplika ni petmisun entráda, a riñueba osino tulaika I estao-ña.

**ARONGORONGOL TOULAP
POMWOL LLIWEL NGÁLI ALLÉGHÚL IMMIGRATION 706 ME 707**

Commonwealth Téél falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap ekke arongaar toulap reel pomwol lliwel kkaal ngáli Alléghúl Immigration Talil 706 me 707. Mángemángil Sów Bwungúl Allégh bwe ebwe fillóoy lliwel kkaal, pomwol yeel igha re ghitipwotchol ótol Móózo 2005 bwelle reel 1 CMC táilil 9104 (a)(1) me (2), ebwe schééschéél. Akkatéél lliwel kkaal mellól Commonwealth Register e ayoora ammataf me bwángil aghiyegh. Ngáre e welepakk, arongorongol toulap imwu rebwe ayoora. Alongeer schóókka eyoor mángemániir nge emmwel rebwe ischilong reel Pamela Brown, Sów Bwungúl Allégh Lapalap, Bwulasiyool Sów Bwung, Aruwowal pwó, Juab A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950 me fax reel (670) 664-2349 ótol eliigh (30) rállil yaal akkatééwow powmol lliwel kkaal.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl allégh Lapalap

Rál

Alúghúlúgh sáangi:

JUAN N. BABAUTA
Sów Lemelem

Rál

Mwir sáangi:

THOMAS A. TEBUTEB

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Corporate Register

Rál

Sáangi allágh ye 1 CMC táilil 2153, iye aa lliwel mereel Allághúl Toulap 10-50, lliwel kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungól Allógh Lapalap

Rállil ye _____ llól Agosto 2005.

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

**ARONGORONGOL TOULAP
POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL
IMMIGRATION TÁLIL 706 ME 707**

Akkatéél bwángil: Bwulasiyool Sów Bwungul Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl atotoolong me asáfalil aramasal lúghúl kka relo llo Commonwealth Téél falúwasch Marianas bwelle akkúleyal Sów Lemelem 03-01 me 3 CMC talil 4312(d).

Aweweel pomwol lliwel: Sáangi allégh ye 1 CMC talil 9104 (b), Sów Bwungúl Allégh Lapalap e schungi bwe llól tipeer toulap bwe rebwe fillóoy Alléghúl Immigration kkaal Tálil 706K, 706P me 707 igha ebwe yááyá ngáli alongeer schóól angaang kka aramasal lúghúl ikka re toolong llól Commonwealth Téél falúwasch Marianas rebwe angaang llól bwuley ye eyoor yaal lisensial áschi bwe rebwe ngálleer llól ruweigh me eew (21) rághil. Schééschéél, Sów Bwungúl Allégh Lapalap e schungi bwe schóól angaang kka aramasal lúghúl ikka re lo faal ruweigh mè eew (21) ikka re lo llo leliyel aschi re ayoora féfféér nggów me bwángiir immigration, iye re schungi bwe schóóy angaang mellól CNMI, nge rese tabweey alléghúl áschi.

Sów Bwungúl Allégh Lapalap ebwal schungi bwe alléghúl immigration kka ighila tálil 706P nge ese féerú alléghúl ngáre aramasal lúghúl me ese ghi fisch mwóghútúl ighila.

Sów Bwungúl Allégh Lapalap ebwal sóbwósóbwóló yaar schungi tipeer toulap bwe alléghúl immigration Tálil 707 rebwe fillóoy igha rebwe atoowowu mille “Overseas Employment Certificate” me ngáre OEC. Mille OEC nge schééschéél dokkomento ye e toowow mereel Gobennol Philippine ngaliir schóóy angaang kka re tittingór (apply) angaang mewóól akkááw falúw. Sów Bwungúl Allégh Lapalap e schungi, Schéél alúghúlúgh yeel nge ekke bwaári weleposol ngáre kkapasal schóóy angaang, fillongol angaang, me job category.

Reel ammataf faingi: Ian M. Catlett, Sów Alillisil Sów Bwungú Allégh, Bwulasiyool Sów Bwungúl Allégh, tilifoon (670) 664-2366 me facsimile (670) 234-7016.

Akkatéél bwángil akkááw allégh: Pomwol lliwel kkaal nge ebwe mwóghút me ngáre e ghilighil ngáli Alléghúl Immigration Tálil 706 me 707.

Rállil ye _____ llól Agosto 2005.

Isaliyallong: _____
PAMELA BROWN
Sów Bwungúl Allégh

ARONGORONGOL TOULAP

Alléghúl Immigration Tálil 706K iye aa ssiwel bwe rebwe árághi:

Lisensial schóóy angaang kka aramasal lúghúl – Schóóy lúghúl kka re toolong CNMI bwe tempiróriyo bwe rebwe alillis me féerú labor ikka raa certified bwe rekke angaang sangi Depattamentool Labor nge emmwel bwe rebwe ngálleer lisensial atotoolong bwelle reel Alléghúl Toulap No. 3-66, ese mmwel aramasal lúghúl kka faal, ruweigh me eew (21) rághil rebwe alúghúlúghúúr rebwe atolongoor faal tálil ye ubwe féerú angaang mellól bwuley ye eyoor lisensial bwe ubwe amwóghútú áschi.

Alléghúl Immigration Tálil 706P iye re fillóóy bwe rebwe árághi:

Lisensial atotoolong ye ghi welepakk – lisensial aramasal lúghúl kka re faal mwóghútúghút ye e ghi welepakk igha ebwe allégh yaal ebwe lootiw me angaang llól Commonwealth me essóbw yoor bwángil alléghúl Commonwealth. Schóókka eyoor yaar lisensia ikka re lo faal tálil yeel nge re exempted sángi alléghúl schóóy angaang kka aramasal lúghúl (3 CMC talil 4411 et seq.). Lisensia yeel nge emmwel rebwe apiyówuta kkada ráágh me amwaschúúló sángi schungiyeer sów bwungúl allégh bwelle mwóghút ye e ghi welepakk faal lisensia ye e toowow iye ese melaw lo.

Alléghúl Immigration Tálil 707 iye aa ssiwel bwe rebwe árághi:

Bwángil Entry Application Procedure:

- A. Schéél tingór reel Bwángil lisensial atotoolong nge ebwe isisilong reel Main Office llól Immigration. Alongal schéél tingór me dokkomentol nge ebwe toowow bwe yaal Bwulasyool Immigration. Schéél nge ebwe fféerló llól fisuuw (7) ráálil iye ebwe tabweey alongal tittingór kka e fil. Bwángil Lisensial atotoolong nge re mákkey sángi Immigration Officer saabw reel Short-Term Business Entry Permits. Alongal dokkomento nge ebwe alúghúlúghúló faal penalty of perjury.

B. Dokkomento kka ebwe ammwello:

1. Schéel tittingór kka a takkaló,
2. Kkopial alúghúlúgh reel birth certificate:
3. Alongal dokkomento nge e allégh sáangi Immigration Officer bwelle ebwe ffat schéel tittingór entry classification, ebwal toolong, bwángil sów bwungúl Allégh, schéel alúghúlúgh ngáli schóóy angaang kka lúghúl (OES) iye e toowow mereel Gobennol Philippine ngáli applicant.
4. One and one quarter inch (1-1/4") frontal photograph e wewee schagh ngáre e schótchól me e bwesch me ngáre e kkoloot.

C. Méél schéel tingór yeel nge ebwe isisilong llól CNMI Treasurer bwe ebwe Ammwelghatchdokkomentool. Óbwós yeel nge ese mmwel rebwe asáfáli. Schéel Tingór nge emmwel ubwe mail. Salaapi (checks) nge ebwe mwete ngáli Treasurer mellol CNMI.

D. Alongeer schóóy lúghúl kkaal nge ressóbw alisi yaar tingór (applications) mellól Commonwealth ikka re lollo bwelle igha eyoor yaar fitighogho mellól Labor, immigration me ngáre legal matter. Bwal eew, ngáre schagh ffataló mwóghútúghút, schóóy lúghúl aa mmwel rebwe tingór (apply) lisensial atotoolong, fféer sefál me ssiwelil kkapasal ngáre e alúghúlúghúlóme labor, immigration me ngáre legal matter.

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTION 706 and 707:

Immigration Regulation §706K is amended to read:

Nonresident Worker Entry Permit – An alien who is coming temporarily to the CNMI to perform temporary service or labor who has been certified as an eligible nonresident worker by the Department of Labor may be granted an entry permit in accordance with Public Law No. 3-66, except that no alien under the age of twenty-one (21) shall be approved for entry under this section to perform work of any kind in an establishment licensed to serve alcohol.

Immigration Regulation §706P is amended to read:

Special Circumstances Entry Permit- permits an alien under special circumstances to legally remain and work in the Commonwealth without further authorization under Commonwealth law. A permit holder under this section is exempted from the provisions of the Non-Resident Workers Act (3 CMC §4411 et seq.). This permit shall be subject to annual renewal at the discretion of the Office of the Attorney General. This permit may be revoked upon a finding by the Attorney General that the special circumstances under which the permit was issued no longer exist.

Immigration Regulation §707 is amended to read:

Authorization For Entry Application Procedure.

- A. Applications for Authorization for Entry permits shall be submitted to the Main Office for Immigration. All applications and supporting documents become the property of the Office of the Immigration. Applications shall be processed within seven (7) days of compliance with all applicable requirements. Authorization For Entry permits will be signed only by the Immigration Officer except for Short-Term Business Entry Permits. All documents shall be filled out under penalty of perjury.
- B. Necessary documents for filing:
1. A completed application form,
 2. Certified copy of birth certificate,
 3. Any document deemed by the Immigration Officer to be necessary to substantiate the applicant's entry classification, including, at the discretion of the Attorney General, an Overseas Employment Certificate (OEC) issued by the Government of the Philippines to the applicant.
 4. One and one quarter inch (1-1/4") frontal photograph in either black and white or color.
- C. The application fee shall be deposited with the CNMI Treasurer by filing the necessary documents. The fee is non-refundable. Application may be made by mail. Checks must be made to "Treasurer of the CNMI".

- D. Applications shall not be accepted from aliens present in the Commonwealth whose presence is permitted solely because they have a pending labor, immigration or legal matter. However, once said matter is decided, the alien may apply for an entry permit, renewal or change of status if the alien prevailed in the labor, immigration or legal matter.

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Saipan, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tel: 670.664.2209 fax: 670.664.2211

PUBLIC NOTICE OF PROPOSED REGULATIONS
WHICH ARE AMENDMENTS TO THE REGULATIONS OF
THE COMMONWEALTH TELECOMMUNICATIONS COMMISSION

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Telecommunications Commission ("CTC"), intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CTC intends to adopt them as permanent, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b))

AUTHORITY: The CTC is required by the Legislature to adopt rules and regulations regarding those matters over which the CTC has jurisdiction, including its internal affairs. (4 CMC § 8313(b)(6); 4 CMC § 8301, *et seq.*, Public Law 12-39).

THE TERMS AND SUBSTANCE: The Regulations provide clear legal authority for the CTC to meet "virtually", rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's Open Meetings Act, 1 CMC § 9901, *et seq.* Typically one or more Commission members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Regulations define the virtual meeting and set out the requirements for public participation.

These Regulations shall be amendments to the CTC Regulations. These amendments add to the Regulations of the CTC, the attached **new Section 1-700 (Meetings)**.

THE SUBJECTS AND ISSUES INVOLVED: There are independent, but related, reasons for the promulgation of these regulations.

1. The Regulations provide procedures for the CTC to conduct its meetings when one or more of the Commissioners is not physically present. This is necessary because of the Commission's dispersed geographical representation (multiple islands) and the difficulties of travel in bad weather, as well as the complexities of the travel schedules of the Commissioners. The Regulations allow one or more of the Commissioners to call in

to the announced meeting place, a practice common in the business world.

2. The Regulations also provide procedures that conform to the CNMI's Open Meetings Act to insure that any member of the public may attend a CTC meeting and hear and view everything that every CTC Commissioner can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Commissioners are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Commissioners see and hear.

3. The Regulations also provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin boards – one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.


4. The Regulations also provide that the Commission's regular meetings shall ordinarily be the third Thursday of every month.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to CTC Acting Director Adam Turner, *Attn: New CTC Regs*, Box 505049, Capitol Hill, Saipan MP 96950 or fax 670.664.2211 or email to director@nmctc.com with the subject line "New CTC regs". Comments are due by November 30, 2005. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

Proposed regulations approved by the CTC on November 16, 2004, and

Submitted by:




JOSEPHINE DLG MESTA
Secretary, CTC




Date

Received by:


THOMAS A. TEBUTEB
Governor's Special Assistant for Administration

9/22/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Registrar

9/22/05
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 22nd day of Sept, 2005.



PAMELA S. BROWN,
Attorney General

0 CTC NOPR Meetings Oct 2005.wpd

COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
KOMISION TELECOMMUNICATION I COMMONWEALTH

Norman T. Tenorio, Kabesiyo
Caller Box 505049, Capitol Hill, Saipan MP 96950
(Fine'nina na Bibienda gi Building Honorable Juan A. Sablan)
Numirun Tilifon: 670-664-2209 Fax 670-664-2211

**NOTISIAN PUPBLIKU POT I MAN MAPROPONE NA REGULASION SIHA
NI MAN MA'AMENDA I REGULASION I KOMISION TELECOMMUNICATION I
COMMONWEALTH**

MA'INTENSION I AKSION PARA U MA'ADOPTA ESTE SIHA MAN MAPROPONE NA REGULASION SIHA: I Komision Telecommunication (CTC) gi Commonwealth I Sankattan Siha Na Islas Marianas, ma'intensiona para u ma'adopta i man mapropone na regulasion siha ni man che'che'ton petmanente, sigun i areklamenton i Akton Areklamenton Atministrasion, 1 CMC Seksiona 9104 (a). I Komision Telecommunication I Commonwealth ma'intensiona para u ma'adopta petmanente, ya man nãã'i' trenta (30) diha siha na notisia pot i intension. Siempre efektibu i regulasion siha dies (10) diha siha despues di i inadoptasion. (1 CMC Seksiona 9105 (b))

ATURIDÁT: I Komision Telecommunication I Commonwealth (CTC) ma'otden ni Lehislatura para u ma'adopta i areklamento yan regulasion siha ni tineteka eyu siha na asunto ni responsibilidad, a enklulusu i asunton sanhalom. (4 CMC Seksiona 8313 (b)(6); 4 CMC Seksiona 8301, et seq., Lai Publiku 12-39).

REGULASION YAN I SUSTANSIAN-NIHA: I Regulasion siha maprobeniyi mäs klãru na ligåt aturidåt para i Komision Telecommunication I Commonwealth na para u fan hunta "Konfiriensian Ilektrisdåt" ("virtually") adimäs hu gaige petsonåt, tatkomo u ma'atiende ni pumalu siha na taotao anai ma anunsia i lugåt i hunta, papa i Akton i CNMI pot Mababan I Hunta, 1 CMC Seksiona 9901, et. seq. Seso tenga uno pat mäs na membrun komision hu atiende ginen i konfiriensian tilifon, ni gai spika gi anai ma hunta i dinaña. I regulasion madefina i konfiriensian ilektrisdåt ya ma na guaha nisisidåt siha para i patisipaon i publiku.

Este na regulasion debi di u ma'amenda para i Regulasion i Komision Telecommunication I Commonwealth. Este na amendasion ma'omenta i Regulasion siha gi Komision Telecommunication I Commonwealth ni man che'che'ton na nuebu na Seksiona 1-700 (Hunta siha).

I PUNTO YAN ASUNTO SIHA NI MAN TINETEKKA: Man independente, lao ti man achule', pot rason para u ma'establesi este na regulasion siha.

1. I Regulasion siha maprobeniyi areklamento siha para i Komision Telecommunication I Commonwealth para u makondukta i huntan-niha yanggen uno osino mäs na membrun komisina siha ti man gaige petsonåt. Nisisário este pot rason na guaha membrun i komisina

ma prisensta otro siha na tano' gi isla-ta siha ya guaha-na besis nai bumaba i tiempo, parehu

ha' yan i sifaalan i batkon aire para i Komisina siha. I Regulasion siha a sesedi uno osino mas na membrun komisina para u ma'agang i lugat i hunta, este na prinaktika sesso gi bisnis i tano' .

2. I Regulasion siha a probeniyi lakkue areklamento anai siha makonfotma i Akton i Binaban i Huntan i CNMI para u ma'insura na maseha hayi na petsona siha ma'atiende para u ma'ekungok yan ina todú i hafa i membrun komisina mahuhungok yan i'ina, fuerra di ayu siha i man mapetmiti sikretu na pribilehu sigun i lai. Yanggen uno osino mas na membrun komisina man a'agang gi tilifon, i petsona ni ha atetiende debi di u na setbi i speakerphone anai siha u fan a'hungok gi sagan i hunta. Yanggen makondukta i hunta gi Internet, i mu atetiende debi di u manasetbe Computer anai siha u fan a'hungok yan a'li'e' yan i pumalu komisina.
3. I Regulasion siha a probeniyi lakkue para u guaha Computer anai siha makondukta i hunta yanggen masusedi ya gai annoko i tiempon-niha. Parehu ha' este yan i gasetan i computer, yanggen un petsona ha infotma i mensahe, ya i otro u oppe' gi birada, guaha na besis nai tinaka diha siha osino gi ora, estaki munayan i asunto.
4. I Regulasion a probeniyi lakkue na i regulat na hunatan komisina debi di u mahunta gi tetseru na Huebis kada mes.

DIREKSION YANGGEN PARA U MAPOLU YAN MAPUPBLIKA: Este siha I Man Mapropone na Regulasion debi di u mapupblika gi Rehistradoran i Commonwealth gi seksionan i man mapropone ya nuebu anai ma'adopta (1 CMC Seksiona 9102 (a)(1)) ya i notisia debi di u malaknos gi kombiniente na lugat siha gi civic center yan ofisinan gobietnamento siha gi kada distritun senadot siha, todú i dos Engles yan i lengguáhen prinsipat ni Natibu, Chamorro yan Refaluwasch. (1 CMC Seksiona 9104 9(a)(1)).

YANGGEN PARA UN NA GUAHA OPINION SIHA: Nahalom osino mail i opinion siha guatto as Adam Turner i Acting Director gi Komision Telecommunication I Commonwealth, Atension: Nuebu Na Regulasion Komision Telecommunication I Commonwealth, gi Box 505049, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi 670-664-2211 osino email guatto gi director@nmictc.com ni matitilu "Nuebu Na Regulasion Komision Telecommunication I Commonwealth". Uttimo i opinion siha gi Nobiembre 30, 2005. Pot fabot nahalom i opinion yan mensahe kinontra siha. (1 CMC Seksiona 9104 (a)(1))

I Man Mapropone Na Regulasion siha man ma'aprueba ni Komision Telecommunication I Commonwealth gi Nobiembre 16, 2004, ya

Ma Nahalom as: _____
JOSEPHINE DLG. MESTA

Fecha

Sekretaria,
Komision Telecommunication I Commonwealth

Marisibe' as: _____
THOMAS A. TEBUTEB
Espesiât Na Ayudânten i Atministrasion i Gobietno

_____ Fecha

Pinelo' yan Rinikot as: _____
BERNADITA B. DELA CRUZ
Rehistradoran i Commonwealth

_____ Fecha

Sigun i lai 1 CMC Seksiona 2153 (e) (i inapruedan i Abugâdo Henerât ni regulasion siha ni para u ma'establesi pot para u fotma) yan 1 CMC Seksiona 9104 (a)(3) (ma'aprueda ni Abugâdo Henerât) i man mapropone na regulasion siha man che'che'ton esta man ma'ina yan ma'aprueda pot para u fotma yan ligât sufisiente ni Abugâdo Henerât ya debi di u mapublika (1 CMC Seksiona 2153 (f) (publikasion i areklamento yan regulasion siha)).

Mafecha gi este mina _____ na ha'âne gi _____, 2005

PAMELA BROWN
Abugao Henerât

**Commonwealth of the Northern Marianas Islands
Commonwealth Telecommunications Commission**

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Seipel, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tilifoon: 670. 664.2209 fax: 670. 664. 2211

**ARONGORONGOL TOULAP REEL POMWOL ALLÉGH KKAAL IKKA
SSIWELI ALLÉGHÚL COMMONWEALTH TELECOMMUNICATIONS
COMMISSION**

AGHIYEGHIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:

Commonwealth Téél falúw kka falúwasch, Commonwealth Telecommunications Commission (“CTC”), e mángi bwe ebwe schééschéél fillóóy pomwol allégh kka e appasch, sáangi mwóghútúl Administrative Procedure Act, 1 CMC táilil 9104(a). CTC nge e mángi bwe ebwe schééschéél fillóóy, me essóbw luuló eliigh(30) rallil yaal arongowow. (Id.) Allegh kkaal nge ebwe schééschéél allégheló llól seigh(10)rááilil mwiril yaal filló. (1CMC talil 9105 (b))

BWÁNGIL: Schóóy allégh nge re tittingór bwe CTC ebwe fillóóy allégh kkaal bwelle mwóghút ye CTC eyoor bwángil reel, ebwal toolong internal affairs. (4 CMC táilil 8313 (b)(6); 4 CMC táilil 8301, et seq., Alléghúl Toulap 12-39).

ALLÉGH KKAAL ME AWEWEEL: Allégh kkaal nge ebwe ayoora bwáng ye e ffat alléghúl ngáli CTC reel ebwe fil ngáli “virtually”, mmwal igha ipighil aramas, ngáre schagh amweyút re tabweey mwiisch me bwuley ye re fili, sáangi CNMI Open meeting Act, 1 CMC talil9101, et seq. Schééschéél nge escháy me ngáre fitimal mwiischil Commission nge emmwel ebwe kkapas llól telephone conference, fengál me speaker phone igha re fili bwe mwiisch ebwe lo iye. Allégh kkaal nge ekke affata ghatchúl mwiisch me isisiwow yááyál kkaal ngáliir alillisil toulap

Allégh kkaal nge ebwe ssiwel ngáli Alléghul CTC. Ssiwel kkaal nge ebwe schu ngáli Alléghúl CTC, Talil kka e ffe 1-700 (Mwiisch kkaal), aweewe reel akkaté kkaal.

ALLÉGH ME AWEWE KKA E FIL FENGÁL: Eyoor independent, nge e weewe fengál, kkapasal akkatéél allégh kkaal.

1. Allégh kkaal nge e ayoora mwóghútúghútúl CTC reel ebwe atéew mwiisch igha escháy me ngáre fitimal Commissioners ikka ipighil rese lo. Milleel nge e welepakk bwelle igha re lo wóól akkááw falúw (multiple islands) me nggówal raal ótol yaar fáráágh, me bwal ótol weiresil yaar Commissioners fáráágh. Allégh kkaal nge emmwel bwe escháy me ngáre iyo meleir Commissioners rebwe failong bwe rebwe ira iya igha ebwe lo mwiisch iye, Fasúl féfféer me wóól falúw tóttómwógh.

2. Allégh kkaal nge e bwal ayoora mwóghut-ye ebwe alúghúlúghúw CNMI's Open Meetings Act igha ebwe affata bwe inaamwo iyo meleir membroot toulap nge ebwe tabweey mwiischil CTC me amweri fischiy, kkapasal alléghúl igha executive ese tabweey mwiisch me akkáaw allégh e fil reel confidential me proprietary material. Ngáre escháy me iyo meleir Commissioners rekke mwaliili fengál wóól tilifoon, aramas kkaal nge rebwe connect sáangi tilifoon me ngáre emmwel bwe rebwe ásáling mereel speaker phone mellól kkwóto. Ngáre mwiisch yeel e tooto mereel internet, schóókka relo nge ebwe yoor yaal access ngáli computer igha ebwe weri me rongorong meeta Commissioners re weri me rongorong.
3. Allégh kkaal e bwal ayoora yaal access computer igha ebwe computerized mwiisch kkaal igha ebwe lááláay mwóghútúl. Milikkaal nge e weewe schagh computer bulletin board-escháy ebwe isisilong yaal message, escháy ebwe appalawal mwirilóól, emmwel ebwe fitoow ráal me fitoow oora, me sóbwósóbwóló, ngáre schagh ssiwelil text-based aa ffataló nge aa akkayuulo.
4. Allégh kkaal e bwal ayoora bwe ótol yaar mwiisch Commissioners nge ebwe aluuwal weipis llól maram.

AFAL REEL AISIIS ME AKKATÉÉWOW: Pomwol Allégh kkaal nge ebwe atotoolong llól Commonwealth Register llól Tálil la re pomwoli me allégh kka re fillóoy ikka e ffé (1 CMC Tálil 9102 (a)(1) me arongorong yeel ebwe aisis ghatch llól civic center me llól Bwulasiyool local government mellól alongal senatorial district, e weewe schagh llól Amerikónu me llól kkapasal Refalúwasch me Remeraalis. (1 CMC Tálil 9104 (a) (1))

ISISILONGOL MÁNGEMÁNG: Afanga me bwughiiló yóómw mángemáng reel CTC Acting ngáli Adam Turner, Attn: Allághúl CTC kka e ffe, Box 505049, Capitol Hill, Seipél MP 96950 me fax reel 670.664.2211 me ngáre email ngáli director@nmictc.com ngáli kkapasal "New CTC regs". Aghiyegh nge essóbw luuló Nobembre 30, 2005. Óutu ghal soong ów isisilong yáami data, ghuley'ami me ngáre aingiingil. (1 CMC Talil 9104 (4)(a)(2))

Alúghúlúghúl pomwol allégh kkaal sáangi CTC Nobembre 16, 2004, me

Isaliyáallong:

JOSEPHINE DLG MESTA
Sekkeretóriyol, CTC

Rál

Mwir sáangi:

THOMAS A. TEBUTEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi: _____
BERNADITA B. DELA CRUZ
Commonwealth Registrar

Rál _____

Sáangi allágh ye 1 CMC Tálil 2153 (e) (alúghúlúghúl AG reel allégh kka ebwe akkatééwow) me 1 CMC tálil 9104 (a)(3) (bwughi alúghúlúghúl AG) pomwol allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap me ebwe akkatééló (1 CMC tálil 2153 (f) (akkatéél allégh kkaal)).

Rállil ye _____ llál _____, 2005.

PAMELA S. BROWN,
Sów Bwungól Allégh Lapalap

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Proposed Amendment to Regulations:

Add to the Regulations of the Commonwealth Telecommunications Commission Part 1, the following new Section 1-700 (Meetings):

Section 1-700 Meetings

This section is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and 4 CMC § 8138(b)(6)(i) (promulgating administrative regulations).

- a. In general.
 - i. The Commission shall act at its meetings, or as otherwise provided in these Regulations.
 - ii. The Commission shall make provision for the virtual attendance of Commissioners, if a Commissioner so requests.
 - iii. Meetings shall be noticed as required by law.
 - iv. A copy of meeting materials distributed to the Commissioners shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.
- b. Time. The time for the regular meetings of the Commission shall be the third Thursday of every month at 6:00 p.m., except as otherwise permitted or provided by law.
- c. Location.
 - i. Meetings shall be held at such place as the Chair may determine unless otherwise provided by the Commission, and the location shall be properly noticed to the public.
 - ii. The Commission may meet virtually, and any Commissioner may attend a meeting virtually.
 - iii. When the Commission meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any

person attending shall have the same access to the meeting as each attending Commissioner at the site. Typically this will include use of a speaker phone for a conference call meeting.

- iv. Votes of Commissioners may be received by electronic means and announced at a meeting.
- d. Rules. Meetings of the Commissioners shall be conducted according to Robert's Rules of Order, most recent revision, unless:
 - i. otherwise specified in these Regulations; or
 - ii. the Rules are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.
- e. Regular Meetings. Regular meetings shall be held as determined by the Commission's Regulations and as additionally determined by the Commission.
- f. Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Commission.
- g. Executive Session. Ordinarily the Commission's meetings shall be open to the public. The Commission may meet privately, in Executive Session, for the following purposes:
 - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
 - (2) To discuss pending or potential litigation or investigations;
 - (3) To discuss aspects of the Commission's business affairs that are confidential and/or proprietary by law;
 - (4) To address a matter that may give rise to a conflict of interest, or an appearance of a conflict, in the absence of the Commissioner(s) related thereto; and
 - (5) To address other matters permitted by law.
- h. Virtual discussions.
 - i. The Commission may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given so that a person seeking to review the discussion as

it happens shall have substantially the same access to the discussion as each participating Commissioner.

- ii. Typically such a discussion shall be by electronic bulletin board open to the view of the public.
 - iii. Such discussion shall be noticed according to these Regulations and shall comply with CNMI law regarding open meetings.
 - iv. The Commission shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
- i. **Accessibility.** The Commission shall comply with the accessibility requirements required by law and may, upon a person's request accommodate other special needs relating to sight, sound, language or location.
- j. **Definitions.** For the purposes of this Section, the following definitions shall apply:
- i. **ELECTRONIC MEANS** includes telephone, video-conference, electronic-telecommunications-mediated written, aural and/or video means, including, but not limited to, mediated through the internet, and/or email.
 - ii. **REAL TIME** or real-time means immediately before, during and/or after, as in "as it happens".
 - iii. **VIRTUAL** or **VIRTUALLY** when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 FAX: (670) 664-1115

**PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO THE AMENDED RULES AND REGULATIONS
FOR THE OPERATION OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LOTTERY**

The Secretary of Finance hereby gives notice to the general public that the Department of Finance is proposing to amend the Amended Rules and Regulations for the Operation of the CNMI Lottery, as originally published in the Commonwealth Register, Volume 22, No.6, June 20, 2000, Commonwealth Register, Volume 24, No. 8, August 21, 2002 and Commonwealth Register, Volume 25, No. 8, September 18, 2003, and as amended by the Rules and Regulations for the Operation of the Commonwealth of the Northern Marianas Lottery as adopted in the Commonwealth Register, Vol. 26, No. 4, April 23, 2004. This amendment is made pursuant to the Department's authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §9305, 1 CMC §9306, the Commonwealth Administrative Procedure Act, 1 CMC §9101 *et. seq.*, and Executive Order 94-3.

The purpose of these amendments are enacted to implement, interpret, prescribe and clarify the policies and procedures required to implement, regulate and supervise the operation of the CNMI Lottery. These Rules and regulations shall have the force and effect of law.

The proposed regulations may be inspected at, and copies obtained from the Secretary's Office, EDP Bldg., Capitol Hill, Saipan, MP. 96950. The proposed regulations are published in the Commonwealth Register.

The Secretary of Finance is soliciting comments on this proposed amendment to the Amended Rules and Regulations for the Operation of the CNMI Lottery from the general public. Anyone interested in commenting on this proposed amendment may do so in writing. Comments may be addressed to the Secretary of Finance, Department of Finance, P.O. Box 5234 CHRB, Saipan, MP. 96950. All comments must be received within 30 days from the date of this notice published in the Commonwealth Register.

Certified By:

Fermin M. Atalig
Secretary of Finance
Department of Finance

Date: 9/14/05

Filed By:

Bernadita B. Dela Cruz
Commonwealth Register

Date: 9/22/05

Received By:



Thomas A. Tebuteb
SAA, Office of the Governor

Date:

9/22/05

Pursuant to 1 CMC §2153, as amended by P.L. 10-50, the regulations attached hereto have been reviewed and approved by the CNMI Attorney General.

Dated this 22nd day of September 2005.



Pamela Brown
Attorney General

**NOTISIAN PUBLIKU POT I MAN MAPROPONE NA
AMENDASION SIHA PARA I MAN MA'AMENDA NA
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
LOTTERY GI COMMONWEALTH I SANKATTAN SIHA NA ISLAS
MARIANAS**

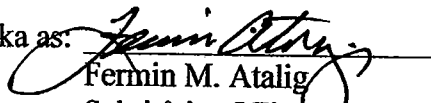
I Sekretarion I Finance man nãã'i' notisia para I publiku henerat na I Dipattamenton I Finance man propopone para u amenda I Man Ma'amenda Na Areklamento yan Regulasion siha Para I Operasion I Lottery gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI), ni mapublika originat gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, gi Rehistran I Commonwealth, Baluma 24, Numiru 08, gi Agostu 21, 2002 yan Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septiembre 18, 2003, ya ni inamenda ni I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery anai ma'adopta gi Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abril 23, 2004. Este na amendasion mafatinas sigun I aturidat yan otden I dipattamento ni mamensiona gi Commonwealth Code a enklulusu lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Seksiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 *et seq.*, yan Executive Order 94-3.

I propositun este na amendasion man ma'otdena para u ma'enfuetsa, ma'sangan, ma'otden yan maklaruyi I areklamento yan manera I manisisita para u ma'enfuetsa, gubietna yan maneha I operasion I CNMI Lottery. Este na Areklamento yan Regulasion siha debi di u gai fuetsa yan efektibu gi Lai.

I man mapropone na regulasion siha ma'ina gi, ya I kopia siha siha u fan machule' gi Ofisinan I Sekretario, gi EDP Bldg., giya Capitol Hill, giya Saipan, MP 96950. I man mapropone na regulasion siha man mapublika gi Rehistran I Commonwealth.

I Sekretarion I Finance man gãgãgao opinion siha pot I man mapropone na amendasion para I man ma'amenda na Areklamento yan Regulasion siha para I Operasion I CNMI Lottery ginen I henerat publiku. Maseha hãyi enteresao munahalom opinion pot I man mapropone na amendasion siha munahalom gi tinige'. Siha mahanãgue' I opinion siha guatto gi Sekretarion I Finance, gi P.O.Box 5234 CHRB, giya Saipan MP 96950. Todu I opinion siha debi di u marisibe' gi halom trenta (30) diha siha anai mafecha este na notisia ni para u mapublika gi Rehistran I Commonwealth.

Masetifika as:


Fermin M. Atalig
Sekretarion I Finance
Dipattamenton I Finance

Fecha:

9/20/05

Pinelo' as: Bernadita B. Dela Cruz
Bernadita B. Dela Cruz
Rehistradoran I Commonwealth

Fecha: 9/22/05

Marisibe' as: Thomas A. Tebuteb
Thomas A. Tebuteb
SAA, Ofisinan I Gubietno

Fecha: 9/22/05

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I regulasion siha ni man che'che'ton man ma'ina yan ma'aprueba ni Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi Septiembre, 2005.

Pamela Brown
Abugâdu Henerât

DIPÀTTAMENTON I FINANCE
MAN MAPROPONE NA AMENDASION SIHA PARA I
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
(CNMI) LOTTERY

Annok I Aturidât I Lai: I Man mapropone na amendasion siha para I areklamento yan regulasion siha para I operasion I CNMI Lottery man ma'establesi sigun, lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Sekiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 et.seq., yan Executive Order 94-3.

Mensâhen Finiho yan Diniseha:

Para u amenda I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery, anai mapublika gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Kada'da' Na Mensâhe Pot I Areklamento Siha:

I areklamento yan regulasion siha a probeniyi I otden yan manera para u ma'enfuetsa yan ma'otden yan mancha I operasion I CNMI Lottery. Este na areklamento siempre lokkue a omentâyi nuebu na huegun lottery mâs matungoña I Marianas Sports Lottery. Este na areklamento yan regulasion siha siña ma'amenda, matulaika osino madiroga pot para u propiu ni I Dipàttamenton I Finance I CNMI.

Para Mâs Infotmasion Ågang:

Si Fermin M. Atalig, I Sekretârion I Finance, gi Numirun Tilifon 664-1100 yan numirun I facsimile 664-1115.

Annok I Man Achule' Yan/pat Inafekta na Lai, Regulasion yan Otden siha:

I CMC Seksiona 9301, et. seq; Rehistran I Commonwealth Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Ninahalom as: *Fermin M. Atajig*
Fermin M. Atajig
Sekritarion I Finance

9/21/05
Fecha

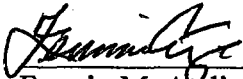
**ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGH ME
AMMWELIL MWÓGHÚTÚGHÚTÚL LOTTERY MELLÓL
COMMONWEALTH TÉEL FALÚWASCH MARIANAS**

Samwoolul Finance ekki arongaar toulap bwe Depattamentool Finance ekki pomwoli bwe ebwe liweli Allégh kka e ssiweló reel Mwóghútúl CNMI Lottery, iye raa fasúl atéew llól Commonwealth Register, Volume 22, Numoro. 6, Alimaté 20, 2000, Commonwealth Register, Volume 24, Numoro. 8, Eluwel 21, 2002 me Commonwealth Register, Volume 24, Numoro. 8, Maan 18, 2003, me a ssiwel mereel Allégh kkaal reel Mwóghútúl Lottery mellól Commonwealth Téel falúwasch Marianas iye aa filló mellól Commonwealth Register, Volume 26, Numoro 4, Sééta 23, 2004. Lliwel yeel nge e fféer sáangi Bwángil Depattamento me afalafal iye aléghélégéló mellól Commonwealth Code ebwal toolong, me ese bwal aighúgh ngáli, 1 CMC Tálil 9303, 1 CMC 9306, Ammwelil Commonwealth Administrative Procedure Act, 1 CMC 9101 et seq., me Akkúleyal Samwool 94-3.


Bwulúl lliwel kkaal ikka re alléghúwuló igha rebwe ayoora, sów aweewe, ischil me affata allégh kkaal me mwóghútúghút ye ebwe mweiti ngáli atotoolongol, alúghúlúgh me amweri fischiy mwóghútúl CNMI Lottery. Allégh me Ammwel kkaal nge rebwe ghítipwotchuw me mwóghut sáangi allégh.

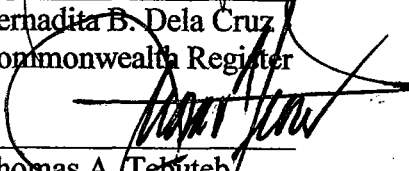
Pomwol allegh kkaal nge emmwel rebwe amweri fischiy mereel, me emmwel rebwe bwughil kkopial mereel Bwulasiyool Sekkretóriyo, EDP Bldg., Capitol Hill, Seipel, MP. 96950. Pomwol allégh kkaal ikka raa atéew llól Commonwealth Register.

Samwoolul Finance ekki tittingór mángemáng reel pomwol lliwel yeel ngáli Allégh kka e ssiwel reel Mwóghútúl CNMI Lottery mereer toulapeer aramas. Schóókka eyoor mángemángiir reel pomwol lliwel yeel nge emmwel rebwe ischilong, mángemáng nge emmwel rebwe afanga ngáli Samwoolul Finance, Depattamentool Finance, P.O. Box 5234 CHRB, Seipél, MP. 96950. Alongal mángemáng nge rebwe bwughil llól eliigh (30) raalil mwiril schagh yaal arong yeel akkaté mellól Commonwealth Register.

Alúghúlúgh sáangi: 
Fermin M. Alalig
Samwoolul Finance
Depattamentool Finance

9/22/05
Rál

Ammwel sáangi: 
Bernadita B. Dela Cruz
Commonwealth Register

Mwir sáangi: 
Thomas A. Tebuteb
SAA, Bwulasiyool Sów Lemelem

9/22/05
Rál

9/22/05
Rál

Sáangi allégh ye 1 CMC, iye aa lliwel mereel P.L. 10-50, allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ Ilól Maan 2005.

Pamela Brown
Sów Bwungúl Allégh Lapalap

DEPARTAMENTOOL FINANCE
POMWOL LLIWEL NGÁLI AMMWEL ME ALLÉGHÚL REEL MWÓGHÚTÚL
LOTTERY MELLÓL COMMONWEALTH TÉÉL FALÚWASCH MARIANAS

Akkatéél bwángil: Pomwol liwel ngáli Allégh me Ammwelil reel Mwóghútúl CNMI Lottery ikka raa atééw bwelle, me ese aighúgh ngáli, 1 CMC Tálil 9305, 1 CMC Tálil 9306, Commonwealth Administrative Procedure Act, 1 CMC Tálil 9101 et seq., me Akkúleyal Sów Lemelem 94-3.

Aweweel pomwol liwel: Rebwe lliweli Allégh kkaal reel Mwóghútúl CNMI Lottery, iye a akkatééwow mellól Commonwealth Register, Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register, Vol. 26, No. 4, Seeta 23, 2004.

Aweweel pomwol allégh: Allégh me Ammwel kkaal e ayoora mwóghutul atotoolong me alléghúw me amweri fischiy mwóghútúl CNMI Lottery. Allégh kkaal nge ebwal ayoora eew urul lottery ye e ffe iye re ghal ira bwe Marianas Sports Lottery. Allegh kkaal nge emmwel rebwe siweli, mwóghútúl me ngáre fféer sefál bwelle e alléghewow mereel CNMI Depattamentool Finance.

Reel ammataf faingi: Fermin M. Atalig, Samwoolul Finance, Numorol tilifoon 664-1100 me facsimile numoro 664-1115.

Akkatéél bwángil akkááw allégh: 1 CMC Tálil 9301 et seq; Commonwealth Register Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register Vol. 26, No. 4, Séetá 23, 2004.

Isaliyallong:

Fermin M. Atalig
Samwoolul Finance

Rál

Marianas Lottery - SPORTS LOTTERY

Section 1 Purpose and Disclaimer

- (1) Purpose: These rules establish the procedures and requirements for playing Marianas Sports Lottery, a lottery game operated by the Marianas Lottery.
- (2) Disclaimer: Marianas Sports Lottery is not associated with, sponsored, or authorized by any sports league or agency.

Section 1.1 Definitions

For the purposes of Section 1, the following definitions apply unless the context requires otherwise:

- (1) **"Entry Form"** means a play program used by a player to choose the dollar amount to be wagered, the number of events selected, and the player's chosen option for each event selected.
- (2) **"Event"** means a game or a special play that a player may select.
- (3) **"Favorite"** means the likely winning team of a game as indicated on the official program.
- (4) **"Game"** means a game between two teams.
- (5) **"Game ticket" or "ticket"** means a computer-generated, printed paper issued by the Marianas Lottery as a receipt for the events selected and the options chosen by a player and includes, but is not limited to, the following data: The name "Marianas Sports Lottery", the purchase date, events selected, the option chosen for each selected event, the cost of the ticket, the identifying number for the specific play program, and a serial number.
- (6) **"Official program"** means the Lottery's list of games with point spreads and special plays, including the options for each event a player may select for a particular play program.
- (7) **"Official Marianas Sports Lottery results"** means the Lottery's list of the final outcomes of the events scheduled for a given play program, showing the results for each event.
- (8) **"Play Program"** means the form listing the games for which there is an option to play. Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.
- (9) **"Playoff Special"** means a Marianas Sports Lottery game based on the outcomes of games played during the "playoffs" of a particular sport to determine its champion for a particular year.
- (10) **"Point spread"** means the number of points used to balance the possible outcome of an event, giving equal chance for each event's success.
- (11) **"Prize category"** means a division of the prize pool identified by a specific number of events selected by a player.
- (12) **"Quick Pick"** means the random selection by a Marianas Lottery on-line terminal of events played on a ticket and an option for each event selected.
- (13) **"Special play"** means an activity that occurs within a game, including, but not limited to, fumbles, interceptions, sacks, three-pointers, and home runs.

(14) "Total points" means the total number of the points scored by both teams.

(15) "Underdog" means the likely losing team of a game as indicated on the official program.

Section 1.2 Marianas Sports Lottery Description

(1) **General:** Marianas Sports Lottery is a Lottery game based on the outcome of a game or special play. During the Sports Lottery season, the Lottery will make available an official program, which lists the events for that play program. For each game listed, the official program will indicate the favorite and the underdog and include a point spread. The point spread is added to the underdog score which is then compared to the favorite's score to determine the outcome of a game. The team with the highest score is the winner. The Lottery's point spread appearing on the official program is the only point spread applicable to Marianas Sports Lottery. A game may have no winner should the sum of the point spread plus the underdog score is equal to the favorite's score. The Marianas Lottery may also include for certain games an Over/Under event. The player selects either the Over option or the Under option. The Over selection is correct should the total points scored exceed the number listed in the program, The Under selection is correct should the total points scored be less than the number listed in the program. There is no winner should the total points match the number listed in the program.

(2) **Player Selections:** A player is required to select at least three events on the official program but may select 4, 5, 6, 7, 8, 10, 12, or a maximum of 14 events.

(3) **Lottery Selections:** The Lottery will list a minimum of three events up to a maximum of fifty events each week. The Director reserves the right to determine which events will be listed in the official program and whether to apply a point spread.

Section 1.3 Play Dates and Times

Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.

Section 1.4 Cost of a Ticket

The cost of a ticket is determined by the amount of money a player chooses to wager. The minimum wager is \$1 per ticket. The Marianas Lottery reserves the right to not accept any wager for any particular event.

Section 1.5 Ticket Purchase, Characteristics, and Restrictions

(1) **General:** A Marianas Sports Lottery ticket may only be purchased from a Lottery retailer during the Marianas Sports Lottery season.

(2) **Age of Player:** A player must be at least 18 years of age to purchase a Marianas Sports Lottery ticket.

(3) **Ticket Characteristics:** A game ticket is the only proof of Marianas Sports Lottery game play, including the selections made by a player. The submission of a winning ticket to the Lottery is the sole method for claiming a prize. An entry form or a copy of a game ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase, the selections made by a player, or otherwise represent an opportunity to win a prize.

Section 1.6 Cancellation of Tickets

(1) **General:** A player may cancel a Marianas Sports Lottery game ticket by returning the ticket to the Lottery on the day of purchase prior to the time wagers are disabled before the first event listed on the ticket. After this time, the ticket cannot be canceled.

(2) **Refund:** In the event that Section 1.6, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket.

Section 1.7 Payment Of Prizes; Ticket Validation Requirements; time

Same as Marianas Lottery

Section 1.8 Odd of Winning and Prize Payout

1) Prizes for each Play Program shall be determined and awarded on the following basis:

Match	Odds	Payout	Prize per \$1 Played
3 of 3	8	4	0.500
4 of 4	16	8	0.500
5 of 5	32	15	0.469
6 of 6	64	25	0.391
7 of 7	128	50	0.391
8 of 8	256	100	0.391
10 of 10	1024	200	0.195
12 of 12	4096	400	0.098
14 of 14	16384	1000	0.061

Amount per play program will be subject to a maximum payout of \$50,000.00 per play program. Should the total prizes paid exceed the maximum payout, the prize payout will be prorated based on the total payout for each ticket divided by the total payout determined without regard to the maximum payout.

Section 1.9 Determination of Winners

(1) **Favorite:** To be a winning selection, the favorite must defeat the underdog by more points than the point spread.

(2) **Underdog:** To be a winning selection, the underdog must win the game or lose by fewer points than the point spread.

(3) **General:** To win, all of a player's event selections must match the final outcomes in the Lottery's official Sports Action results. For example, no prize shall be awarded to players who match 3 of 4 event selections, 5 of 7 event selections, or 11 of 14 event selections.

(4) **Official Event Results:** The scores and results for an event become official and final for the purpose of playing Marianas Sports Lottery when the Lottery enters the results in the Lottery's central computer

system for purposes of validating winning tickets. Once the results are entered, the Lottery shall not recognize any changes, including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the professional sports league or organization overseeing the game that changes the outcome of a special play.

Section 1.10 Game Cancellation, Postponement, or Termination

Game Cancellation, Postponement, or Termination

- (1) **Game Cancellation:** If a game is officially canceled prior to the start, or during the course of play, the Director will authorize a refund equal to the cost shown on the player's ticket.
- (2) **Game Postponed:** If a game is officially postponed prior to the start, or during the course of play, play on a Marianas Sports Lottery ticket, which includes that game, may continue until the rescheduled starting time for the game.
- (3) **Game Terminated after Play Has Started:** If a game is officially terminated after play has started and the results of that game are declared as official and final by the sports ruling body, the Lottery will adopt those results. Results include the final score of the game and any special plays within that game.

Section 1.11 Playoff Specials

Playoff Specials

- (1) The Marianas Lottery shall provide to the Director of Finance the rules and prize payout structure of any Playoff Special games prior to offering the game to the public. The Director of Finance must approve the game prior to its sale to the public.

Section 1.12 Fees

Fees

- (1) The annual fee shall be prorated based on the ratio of the number of days the Sports Lottery is available for sales to the number of days in the year.
- (2) The Marianas Lottery shall provide to the Director of Finance a listing of the number of days the Sports Lottery will be available for sale.

Section 1.13 Maximum Jackpot

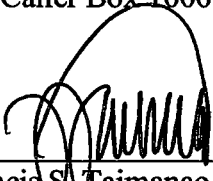
The maximum amount paid out for any one play program shall be limited to \$50,000


PUBLIC NOTICE

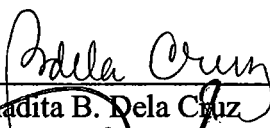
**PROPOSED AMENDMENT TO THE RULES AND REGULATIONS
GOVERNING THE ADMINISTRATIVE PROCEDURE OF THE
COMMONWEALTH FIRE SAFETY CODE**

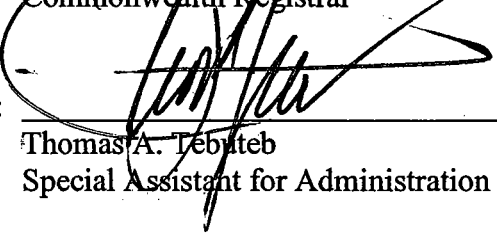
The Department of Public Safety, Fire Division's Fire Prevention Section, hereby proposes to amend the rules and regulations that will govern the administration, implementation, and enforcement of the Fire Safety Code of the Commonwealth of the Northern Mariana Islands. Public Law No. 11-56, to include all sections in the Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association. The rules and regulations to be promulgated are authorized pursuant to section 7304 of Public Law No. 11-56, "Commonwealth Fire Safety Code Act of 1998".

All written comments and/or recommendation regarding the amended rules and regulations are to be submitted within thirty (30) days after the date of this publication in the Commonwealth Register to Department of Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan's Building, Caller Box 10007, Saipan, and MP 96950.

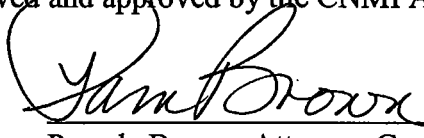
Certified By:  _____
Francis S. Taimanao
Acting Director of Fire
Date: 9/21/05

Approved By:  _____
Santiago F. Tudela
Commissioner of Public Safety
Date: 9/21/05

Filed By:  _____
Bernadita B. Dela Cruz
Commonwealth Registrar
Date: 9/21/05

Received By:  _____
Thomas A. Tebitob
Special Assistant for Administration
Date: 9/21/05

Pursuant to 1CMC§2153 as amended by PL 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

 _____
Pamela Brown, Attorney General
Date: 9/21/05


PUBLIC NOTICE

**AMENDMENT TO THE RULES AND REGULATIONS GOVERNING THE
ADMINISTRATIVE PROCEDURE OF THE COMMONWEALTH FIRE
SAFETY CODE**

Citation of Statutory Authority:	To amend the rules and regulations pursuant to the Commonwealth Fire Safety Code, Public Law No. 11-56.
Short Statement of Goals and Objectives:	To amend the rules and regulations to provide uniform standards as mandated by the Commonwealth Fire Safety Code, Public Law No. 11-56.
Brief Summary of the Proposed Regulations:	To safeguard to a reasonable degree life and property from the hazards of fire and explosions arising from storage, handling and use of hazardous substances, materials and devices, and from any conditions hazardous to life and property in the use or occupancy of any buildings and premises.
Citation of Related and/or Affected Statutes, Rules, and Regulations:	Public Law No. 11-56, Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association.
For Further Information Contact:	Acting Director of Fire Francis S. Taimanao, Fire Division. Telephone numbers 664-9003/9004 or facsimile number 664-9009. Mailing Address: Caller Box 10007, Saipan, MP, 96950

Dated this 20th day of September ~~August~~ 2005.

Submitted by:

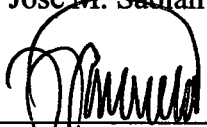

Santiago F. Tudela
Commissioner of Public Safety


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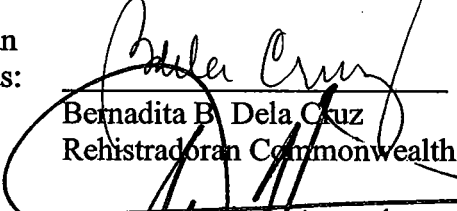
**MAN MA' AMENDA NA ARECKAMENTO YAN REGULASION I PARA U
GOBIETNA I KONDISION YAN MANERAN COMMONWEALTH FIRE
SAFETY CODE**

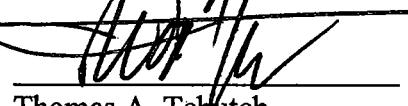
I Dipatamenton Public Safety, Fire Division Fire Prevention na seksiona, ginen este na propopne para u ma' amenda I areklamento yan regulasion I para u gubientna administrasion, implementasion, yan maenfuetsan I Fire Safety Code Commonwealth I Sankattan siha no Islan Marianas, Lai Publiku No. 11-56, para u enklusu todú I seksiona siha put Uniform Fire Code yan Areklamento ni pinepblikan International Conference of Building Official yan I San Lagu na Fire Chief's Association. I areklamento yan regulasion ni para u jama cho'gue ginen inaturisan Seksiona 7304 gi Lai Publiku No. 11-56 "Commonwealth Fire Safety Code Act of 1998".

Todu I manmatuge' siha na komentu / rekomendasion put I manmapropopne siha na arekamento yan regulasion u fanma satmiti halom trenta (30) dias despues di mapublika este na nutisia ge Rehistran Commonwealth para guatu gi Dipatamenton Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan Building, Caller Box 10007, Saipan, MP 96950.

Sinettfikka as:  _____ 9/21/05
Francis S. Taimanao Fecha
Dirktot, DPS Fire Division

Mabreba as:  _____ 9/21/05
Santiago F. Tudela Fecha
Commissioner of Public Safety

Ma file yan Rinekod as:  _____ 9/21/05
Bernadita B. Dela Cruz Fecha
Rehistradoran Commonwealth

Rinisibi as:  _____ 9/21/05
Thomas A. Tebuteb Fecha
Special Assistant for Administration

Sigun 1 CMC papa seksiona 2153 ni inamenda ni Lai Publiku 10-50, I areklamento yan regulasion ni chechetton guine esta manmarisibi yan apreba ginen Ofisinan Attorney General giya CNMI.


Pamela Brown Fecha
Attorney General

**MAN MAPRÓPONE NA AMENDASION PARA I AREKLAMENTO
YAN REGULASION SIHA NI GINIBEBIETNA I AREKLAMENTON
ADMINISTRASION POT I COMMONWEALTH FIRE SAFETY
CODE**

Annok I Aturidát I Lai:	Para u ma'amenda I areklamento yan regulasion siha sigun I Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhen Finiho yan Diniseha:	Para u ma'amenda I areklamento yan regulasion siha para u maprobeniyi <u>uniform standards</u> ni ma'otden ni Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhe pot I Man Mapropone na Regulasion siha:	Para u protehi I resonáple siha na piniligrun lina'la' yan propiedát ginen kimason pat pákpak bâm ginen soku yan I mapachan I man piligro siha na matiriát yan kosas, yan maseha háfa ni man na'ma'ñao na kondision kontra lina'la' yan propiedát kumo ma'usa yan guaha gi hálom maseha amino na fasilidát yan uriya.
Annok I Man Achule' yan/pat Inafekta na Lai, Areklamento , yan Regulasion siha:	Lai Publiku Numiru 11-56, <u>Uniform Fire Code</u> yan <u>Standards</u> ni mapublika ginen <u>International Conference</u> pot <u>Building Official</u> yan I <u>Association Western Fire Chiefs'</u>
Para Mâs Infotmasion Ágang si:	I Acting Director gi Fire as Frances S. Taimanao, gi Dibision Fire. Numirun Tilifon 664-9003/9004 osino facsimile 664-9009. Na hánao gi mailing address: Caller Box 10007, Saipan, MP 96950.

Mafecha gi este mina _____ na ha'áne gi Agostu 2005.

Ninaháлом as:


Santiago F. Tudela
Commissioner gi Sináfun Publiku

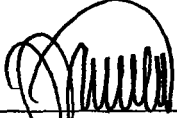
ARONGORONGOL TOULAP

**POMWOL LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM
ADMINISTRATIVE PROCEDURE MELLÓL COMMONWEALTH FIRE
SAFETY CODE**

Depattamentool Public Safety, Fire Division's Fire Prevention Section, ekke pomwoli bwe ebwe fillóoy allégh kkaal igha ebwe lemelem administrative, atotoolongol, me mwóghut ágheli Fire Safety Code mellól Commonwealth Téel Falúwasch Marianas. Alléghúl Toulap ye No. 11-56, igha ebwe atolongow alongal tánil kka llól mille Uniform Fire Code me Allegh kka e akkaté sáangi International Conference llo Building Officials me Western Fire Chief's Association. Allégh kkaal nge ebwe akkatééwow me re mweiti sáangi talil ye 7304 llól Alléghúl Toulap ye. 11-56, "Commonwealth Fire Safety Code Act sáangi 1998".


Alongal ischil mángemáng me/ aghiyegh bwelle reel ssiwelil allegh kkaal nge ebwe atotoolong llól eliigh (30) ráalil ngáre schagh aa allégheló mellól Commonwealth Register ngáli Depattamentool Public Safety, Fire Division, Fire Prevention Section, Jose Sablan's Building, Caller Box 10007, Seipel, me MP 96950.

Alúghúlúgh sáangi:


Francis S. Taimanao
Acting ngali Samwoolul Fire Division

9/21/05
Rál

Allégh sáangi:


Santiago F. Tudela
Samwoolul Public Safety

9/21/05
Rál

Ammwel sáangi:


Bernadita B. Dela Cruz
Commonwealth Registrar

9/22/05
Rál

Mwir sáangi:

Thomas A. Tebuteb
Sów Alillisil Sów Lemelem

9/22/05
Rál

Sáangi allégh ye 1CMC tánil 2153 iye aa ssiweló mereel Alléghúl Toulap 10-50, allégh kkaal ikka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Pamela Brown, Sow Bwungul Allegh Lapalap

Rál

ARONGORONGOL TOULAP

**LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM ADMINISTRATIVE
PROCEDURE MELLÓL COMMONWEALTH FIRE SAFETY CODE**

Akkatéél bwángil: Rebwe fillóoy allégh kkaal bwelle reel Commonwealth Fire Safety Code, Alléghúl Toulap ye 11-56.

Aweweel pomwol lliwel: Rebwe fillóoy allégh kkaal igha rebwe ayoora Uniform Standards iye e towoow mereel Commonwealth Fire Safety Code, Alléghúl Toulap ye. 11-56.

Aweweel pomwol allégh: Rebwe ammwela fischiy reel mwóghútúl melaw me bwuley mereel kkapasal angat me meeta kka e ghal llesch mellól leliyel isiis, akkamwaschul me yáyáál meeta kka e ammesagh, matiriyód me peirágh kkaal, me sáangi weires kka emmwel ebwe toori malawal aramas me falúw ye re yááli me yááyá ngáli iimw me bwuley kkaal.

Akkatéél bwángil akkááw allégh: Alléghúl Toulap ye. 11-56, Uniform Fire Code me Allégh kka e toowow mereel International Conference mellol Building Officials me Western Fire Chief's Association.

Reel ammataf faingi: Acting ngali Samwool reel Fire Francis S. Taimanao, Fire Division. Numerool tilifoon 664-9009. Mailing Addres: Caller Box 10007, Siepel, MP, 96950

Rállil ye _____ llól Agosto 2005.

Isaliyallong:



Santiago F. Tudela
Samwoolul Public Safety

Section 1000. Authority:

The Department of Public Safety Fire Division, Fire Prevention Section shall have the legal authority to enforce laws and regulations promulgated pursuant to the authority of Public Law 11-56, "Commonwealth Fire Safety Code" and all other adopted codes and standards.

Section 1001. Purpose:

The purpose of these rules and regulations is to govern the administration, implementation of governing Public Law 11-56, "Commonwealth Fire Safety Code."

Section 1002. Cooperation with other agencies;

- A. Other government agencies involved in reviewing plans for a new building and/or renovation of an existing building, or construction of underground and above ground storage tanks for flammable liquid and combustible liquid shall inform the applicant/business owner to obtain clearance from Fire Prevention Section in writing of such plans which pertain to Fire Safety in nature.
- B. Officials of other government agencies involved in permitting and/or Licensing of the following activities mentioned in section 1010, shall ensure clearance from the Fire Prevention Section is obtained prior to issuing permits and/or license.

Section 1003. Existing Buildings:

- A. The Fire Chief or his representative from the Fire Prevention Section shall have the authority to inspect existing building if he/she believes an imminent danger exist or has reason to believe that it is an unsafe building.
- B. At anytime a complaint is received by the Fire Division, Fire Prevention Section regarding a building having hazardous or unsafe conditions, The Fire Director or his designee may request to the owner to inspect the premises.

Section 1004. Unsafe Structures:

- A. Any building, dwelling, or structures found unsafe will be given notice of abatement. This notice will serve as a temporary closure of building and or operation until such time deficiencies rendering it unsafe is rectified.

Section 1005. Certificate of Fire:

- A. Any person whose house, property, or business establishment is damaged by fire will be given 3 working days prior to picking up Certificate of Fire report from the Fire Prevention office. This document will be sufficient for justification in requesting assistance from any organization.

- B. The office of Fire Prevention Section will not issue investigation report to any person without written permission from the Commissioner of Public Safety and/or Director of Fire. It will be the responsibility of the client to obtain approval from the Commissioner of Public Safety and/or Director of Fire before any report, other than certificate of Fire report, to be released.

Section 1006. Fireworks:

- A. It shall be unlawful for any person or business to distribute, store, or sell Class "C" Fireworks without a valid permit from the Fire Prevention Office.
- B. It shall be unlawful for any person or business to store, use, or sell Class "B" fireworks without approval from the Governor's office. After approval from the governor, office of Fire Prevention Section must be advised regarding such activities.

Section 1007. Fire Hydrant:

- A. It shall be unlawful for any person to use or draw water from any fire hydrants without proper written permission from the Director of Fire. Any person found will be cited for tampering with fire appurtenances.
- B. Any person who wish to use or draw water from a fire hydrant must obtain permit from the Fire Division. They will also be required to obtain clearance from the Commonwealth Utilities Corporation prior to obtaining permit from Fire Division.
- C. It shall be the responsibility of Fire Division to perform periodic maintenance on fire hydrants to determine serviceability, water pressure during peak and regular hours, landmark hydrants so that locating it would not be a problem during night or inclement weather. Any hydrants found with major damage shall be reported to proper agency for repair or removal.
- D. Any person or motorist responsible for damaging any hydrants will be liable for the cost of repairing the hydrant or for a new replacement.

Section 1008. Inspections For New Permits

I. First Inspection

- A. The Inspector shall conduct the inspection, if code compliance has been obtained, the permit will be processed. There is no charge for this First Inspection, it is included in the permit fee which payment must be received by the Commonwealth of the Northern Marianas Island (CNMI) Treasury, before permit is issued (see Issuance of permit schedule).
- B. If code compliance has not been obtained, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code, and, providing adequate time between inspection, dependent on the hazard and danger created by the

violations and the complexity of the work to be done, but generally, within 15 to 30 days or as felt adequate by the business owner, a schedule for "First Reinspection" date and time, to verify code compliance. Note: First Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).

- C. In all cases, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit and First Reinspection fees shall be payable to the CNMI Treasury, before the permit is issued (see Inspection Fee and Fees for Issuance of Permits schedules).
- B. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger create by the violation and the complexity of work to be done, but generally, within 15-30 days or as felt appropriate by the business owner, schedule a Second Reinspection date and time, to verify code compliance. Note Second Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).
- C. In all case, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report from(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit, First and Second Reinspection fee must be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of permits Schedules).
- B. If code compliance has not been obtained on the Third Inspection or the Second Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to done, but generally, within 1-15 days or as felt appropriate by the business owner, schedule a Third Reinspection date and time, to verify code compliance. Note: Third Reinspection will be at a fee double the Second Reinspection fee and payable to the CNMI Treasury, when code compliance is obtained and before permit is issued. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).

- C. In all case, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit. First, Second, and Third Reinspection fees must be shall be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of Permit Schedules). Note: Third Reinspection shall be at a fee double the Second Reinspection fee. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).
- B. If code compliance has not been obtained by the Fourth Inspection or Third Reinspection, the reinspection will continue in the fashion as previous inspection until compliance with the fire code has been obtained.
- C. In all cases, inspection report(s) shall be filled out the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

Section 1009. Unannounced Inspections for Existing Permit Holders

Unannounced inspections may conducted by any designated official of the Department of Public Safety Fire Division Fire Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The Fire Division's intention is to protect the integrity of its fire prevention program; to take reasonable measures to ensure that fire code compliance is continually maintained and not just occasionally on or about permit renewal date or on notice of inspection possibility; and to address citizen concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violations found if necessary; obtain all signatures indicated on the report form(s); and issue a copy of the report(s) to the person responsible for the premises and, fines. No inspection fee shall be imposed in this case.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a first inspection fee; and identify for the person responsible for the premises, specific violations of the applicable code and, dependent of the hazard and danger created by the violations and the complexity of the work to

be done, but generally, it is shall be the discretion of the inspector to impose the time frame for next inspection.

- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued upon the second inspection or first reinspection. If violations are encountered.
- D. Payments of fines must be paid to the CNMI Treasury 30 days of the first reinspection. If permit renewal date should fall within the 30 days, fines, and the regular permit fee shall all be due upon request for permit renewal.

II. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on the violations found; impose first reinspection fee; and inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.
- B. If code compliance has not been obtained by the second inspection or the first reinspection, the inspector shall issue a citation, fines depending on the violation(s) of the applicable code; impose a first reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally to be determined by the inspector, schedule a second reinspection date and time to verify compliance.
- C. Payment of fines, First Inspection and First Reinspection fees must be paid to the CNMI Treasury within 30 days of First Reinspection. If permit renewal date should fall within the 30 days, fines, first Inspection and First Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- D. In all cases, an inspection report shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a second reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines.
- B. If code compliance has not been obtained by the third inspection or the second reinspection, the inspector shall impose a second fee; providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done to be determined by the inspector,

schedule a third reinspection date and time to verify compliance; and issue a citation, a fine based on the fine fee schedule.

- C. The inspector should mention the possibility of permit being revoked and cessation of business operations. The fines issued at this point will be added to those already issued.
- D. Payment of fines, First Inspection, First and Second Reinspection fees must be paid to the CNMI Treasury within 30 days of Second Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First and Second Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a third reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and cessation of business operations.
- B. Payment of fines, First Inspection, First, Second Third Reinspection fees must be paid to the CNMI Treasury within 30 days of Third Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First, Second and Third Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- C. If code compliance has not been obtained by the fourth inspection or the third reinspection, the inspector shall impose a third reinspection fee; issue the person responsible for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operations due to a revoked permit; and place a sign at the entry points of the establishments stating, in effect, closure by order of the Department of Public Safety Fire Division Fire Prevention Section, and the reason(s) for closure.
- D. The business owner shall not resume business operations until hazards have been abated; a fourth reinspection is conducted and applicable code compliance has been obtained, it shall be the business owner's responsibility to call the Fire Prevention Section to coordinate the date and time of fourth reinspection; all fines, first inspection, first, second, third and fourth reinspection fees are paid, submitting receipts of payment as proof of payment; and an authority from the Fire Prevention Section has removed all posted signs and tags from the establishment.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the form(s); and a copy given to the person responsible for the

premises. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1010. Unannounced Inspections For Others Regulated by the UFC.

Unannounced inspections may be conducted by any designated official of the Department of Public Safety Fire Division, Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The D.P.S Fire Division, Prevention Section's intention is to protect the integrity of its Fire Prevention Program; to take reasonable measures to ensure that all fire code compliance is continually maintained and not just occasionally on or about Business License clearance date or on notice of inspection possibility; and to address concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating the owner, operator, occupant, and premises or other person responsible for that which is regulated by the applicable code, are in compliance with code. No inspection fee will be required.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a First Reinspection fee; and identify for the owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, specific violation of the code and, dependent on the hazard and danger created by the violations and complexity of the work to be done, but generally within 15-30 days, schedule a First Inspection date and time to verify code compliance. NOTE: First Reinspection will be at a fee in accordance with Section 1013 under "First Reinspection."
- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued after the second reinspection or depending on the violation involved.
- D. In all cases, proof of fee payment or receipt shall be presented to the Fire Prevention Office before the Second Inspection or First Reinspection is conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, and premises or other responsible for that which

is regulated by the applicable code, are in compliance with the code. Fee in accordance with Section 1013 under "First reinspection" shall be imposed.

- B. Payment of fines and First Reinspection fees must be received by the CNMI Treasury, within 30 days after the First Reinspection was conducted. If involved is a business, and Business License clearance date should fall within the 30 days, fines and First Reinspection fees shall all be due upon request for Business License clearance.
- C. If code compliance has not been obtained on the Second Inspection or the First Reinspection, the inspector shall issue a "Warning of Violation", depending on violation of the applicable code; imposed a Second Reinspection or Third Inspection fee and, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and complexity of the work to be done, but generally, within 10-15 days, schedule a Third Reinspection date and time to verify code compliance.
- D. In all cases, Inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, or person responsible for the premises or other person responsible for that which is regulated by the applicable code, are in compliance with the applicable fire code;
- B. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; schedule a Third Reinspection date and time to verify compliance, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days; and issued a citation, a fine based on the Fine Fee Schedule.
- D. If involved is a business, the inspector should mention the possibility of business license being revoked and cessation of business operation. (See Section 1013 for fines for each violations of the applicable code).

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, is/are in compliance with the code.
- B. If involved is a business, and code compliance has not been obtained by the Fourth Inspection or the Third Reinspection, the inspector shall issue the person responsible

for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operation due to hazards; and place a sign of establishment stating, in effect, closure by order of the DPS Fire Division Prevention Section and the reason(s) for closure.

- D The business owner shall not receive Business License clearance from the DPS Fire Division Prevention Section nor resume business operation until hazards have been abated; a Fourth Reinspection is conducted and applicable code compliance has been obtained (business owners are responsible to contact DPS Fire Division Prevention Section to coordinate the date and time); all fine payable to CNMI Treasury have been recieved, and an authorized DPS Fire Division Prevention Section Official has removed all posted signs and tags from the establishment.
- E. In all cases, proof of payment or receipts must be presented to the Fire Prevention Section before any inspection could be conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and copy given to the person responsible for that which is regulated by the code. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1011. Inspections For Permit Renewal

I. First Inspection

- A. The Inspector shall conduct the inspection. If applicable code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violation if necessary; obtain all signatures indicated on the report form(s); and issue a copy of report(s) to the person responsible for the premises and, if applicable, inform the same that repeat violations that encountered in future inspection may result in fines. There is no charge for this First Inspection, it is included in the permit fee which must be received, along with fines, by the Commonwealth Northern Mariana Island (CNMI), Treasury, before permit is renewed (see issuance of Permit Schedule).
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code; issued a citation, fines depending on violation if necessary; and, providing adequate time between inspection, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days, schedule a First Reinspection date and time, to verify code compliance.

First Reinspection fee and fines shall be payable to the CNMI, Treasury when code compliance is obtained and before permit is issued (see Inspection Fee Schedule)

- C. Citations normally will not be issued on the First Inspection. When routine violation of the applicable fire code are encountered, citations will generally be issued upon the Second Inspection or First Reinspection, if violations are encountered.

Exception: Citation issued for violations which present imminent life hazards such as trespassing in a closed area, smoking in closed or restricted areas, failure to obey the lawful orders of a fire inspector, faulty equipment or procedures, repeated violations of a similar nature will not required prior notice.

- D. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on violations if necessary; impose a First Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspection may result in fines.

- B. Payment of fines, First Reinspection fee and regular permit fee must payable to the the CNMI, Treasury before permit is renewed (see Inspection Fee and Fees for the Issuance of permit schedule.

- C. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall issue a citation, a fine depending on the violation of the applicable code; impose a First Reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of work to be done, but generally, within 1-15 days, schedule a Second Reinspection date and time, to verify compliance. Note Second Reinspection fees will the double First Reinspection fee (see Inspection Fee Schedule). Continued violations encountered upon Second Reinspection may result in citation, fines based on violation(s).

- D. In all case, inspection report shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Second Reinspection fee; inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.

- B. Payment of fines, First Reinspection and Second Reinspection fees, and regular permit fee must be received by the CNMI Treasury, before permit is renewed (see Inspection Fee Schedule and Fine Schedule).

- C. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; providing adequate time for compliance between inspections dependent on the hazard and danger created by the violation, but generally, within days, schedule a Third Reinspection date and time to verify compliance; and issue a citation, a fine based on the violation.
 - D. The inspector should mention the possibility of permit being revoked and cessation of business operation. The fine(s) issued at this point will be added to those already issued. Note Third Reinspection fee shall be double the Second Reinspection Fee (see inspection Fee schedule).
 - E. In all cases, the inspection report(s) shall be filled out by the inspector, signed by all parties indicating on the report form(s); and a copy given to the person responsible for the premises.
- IV. Fourth Inspection or Third Reinspection.**
- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Third Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and/or cessation of business operations.
 - C. Payment of fines, First, Second and Third Reinspection fees, and regular permit fee must be received by the CNMI, Treasury before permit is renewed.

Section 1012. Permits;

General; Any person, firm, or corporation who plans to engage in any of the following activities listed below, shall obtain permit from the Fire Division Fire Prevention Section. Prior to issuance of any permit, an application for permits and other necessary documents required by the Fire Prevention section must be submitted for review and scheduling of inspection if deemed necessary. Fees for each activity shall be payable to the

TYPE OF PERMIT	FEE	DURATION	CODE SECTION
Aerosol Products To store or handle an aggregate quantity of level 2 or level 3 aerosol products in excess of 500 lbs. net wt	\$20.00	Annually	UFC ARTICLE 88
Aircraft Refueling Vehicles To operate aircraft refueling Vehicles.	\$20.00	Annually	UFC ARTICLE 24
Aircraft Repair Hangar	\$20.00	Annually	UFC

To use any structure as an aircraft Hangar for Servicing or repair aircraft.			ARTICLE 24
Asbestos Removal To conduct asbestos-removal operations.	\$20.00	Annually	UFC ARTICLE 87
Automobile Wrecking Yark To operate an automobile wrecking yard.	\$20.00	Annually	UFC ARTICLE 34
Bowling Pin or Alley Refinishing To conduct a bowling pin refinishing or bowling alley resurfacing operation involving use and application of flammable liquids or materials.	\$10.00	Each Occurance	UFC ARTICLE 26
Candles and Open Flame Devices in Assembly areas To use open flame or candles in connection with Assembly areas, dining areas of restautants or Drinking establishments.	\$20.00	Annually	UFC ARTICLE 25
Carnivals and Fairs To conduct a carnival or fair (plans of grounds Required) To conduct a concession booth.	\$10.00 \$10.00	Each Occurance Each Occurance	UFC ARTICLE 25
Cellulose Nitrate Film To store, handle, use or display	\$20.00	Annually	UFC ARTICLE 33
Cellulose Nitrate Storage or Handling To store or handle more than 25 lbs.	\$20.00	Annually	UFC ARTICLE 27
Christmas Trees To use natural or resin-bearing cut trees in Public Areas.	\$10.00	Each Occurance	UFC APPENDIX IV-B
Combustible Fiber To store or handle more than 100 cu. Ft (exception: exterior storage of hay, straw, and similar agricultural materials).	\$20.00	Until Revoked	UFC ARTICLE 28
Combustible Materials To store more than 2500 cu. Ft. gross volume of Cumbustible empty packing cases, boxes, barrels or Similar containers, or rubber or cork. or other Similarly combustibile material.	\$20.00	Annually	UFC ARTICLE 11
Commercial Rubbish-Handling Operation To operate a commercial handling operation	\$20.00	Annually	UFC ARTICLE 11
Compressed Gases If compressed gases is in excess of amounts listed in UFC Table 105-A. Note: Additional requirements and exceptions in UFC Articles 74, 80, and 82. To store, transport on site, dispense, use or handle To install, repair, abandon, remove, place temporarily out of service, close or substantially modify a compress gas system.			UFC ARTICLE 74, 80, and 82.
Corrosive-Any amount	\$20.00	Annually	
Flammable-More than 200 cu. Ft. (except cryogenic fluids and liquified petroleum gas.			
Highly Toxic-any amount	\$20.00	Annually	
Inert- More than 6,000 cu. Ft.	\$20.00	Annually	
Oxidizing (including oxygen)-More than 500 cu. Ft.	\$20.00	Annually	
Pyrophoric- Any amount	\$20.00	Annually	
Radioactive- Any amount	\$20.00	Annually	
Toxic- Any amount	\$20.00	Annually	
Unstable (reactive)- Any amount	\$20.00	Annually	

<p>Cryogenics To produce, store, or handle cryogenics in excess of the Amounts listed in Table 105-B. Exceptions: where federal or local regulations apply, and for fuel systems for vehicle.</p>			UFC ARTICLE 75
<p>Corrosive Over 1 gallon inside building Over 1 gallon outside building</p>	\$20.00	Annually	
<p>Flammable Over 1 gallon inside building Over 60 gallon outside building</p>	\$20.00	Annually	
<p>Highly Toxic Over 1 gallon inside building Over 1 gallon outside building</p>	\$20.00	Annually	
<p>Non-Flammable Over 60 gallon inside building Over 5000 gallon outside building</p>	\$20.00	Annually	
<p>Oxidizer (include oxygen) Over 50 gallons inside building Over 50 gallons outside building</p>	\$20.00	Annually	
<p>Dry Cleaning Plants To engage in business or to change to a more Hazardous substance.</p>	\$20.00	Annually or Each Occurance	UFC ARTICLE 36
<p>Dust Producing Operations To operate a grain elevator, flour starch mill, feed mill or plant pulverizing aluminum, coal, cocoa, magnesium, spices, sugar, or other material producing combustible dust as define in article 2.</p>	\$20.00	Annually	UFC ARTICLE 30 and 76
<p>Explosives or Blasting Agents Note: Additional requirements and exceptions in UFC Article 80. Permit shall be obtained:</p>			UCF ARTICLE 77 and 80
<p>To manufacture, posses, store, sell, display or Otherwise dipose of explosive materials at any Location.</p>	\$20.00	Each Occurance	
<p>To transport explosive materials</p>	\$20.00	Each Occurance	
<p>To use or handle explosive materials</p>	\$20.00	Each Occurance	
<p>To operate a terminal for handling explosive material.</p>	\$20.00	Annually	
<p>Fire Hydrants and Water-Control Valves To use a fire hydrant or operate a water control valve Intended for fire-suppression purposes. (joint Approval with authority having jurisdiction)</p>	\$10.00	Each Occurance	Public Law 11-56 Section 7311 UFC ARTICLE 9
<p>Fireworks To conduct Fireworks display.(Fireworks 1.3G) Note: For Fireworks 1.3G Class "B", an approval Must be obtained from the governor prior to issuance</p>	\$100.00	Each Occurance	Public Law 11-98 Section 7312 UFC ARTICLE 78.

<p>Of permit.</p> <p>To use, store, handle fireworks 1.4G. (permit shall be Required by wholesalers and/or distributors of Fireworks 1.4G, commonly known as Class "C" Fireworks).</p>	\$20.00	Annually	
<p>Flammable and Combustible Liquids Exceptions:</p> <ol style="list-style-type: none"> 1. As otherwise provided in other laws or regulations. 2. Alcoholic beverages in retail sales or storage uses, provided the liquids are packaged in an individual containers not exceeding 4 liters. 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable in retail sales or storage uses when packaged in individual containers not exceeding 4 liters. 4. Storage and use of fuel-oil tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and the Mechanical code. For abandonment of tanks, article 79 shall apply. 5. Refrigerant liquids and refrigerant oils within an approved closed-cycle refrigeration system complying with the Mechanical code. See Article 63. 6. Storage and display of aerosol products. See Article 88 7. Materials which are solid at 100 degrees F. or above. 8. Storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons. <p>Permits shall be obtained:</p> <p>To use or operate, install, repair or modify a pipeline for the transportation of flammable or combustible liquids.</p> <p>To store, handle or use Class I liquids More than 5 gallons in a building. More than 10 gallons outside of a building. Exceptions: (I) Storage or use of class I liquids in the Fuel tank of a motor vehicle, aircraft, motorboat, Mobile power plant or mobile heating plant unless Such storage, in the opinion of the chief, would cause An unsafe condition. (II) The storage or use of paints, Oils, varnishes or similar flammable mixtures when Such liquids are stored for maintenance, painting or Similar purposes for a period of not more than 30 Days.</p> <p>To store, handle or use class II or class III-A liquids More than 25 gallons in a building Exceptions: (I) Fuel oil used in connection with oil-burning Equipment.</p> <p>More than 60 gallons outside a building. Exception: Fuel oil used in connection with oil-burning equipment.</p> <p>To remove class I or class II liquids from an</p>	<p>\$20.00</p> <p>\$20.00</p> <p>\$20.00</p> <p>\$20.00</p> <p>\$20.00</p> <p>\$20.00</p>	<p>Annually</p> <p>Annually</p> <p>Annually</p> <p>Annually</p> <p>Each Occurance</p> <p>Each Occurance</p>	<p>UFC ARTICLE 79</p>

<p>Underground storage tank used for fueling motor Vehicles by any means other than the approved, Stationary on-site pumps normally used for Dispensing purposes.</p> <p>To install, construct, alter or operate tank vehicles, Equipment, tanks, plants, terminals, wells, fuel -dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed, or used.</p> <p>To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 gal. \$20.00 Each Occurance Over 10,000 gal. \$20.00 Each Occurance</p> <p>To change the type of contents stored in a flammable or combustible liquid tank to a material other than that for which the tank was designed and constructed.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 \$20.00 Each Occurance Over 10,000 \$20.00 Each Occurance</p>	\$20.00	Annually	
<p>Fruit Ripening Processes In heated rooms and ripening processes where Ethylene gas is introduced into the room to assist the Ripening process.</p> <p>To operate a fruit ripening process.</p>	\$20.00	Annually	UFC ARTICLE 46
<p>Fumigation or Thermal Insecticidal Fogging Note: see article 80 for additional requirements and Exceptions.</p> <p>To Operate a business of fumigation or thermal Insecticidal fogging or to maintain a fumigation room, vault or chamber in which a toxic or flammable fumigant is used.</p>	\$20.00	Annually	UFC ARTICLE 47
<p>Hazardous Materials To store, transport on site, dispense, use or handle Hazardous materials or to install, repair, abandon, Remove, place temporarily out of service, close or Substantially modify a storage facility or other area Regulated by UFC Article 80 when the hazardous Materials in use or storage exceed amounts listed in UFC Table 105-C. Note: The hazardous materials that exceeds the permit amount shall be used in determining the hazard classification. If more than one hazardous material involved, the material that fit within the highest hazard classification described herein shall be used. The measurement method used in the UFC for the respective Hazardous materials shall be applicable.</p> <p>Minor Hazard Solids: not to exceed 500# of permit amount. Liquid: not to exceed 55 gals. of permit amount.</p>	\$20.00 \$20.00	Annually Annually	UFC ARTICLE 80

Gases: not to exceed 200-cu. Ft. of permit amount.	\$20.00	Annually	
Moderate Hazard Solid: 501-5000 lbs. (excess of permit amount)	\$30.00	Annually	
Liquid: 56-550 gals. (excess of permit amount)	\$30.00	Annually	
Gases: 201-2000 cu. Ft. (excess of permit amount)	\$30.00	Annually	
Major Hazard Solid: 5001-25000 lbs. (excess of permit amount)	\$40.00	Annually	
Liquid: 551- 2750 gals. (excess of permit amount)	\$40.00	Annually	
Gases: 2001-10000 cu. Ft. (excess of permit amount)	\$40.00	Annually	
Extreme Hazard Solid: 25001 lbs. and over (excess of permit amount)	\$50.00	Annually	
Liquid: 2751 gals. and over (excess of permit amount)	\$50.00	Annually	
Gases: 10001 cu.ft. and over (excess of permit amount)	\$50.00	Annually	
Special Hazard Based on type of occupancy, size, location, quantity and degree of hazard.	\$100.00	Annually	
Hazardous Production Materials To store, handle or use in group H, Div. 6 occupancy	\$20.00	Annually	UFC ARTICLE 51
High-Piled Combustible Storage To use any building or portion there of exceeding 2,500 sq.ft. for high-piled combustible storage (floor plan required)	\$20.00	Annually	UFC ARTICLE 81
Hot-Work Operations Permits are required for hot work including, but not limited to:			UFC ARTICLE 49
Public exhibitions and demonstrations where hot work is conducted.	\$20.00	Annually	
Use of portable hot-work equipment inside a Structure. Exception: Work that is conducted under a construction permit issued by the building official.	\$20.00	Annually	
Fixed-site hot-work equipment such as welding Booths.	\$20.00	Annually	
Hot-work conducted within a Hazardous fire area.	\$20.00	Annually	
Liquified Petroleum Gas To store, use, handle or dispense LP-gas Portable containers equal to or more than 125-gal. Aggregate water capacity but not more than 4,000 -gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.	\$20.00	Annually	UFC ARTICLE 82
Containers over 4,000 gals. aggregate water capacity or a container more than 2,000 gal. Water capacity.	\$20.00	Annually	
To Install or maintain LP-gas Portable containers equal to or more than 125-gals. Aggregate water capacity but not more than 4,000	\$20.00	Annually	

-gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.			
Containers over 4,000-gals. aggregate water capacity or a container more than 2,000-gals. water capacity. (Plans Required). Note: Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the Fire Chief or his authorized representative. Note: Installers shall maintain a record of installations for which a permit is not required by Section 105 and have such record available for inspection by the Fire Inspectors. Exception: Installation of a gas-burning appliance and replacement of portable cylinders.	\$20.00	Annually	
Liquid-or Gas-Fueled Vehicles or Equipment in Assembly Buildings. To display, compete or demonstrate liquid-or gas -fueled vehicles or equipment in assembly buildings.	\$20.00	Each Occurance	UFC ARTICLE 25
Lumber Yards To store lumber in excess of 100, 000 board feet.	\$20.00	Annually	UFC ARTICLE 30
Magnesium Working To melt, cast, heat treat, or grind more than 10 lbs. of Magnesium per working day.	\$20.00	Annually	UFC ARTICLE 48
Mall, Covered Permits shall be obtained to use a covered mall in the Following manner: To place or construct temporary kiosks, display Booths, equipment or the like in a mall. To use a mall as a place of Assembly To use open-flame or flame-producing devices To display any liquid or gas-fueled powered Equipment.	\$20.00 \$20.00 \$20.00 \$20.00	Each Occurance Each Occurance Each Occurance Each Occurance	UFC ARTICLE 35
Marinas To use open-flame devices for maintenance or repair of vessels, floats, piers or wharves To use portable barbecues, braziers or cooking Devices on vessels, floats, piers or wharves.	\$20.00 \$20.00	Annually Annually	UFC ARTICLE APPENDIX II-C
Motor Vehicle Fuel-Dispensing Stations To dispense flammable or combustible liquids, Liquefied petroleum gases or compressed natural gas at motor vehicle fuel-dispensing stations. (plans and specifications required) Note: Such operations shall include both public and private Accessible operations, automotive, marine fuel-dispensing stations.	\$20.00	Annually	UFC ARTICLE 52
Open Burning (not including barbecue) To conduct open burning	\$5.00	Annually or	UFC ARTICLE 11

(Joint approval with Division of Environmental Quality). Note: Open burnig is the burning of a bonfire, rubbish fire or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.		Each Occurance	
Organic Coatings To manufacture more than one gallon of organic Coating in a working day. Exception: Processes manufacturing nonflammable or water-Thinned coating and operations applying coating materials.	\$20.00	Annually	UFC ARTICLE 50
Ovens, Industrial Baking or Drying To operate an industrial baking or drying oven. Note: Industrial baking and drying which are heated with oil or gas fuel or which during operation contain flammable vaports from the products being baked or dried. (Plans of details and calculations required)	\$20.00	Annually	UFC ARTICLE 62
Parade Floats To use a parade float for public performance, Presentation, spectacle, entertainment, or parade each float.	\$10.00	Each Occurance	UFC ARTICLE 11
Repair Garages To use a structure as a place of business for servicing or repairing motor vehicles.	\$20.00	Annually	UFC ARTICLE 29
Rifle Ranges To establish, maintain or operate a rifle range. Note: Application must be referred to Police Division for approval	\$20.00	Annually	UFC APPENDIX II-D
Spraying or Dipping To conduct a spraying or dipping operation utilizing Flammable or combustible liquids or combustible Powders	\$20.00	Annually	UFC ARTICLE 45
Tire Storage (outdoor) To use an open area or portion thereof to store tires in excess of 1,000 cu.ft. (plans required)	\$20.00	Annually	UFC ARTICLE 11
Refrigeration Equipment A permit is required for regrideration unit or system installations having a refrigerant circuit containing more than 220 lbs. of group A1 or 30 lbs. of any other group refrigerant.(plans and specification Required) To install or operate a mechanical refrigeration unit or system.	\$20.00	Annually	UFC ARTICLE 63
Tent, Canopies, and Temporary Membrane Structures To erect or operate a tent or air-supported temporary Membrane structure or a canopy.(except for camping) Tent or air-supported membrane more than 200 sq.ft. Canopy over 400 sq.ft. Note: Permit not to exceed 180 days within a 12 month period.	\$20.00 \$20.00	Each Occurance Each Occurance	UFC ARTICLE 32

Section 1012. Fines for Violations of the Code.

UFC SECTION	OFFENSE	
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103.4.3.1	Noncompliance with Orders or Notices.	\$500.00
103.4.3.2	Noncompliance with Tags.	\$500.00
103.4.3.3	Removal and Destruction of Tags and Signs.	\$500.00

Where work for which a permit is required is started or proceeded prior to obtaining said permit, the following fines shall apply.

Facility Value	Fine
\$1 - \$500	\$10.00
\$501 - \$2,000	\$25.00
\$2,001 - \$25,000	\$100.00
\$25,001 - \$50,000	\$200.00
\$50,001 - \$100,000	\$500.00
\$100,001 - \$500,000	\$1,000.00
\$500,001 - \$1,000,000	\$5,000.00
\$1,000,001 - UP	\$10,000.00

All other violations are \$75.00 and court costs. Fines are forfeitable on first offense and mandatory appearance is required on second offense.

UFC SECTION	VIOLATIONS	FINE
Section 101	Failure to comply with nationally recognized standards.	\$50.00
Section 101.2	Violation of provisions for the administration of any and all laws relating to firesafety.	\$75.00
Section 103.2.1.1	Violation of provisions for the prevention of fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the suppression or extinguishment of dangerous or hazardous fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the storage, use and handling of hazardous materials,	\$50.00
Section 103.2.1.1	Violation of provisions for the installation and maintenance and regulation of fire escapes.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under constructions.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of exits.	\$50.00
Section 103.2.1.1	Violation of the provisions for the investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.	\$50.00
Section 105	Violation of provisions for permits.	\$50.00
Section 105.8	Failure to have a required permit	\$50.00
Section 901.1	Violation of provisions for fire department access and water supply.	\$50.00
Section 1001.1	Violation of provisions for fire protection systems and equipment.	\$50.00
Section 1101	Violation of provisions for general safety precautions	\$50.00
Section 1201.1	Violation of provisions for the maintenance of exits and emergency escapes.	\$50.00
Section 1301.1	Violation of provisions for reporting of emergencies, emergency plans and emergency procedures.	\$50.00
Section 2401.1	Violation of provisions for airports, heliports, helistops, and aircraft hangers (Authority having Jurisdiction).	
Section 2501.1	Violation of provisions for places of assembly.	\$50.00
Section 2601	Violation of provisions for the storage, uses and handling of flammable and combustible liquids and woodworking operations within bowling alleys and	\$50.00

	pin-refinishing rooms.	
Section 2701	Violation of provisions for cellulose nitrate plastics (pyroxylin) storage and handling.	\$50.00
Section 2801	Violation of provisions for the storage and handling of combustible fibers.	\$50.00
Section 2901	Violation of provisions for garages used for service or repair of motor vehicles.	\$75.00
Section 3001	Violation of provisions for woodworking plants and exterior lumber storage.	\$75.00
Section 3201	Violation of provisions for tents and temporary membrane structures having an area in excess of 200 sq. ft., and canopies in excess of 400 sq. ft..	\$75.00
Section 3301	Violation of provisions for the storage and handling of cellulose nitrate motion picture film (nitrate film).	\$75.00
Section 3401	Violation of provisions for automobile wrecking yards.	\$50.00
Section 3501	Violation of provisions for the temporary use of the common pedestrian area within a covered mall building for promotional, educational, assembly, sales or similar activities.	\$75.00
Section 3601.1	Violation of provisions for dry-cleaning plants and systems.	\$75.00
Section 4501.1	Violation of provisions for: 1. The application of flammable or combustible paint, varnish, lacquer, stain or other flammable or combustible liquid applied as spray by compressed air, airless, or hydraulic atomization, steam, electrostatic or other methods or means in continuous or intermittent process, 2. Dip tank operations in which articles or materials are passed through contents of tanks, vats or containers of flammable or combustible liquids, including coating, finishing, treatment and similar processes, and 3. The application of combustible powders by powder spray guns, electrostatic powder spray guns, fluidized beds or electrostatic fluidized beds.	\$75.00
Section 4601	Violation of provisions for fruit-ripening processes in heated rooms and ripening processes where ethylene gas is introduced into a room to assist the ripening process.	\$75.00
Section 4701	Violation of provisions for fumigation and thermal insecticidal fogging operations.	\$75.00
Section 4801	Violation of provisions for the storage, handling and processing of magnesium, including the pure metal and alloys of which the major part is magnesium.	\$75.00
Section 4901	Violation of provisions for welding and cutting operations.	\$75.00
Section 5001	Violation of provisions for processes manufacturing protective and decorative finishes or coating for industrial, automotive, marine, transportation, institutional, household or other purposes, including the handling of flammable or combustible liquids, combustible solids and dust. Exception: Processes manufacturing nonflammable or water-thinned coating and operations applying coating materials.	\$75.00
Section 5101	Violation of provisions for semiconductor fabrication facilities and comparable research and development areas classified as Group H, Division 6 Occupancies.	\$75.00
Section 5201	Violation of provisions for automotive, marine, and aircraft motor vehicle fuel-dispensing, including both public accessible and private operations. (UFC Standard 52-1)	\$75.00
Section 6101	Violation of provisions for oil-burning equipment other than internal combustion engines, oil lamps and portable devices such as blow torches, melting pots and weed burners.	\$75.00
Section 6201	Violation of provisions for the location, construction and operation of industrial baking and drying ovens which are heated with oil or gas fuel or	\$75.00

	which during operation contain flammable vapors from the products being baked or dried. (UFC Standard 62-1)	
Section 6301	Violation of provisions for refrigeration unit and system installation having a refrigerant circuit containing more than 220 pounds of Group A1 or 30 pounds of any other group refrigerant. Exception: The chief is authorized to exempt temporary or portable installation.	\$75.00
Section 6401	Violation of provisions for stationary lead-acid battery systems having a liquid capacity of more than 100 gallons used for facility standby power, emergency power or uninterrupted power supplies.	\$75.00
Section 7401.1	Violation of provision for storage, use and handling of compressed gases containers, cylinder, tanks, and systems. Including those gases regulated in UFC. Partially full compressed gas containers, cylinders and tanks containing residual gases shall be considered as full for the purposes of the controls required.	\$75.00
Section 7501	Violation of provisions storage, use and handling of cryogenic fluids. Partially full containers, having residual cryogenic fluids shall be considered as full for the purposes of the controls required. Exception: Fluids within an approved closed-cycle refrigeration system complying with the mechanical code are not regulated by Article 75.	\$75.00
Section 7601.1	Violation of provisions for prevention of dust explosions.	\$75.00
Section 7701.1	Violation of provisions for manufacture, possession, storage, sale, transportation and use of explosive materials. Exception: 1. The armed forces of the United States, Coast Guard or National Guard; 2. Explosive in forms prescribed by the official United States Pharmacopoeia; 3. The sale, possession or use of fireworks 1.4G (Class C common fireworks); 4. The possession, transportation, storage, and use of small arms ammunition when packaged in accordance with DOT packaging requirements; 5. The possession, storage, transportation and use of not more than 5 pounds of commercially manufactured sporting black powder, 20 pounds of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption; 6. The transportation and use of explosive materials by the United States Bureau of Mines and federal, state and local law enforcement and fire agencies acting their official capacities; 7. Special industrial explosive devices which in the aggregate contain less than 50 pounds of explosive materials; 8. The possession, transportation, storage and use of blank industrial power load cartridges when packaged in accordance with DOT packaging requirement; 9. When preempted by federal regulation; 10. The use and handling of fireworks 1.3G (Class B Fireworks) as set forth in Article 78.	\$75.00
Section 7801	Violation of provisions for fireworks and temporary storage, use and handling of pyrotechnic special effects materials use in motion pictures, television, and theatrical and group entertainment productions.	\$75.00
Section 7901.1	Violation of provisions for storage, use, dispensing, mixing and handling of flammable and combustible liquids. Exception: 1. As otherwise provided in other laws or regulation; 2. Alcoholic Beverages in retail sales or storage uses, provided the liquids are packaged in individual containers not exceeding 4 liters; 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales or storage uses when packaged in individual containers not exceeding 4 liters; 4. Storage and use of fuel tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and Mechanical Code. For abandonment of tanks, article 79 Shall apply; 5. Refrigerant liquids and refrigerant oils within an approved Closed-cycle refrigeration system complying with the mechanical code. See Article 63; 6. Storage and display of aerosol products, see article 88; 7. Materials which are solid at 100 °F or above; 8- storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5; 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.	\$75.00

Section 8001	Violation of provisions for the prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials and information needed by emergency response personnel. Exception: 1. The quantities of alcoholic beverages, medicines, foodstuffs and cosmetics, containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales occupancies are unlimited when packaged individual containers not exceeding 4 liters; 2. Application and release of pesticide products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacture's instructions and label directions.	\$75.00
Section 8101	Violation of provisions for building containing high-piled combustible storage. In addition to the requirements of Article 81, aerosol shall be in accordance with article 88, flammable and combustible liquids shall be in accordance with Article 79, and hazardous materials shall be in accordance with Article 80.	\$75.00
Section 8201	Violation of provisions for storage, handling, transportation of LP-gas and the installation of equipment pertinent to system for such uses.	\$75.00
Section 8401	Violation of provisions for the use of ribbon-type cellulose acetate and other safety film in conjunction with electric arc, xenon or other light source projection equipment which develops hazardous gases, dust or radiation and the projection of ribbon-type cellulose nitrate film, regardless of the light source used in projection.	\$75.00
Section 8501	Violation of provisions for permanent and temporary use of electrical appliances, fixtures, motors and wiring. Exception: Low-voltage wiring, such as communications and signal wiring.	\$75.00
Section 8701	Violation of provisions for buildings undergoing construction, alteration or demolition.	\$75.00
Section 8801.1	Violation of provisions for storage and retail display of aerosol products. Exception: Level 1 aerosols in cartons which are clearly marked to identify their classification level are not regulated by Article 88.	\$75.00
Section 9001.1	Violation of provisions for the <u>Uniform Fire Code Standards</u> referred to in various parts of this code, which are also listed in Section 9002 and published in volume 2 of this code, are hereby declared to be part of this code and are referred to in this code as a "UFC standard."	\$75.00
Section 9001.2	Violation of provisions of Standard of Duty established for the recognized standards listed in section 9003 is that the design, construction and quality of materials of building, structure, equipment, processes, and methodologies be reasonably safe for life, limb, health, property, and public welfare.	\$75.00
Section 9001.3	Violation of provisions of the recognized standards listed in section 9003 are recognized standards. Compliance with these recognized standards shall be prima facie evidence of compliance with the standard of duty set forth in section 9001.2.	\$75.00
U.F.C Appendix I-A	Violation of provisions for life-safety requirements for existing buildings, other than high-rise, which do not conform with the minimum requirements of the Uniform Building Code. Exception: Group U occupancies and occupancies regulated by Appendix I-B, and Group R Division 3 occupancies, except that Group R Division 3 occupancies shall comply with section 6.	\$75.00
U.F.C Appendix I-B	Violation of Provisions for life-safety requirements for existing high-rise buildings constructed prior to the adoption of appendix I-B and which house Group B Office or Group R, Division 1 occupancies, each having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access.	\$75.00
U.F.C Appendix I-C	Violation of provisions for signs to provide information to the occupants and fire department personnel to minimize confusion during emergencies. Standardized signs shall be provided in new and existing buildings that are	\$75.00

	four or more stories in height. Such signs shall be installed in stairways to identify each stair landing and indicate the upper and lower termination of the stairway.	
U.F.C Appendix II-A	Violation of provisions for safeguards to prevent the occurrence of fire and to provide adequate fire-protection facilities to control the spread of fire which might be caused by recreational, residential, commercial, industrial, or other activities conducted in hazardous fire areas.	\$75.00
U.F.C Appendix II-B	Violation of provisions for protection of flammable and combustible liquid tanks in locations subject to flooding.	\$75.00
U.F.C Appendix II-C	Violation of provisions for marina facilities.	\$75.00
U.F.C Appendix II-D	Violation of provisions for rifle ranges.	\$75.00
U.F.C Appendix II-E	Violation of provisions for Hazardous Materials Inventory Statement (HMIS) and Hazardous Materials Management Plans (HMMP) which are required by the chief pursuant to Article 80 shall be provided for hazardous materials. Exception: 1. Materials which have been satisfactorily demonstrated not to present a potential danger to public health, safety or welfare, base upon the quantity or condition of storage, when approved. 2. Chromium copper, lead, nickel and silver need not be considered hazardous materials for the purposes of Appendix II-E unless they are stored in friable, powder or finely divided state.	\$75.00
U.F.C Appendix II-F	Violation of provisions for the storage and dispensing of motor fuels into the fuel tanks of motor vehicles from protected aboveground tanks located outside buildings.	\$75.00
U.F.C Appendix II-G	Violation of provisions for secondary containment for underground tank system containing flammable or combustible liquids. Also see C.F.R. Title 40, part 280, and UFC section 8001.4.5.1 for additional requirements related to secondary containment tanks containing hazardous materials other than flammable and combustible liquids.	\$75.00
U.F.C Appendix II-H	Violation of provisions for site assessment for determining the potential fire or explosion risk from a leak, spill or discharge from an underground flammable or combustible liquid storage tank. Also, see UFC section 7901.7.4.	\$75.00
U.F.C Appendix II-I	Violation of provisions for equipment having maximum ozone-generating capacity of 1/2 pound or more over a 24 hour period. Exception: Ozone-generating equipment used in Group R, Division 3 occupancies.	\$75.00
U.F.C Appendix II-J	Violation of provisions for storage of flammable or combustible liquids in tanks located within below-grade vaults.	\$75.00
U.F.C Appendix III-A	Violation of provisions for the procedure determining fire-flow requirements for building or portions of building hereafter constructed.	\$75.00
U.F.C Appendix III-B	Violation of provisions for fire hydrant location and distribution.	\$75.00
U.F.C Appendix III-C	Violation of provisions for inspection, testing and maintenance of water-based fire-protection systems.	\$75.00
U.F.C Appendix III-D	Violation of provisions for basement pipe inlets. Also, see UFC section 1005.	\$75.00
U.F.C Appendix IV-A	Violation of provisions for exposed floor surfaces of buildings, including coverings which are applied over a previously finished floor. Exception: Interior floor finish materials of a traditional type, such as wood, vinyl, linoleum, terrazzo, and other resilient floor covering materials.	\$75.00
U.F.C Appendix IV-B	Violation of provisions for the use of natural or resin-bearing cut trees in public buildings.	\$75.00
U.F.C Appendix V-A	Violation of provisions of Nationally recognized standards of good practice.	\$75.00
U.F.C Appendix	Violation of provisions for hazardous materials classifications. To provide	\$75.00

VI-A	information, explanations and examples to illustrate and clarify the hazard categories contained in Article 80. The hazard categories are base upon the code of Federal Regulations, Title 29. Where the numerical classifications are included.	
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Section 1014. Citation Process

A. SCOPE

The following regulations were done to prevent creating conflicting regulations with the U.F.C and at the same time, present for public awareness, review and use, a document that is useful in explaining pertinent department rules, regulations and procedures relative to inspections and citations.

The U.F.C., Uniform Building Code and other codes adopted under Public Law 11-56 were developed, and shall continually updated, with concern for consistency amongst these codes. The Fire Prevention Section intends to continue this practice, and thus, has developed these editions, and consequently, in conjunction with the editions of other codes, the department will make amendments to this document as new editions of the U.F.C. are automatically adopted; or, whenever amendments are necessary to address departmental administrative and operational needs, consistent with the U.F.C. 1997 and supplemental editions, and as determined by the chief.

This code prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazard of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

The provisions of this regulation shall supplement any and all laws relating to firesafety and shall apply to all persons without restriction unless specifically exempted. (U.F.C. section 101.2 scope.)

B. PURPOSE

1. To gain compliance with federal and local codes and regulations, when all reasonable efforts have been unsuccessful.
2. A course of action to be taken when a condition exists that causes a threat to life or property from fire and explosion.
3. It is the intent of the department to achieve compliance by traditional means of inspection, notification, granting of reasonable time to comply and reinspection. A citation shall be used only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the fire chief. Only those members of the fire division specifically designated by the fire chief may issue citation.

C. ADMINISTRATION AND ENFORCEMENT

The chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to:

1. The prevention of fires,
2. The suppression or extinguishment of dangerous or hazardous fires,
3. The storage, use and handling of hazardous materials,
4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipment,
5. The maintenance and regulation of fire escapes,
6. The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under construction,
7. The maintenance of exits, and
8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

For authority related to control and investigation of emergency scenes, see section 104. (U.F.C. section 103.2.1.1 General.)

D. CORRECTIVE ORDERS AND NOTICES

When the chief finds in any building or any premises combustibles, hazardous or explosive materials or dangerous accumulations of rubbish; or finds unnecessary accumulations of wastepaper, boxes, shaving or any highly flammable materials which are so situated as to endanger life or property; or finds obstruction to or on fire escapes, stairs, passageways, doors, or windows that reasonably tend to interfere with the operations of the fire department or the egress of the occupants of such building or premises; finds that the effectiveness of any exit door, attic separation or any fire separation wall is reduced; or finds that this code is being violated, the chief is authorized to issue orders as necessary for the enforcement of the fire prevention laws and ordinances governing the same and for the safeguarding of life and property from fire. (U.F.C. section 103.4.1 Authorization to issue corrective orders and notices. U.F.C. section 103.4.1.1 General.)

E. UNSAFE HEATING OR ELECTRICAL EQUIPMENT AND STRUCTURAL HAZARDS

When the chief deems any chimney, smokestack, stove, oven, incinerator furnace or other heating device, electric fixture or any appurtenance thereto, or anything regulated under a nationally recognized standard in or upon any building, structure or premises not specifically mentioned in this code, to be defective or unsafe so as to create a hazard, the chief is authorized to serve upon the owner or the person having control of the property a written notice to repair or alter as necessary and shall notify any other authority enforcing codes regulating such equipment. The chief is authorized to affix a condemnation tag prohibiting the use thereof until such repairs or alterations are made. When affixed, such tag shall only be removed by the order of the chief when the hazard to which the order pertains has been eliminated in an approved manner. Until removed, that item or device which has caused the hazard shall not be used or be permitted to be used.

When an apparent structural hazard is caused by the faulty installation, operation or malfunction at any of the items or devices listed in this subsection, the chief shall immediately notify the building official to investigate such hazard and cause such

hazard to be abated as required by the BuildingCode. (U.F.C. section 103.4.1.2 unsafe heating or electrical equipment and structural hazards.)

F. COMPLIANCE WITH ORDERS AND NOTICES

Orders and notices issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains, In cases of extreme danger to persons or property, immediate compliance is required.

If the building or other premises is not owner occupied, under lease or otherwise, and the order or notice requires additions or changes in the building or premises which would immediately become real estate and be the property of the owner of the building premises, such orders or notices shall be complied with by the owner. (U.F.C. section 103.4.3.1 Compliance with orders and notices.)

EXCEPTION: *When the owner and the occupant have agreed otherwise between themselves, in which event the occupant shall comply.*

G. COMPLIANCE WITH TAGS

A building, premises or thing shall not be used when in violation of this code as noted on a tag affixed in accordance with Section 103.4.1. (U.F.C. Section 103.4.3.2. Compliance with tags.)

Permit applicants and the applicants' agents and employees shall carry out the proposed activity in compliance with this code and other laws or regulations applicable thereto, whether specified or not, and in complete accordance with approved plans and specifications. Permits which purport to sanction a violation of this code or any applicable law or regulation shall be void and approvals of plans and specifications in the issuance of such permits shall likewise be void. (U.F.C. Section 105.2.3. Compliance.)

H. POLICE POWERS

The fire chief and members of the fire prevention shall have the powers of a police officer in performing their duties under this code.

When requested to do so by the chief, the chief of police is authorized to assign such available police officers as necessary to assist the fire department in enforcing the provisions of this code.

I. AUTHORITY TO INSPECT

The fire prevention section shall inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the

purpose or provisions of this code and of any other law or standard affecting firesafety. (U.F.C. Section 103.3.1.1. Authority to inspect.)

J. RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the chief has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the chief is authorized to enter such building or premises at all reasonable times to inspect the same or to perform any duty authorized by this code, provided that if such building or premises is occupied, the chief shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the chief shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the chief shall have recourse to every remedy provided by law to secure entry.

If the owner or occupant denies entry, the chief is authorized to obtain a proper inspection warrant or other remedy provided by law to secure entry. Owners, occupants or any other persons having charge, care or control of any building or premises shall, after proper request is made as herein provided, promptly permit entry therein by the chief for the purpose of inspection and examination pursuant to this code.

For the purpose of Section 103.3.1.2. [Tight of Entry], the term "Chief" shall include the chief officer of the fire department serving the jurisdiction and the officers named in Section 103.2.1.2. And 103.2.2.22 (U.F.C. Section 103.3.1.2 Right of Entry.)

K. SERVICE OF ORDERS AND NOTICES

Orders and notices authorized or require by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by verbal notification, personal service, or delivering the same to and leaving it with a person of suitable age and discretion upon the premises: or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to the person's last known address.

Orders or notices that are given verbally shall be confirmed by service in writing as herein provided. (U.F.C. Section 103.4.2 Service of orders and notices.)



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF FINAL ADOPTION OF THE PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT DEPARTMENT OF PUBLIC HEALTH FACILITIES

The Secretary of the Department of Public Health (DPH), Commonwealth of the Northern Mariana Islands (CNMI), which has promulgated Proposed Rules and Regulations Governing Medical Malpractice Coverage for Physicians Practicing at Department of Public Health Facilities, originally published in the Commonwealth Register, volume 27, number 5, page 024600, June 20, 2005, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been finally adopted with modification. I further request and direct this Notice, Certification, and attached final rule to be published in the CNMI Commonwealth Register. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 14 day of September 2005, at Saipan, in the Commonwealth of the Northern Mariana Islands.

[Signature]

Pedro Untalan, MHA
Designee for the Secretary of Public Health
Department of Public Health

Date 9-14-05

Received by: [Signature]

THOMAS TEBUTEB
Special Assistant for Administration

Date 9-19-05

Filed by: [Signature]

BERNADITA B. DELA CRUZ
Commonwealth Registrar

Date 9-19-05

Medical Malpractice Liability Coverage¹

A. Malpractice liability coverage is a mandatory requirement for Medical Staff membership at the Commonwealth Health Center.

B. Each physician shall provide proof to the Secretary of Public Health (“the Secretary”) that he/she has met this requirement by any one of the following means:

1. Indemnification by the CNMI for its government employee staff;
2. Proof of private medical malpractice liability insurance (occurrence type) coverage of at least \$100,000; or,
3. Proof of other security acceptable to the Secretary and the Attorney General, in favor of the CNMI Dept. of Public Health (for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services), of not less than \$100,000. Possible alternative security vehicles may include:
 - a. surety bond;
 - b. letter of credit from an FDIC insured banking institution;
 - c. pledge of collateral;
 - d. escrow account with an FDIC insured banking institution.

C. No physician shall be granted privileges at the Commonwealth Health Center until these requirements have been completed.

D. The Secretary shall, on an ongoing basis, review compliance. Those practitioners with privileges at CHC who do not have proof in their CHC physician files of current medical malpractice coverage as defined above will have 30 days to come into compliance with this requirement. Any practitioner who fails to comply with this requirement within the 30 day time period will have his or her hospital privileges immediately suspended, and then the case shall be referred to the Medical Executive Committee for further action, including permanent termination of privileges.

E. All physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative

¹ 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC section 2603 (f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities.

financial products described above shall not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

F. These regulations shall not supplant or affect any separate, additional requirements imposed on physicians by the Medical Professional Licensing Board.

DISCUSSION OF PUBLIC COMMENTS RECEIVED IN RESPONSE TO
PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL
MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT
DEPARTMENT OF PUBLIC HEALTH FACILITIES

At the time the proposed rules were published, the public was asked to provide comments and make suggestions for the modification or improvement of the Rules and Regulations. A hearing was held on August 10, 2005 at the Multi-Purpose Center in Saipan, and a number of comments, both oral and written, were received and considered by the Dept. of Health administration. Copies of the written comments received in response to the prior public notice are available for inspection at the Department of Public Health during regular business hours. As a result of this review of the public comments, various changes were made to the Rules and Regulations as originally proposed. A review of the comments and the response by the Department of Public Health follows.

Proposed Rule:

Prior to the proposed rules and regulations, the Commonwealth Health Center Bylaws required any private physician who wanted hospital privileges to prove malpractice insurance coverage of at least \$100,000. No other forms of proof of financial responsibility were authorized.

The rules and regulations, as proposed, required: 1) proof of malpractice insurance in the amount of \$100,000; or, 2) other security acceptable to the Secretary and the Attorney General for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services, of not less than \$150,000. The proposed rule attempted to expand the types of financial products that would be acceptable proof of financial responsibility and a source of indemnification to the Dept. of Public Health in lieu of malpractice insurance. It would have increased the required amount of these alternative types of coverage to \$150,000 to cover litigation and other costs over and above the capped liability amount under the Public Employee Legal Defense and Indemnification Act of 1986, 7 CMC 2301 et seq. of \$100,000.

Comments:

In general, the physician commenters and their clinic representatives opposed the proposed rule or any requirement related to malpractice coverage, in any form. These commenters indicated that malpractice insurance was extremely difficult to obtain, and that it was unaffordable to them. They indicated that the alternative forms of financial products anticipated by the proposed rules and regulations were not acceptable to them as they would tie up their assets and be financially burdensome. They stated that enforcement of the rule as proposed would result in private physicians losing hospital privileges and subsequent loss of the medical services provided by them.

A couple of private physicians argued that the CNMI government should cover and indemnify them as it does government employed physicians and that the liability cap of \$100,000 should be extended to private doctors. They argued that the government should pass legislation that limits expert witnesses who testify to those residing in Guam and Saipan, who know the standard of care in the CNMI community. They stated the government should establish a malpractice company that would provide malpractice insurance for the \$100,000 capped amount for the private physicians at minimal cost.

One physician argued that private practitioners spent less time at DPH facilities and so posed a lower risk to patients there so that the amount of financial responsibility required should be lowered, rather than increased. The commenter feared that hospital staff could commit a wrong and that it would be unfair to make doctors undertake that risk. The commenter stated that a doctor might have to seek legal recourse against the hospital to get his funds back. The commenter was concerned that this requirement would be added to any amounts required by the medical licensing board. The commenter indicated that the cost of coverage would make it less likely that off island specialists would come to the CNMI. This commenter too suggested that the government of the CNMI should indemnify all private physicians as they do government doctors.

Another physician pointed to the high cost of medical malpractice insurance, the small market for such insurance, and the unacceptability to the Attorney General's Office of a bond previously in use by one bonding company. The commenter indicated the financial alternatives posed too great a barrier to the private practice of medicine and were unreasonable, particularly in light of low and slow insurance and Medicare payments. The commenter said the proposed \$150,000 requirement would tie up too much capital that could be used for other purposes. The commenter stated that the financial requirement would make private doctors unwilling to see indigent patients at the hospital. The commenter suggested a commission be established to explore a self-insurance program, with mandatory arbitration of medical malpractice claims.

One Guam malpractice carrier indicated an interest in providing insurance to CNMI physicians. One CNMI bonding company indicated it would not be willing to adapt its bonds to CNMI government requirements.

Other commenters who claimed to represent the views of patients, and in some cases their lawyers, took the position that only malpractice insurance should be allowed for financial responsibility purposes and opposed the use of bonds. They argued that malpractice insurance requirements provided a social benefit. They submitted what they claimed to be surveys of several hundred persons who advocated requiring medical malpractice coverage in amounts from \$300,000 to \$1,000,000. They argued that requiring medical malpractice insurance causes a private financially interested company to oversee and regulate the risk of each doctor and nurse who they provide insurance to. They argued that either the hospital may not have the time, resources, or even the desire to investigate a doctor, but that an insurance company that is insuring a doctor's risk does have a financial incentive to research the individual's past. They alleged there was evidence to show that medical malpractice reforms cause an increase in infant mortality, and presumably in some other health indicators. They submitted a paper entitled, "Does Medical Malpractice Reform Help States Retain Physicians and Does It Matter," by

Jonathan Klick (American Enterprise Institute) and Thomas Stratmann (Professor of Economics at George Mason University) (2003). The abstract of the paper summarizes its findings as that some medical malpractice reforms may help states retain physicians but some may also diminish incentives to provide a high level of health care and worsen health outcomes.

Response:

The proposed rules and regulations were intended to protect the CNMI Dept. of Public Health and the public at large from the undue expense that might be caused by alleged physician malpractice occurring at government facilities. Use of government property, and activities carried on by private entities on government property, ordinarily carries with them an insurance requirement. When private physicians use the government hospital facilities as part of their business, they are not ordinarily subject to government control, and so some protection of the government and public interest is required so that taxpayers don't suffer losses caused by the private business of another.

If malpractice insurance were reasonably available, it would protect both the patient and the government hospital. However, the idea of other financial products was proposed as an alternative to given broader choice to physicians.

All of these comments and the interests they represent, as well as the needs of the community to be protected from losses due to the risk of physician malpractice, have been considered and carefully weighed. The rules and regulations as adopted strike a fair and reasonable balance between the need for coverage of losses, while taking into account the fact that costly malpractice insurance premiums could pose a significant barrier to the private practice of medicine in the CNMI.

The types of financial products to meet the fiscal responsibility concerns of the public have been expanded, while the amount required has been kept at the minimum amount necessary to protect the public, i.e. \$100,000.

Further, the rule has been clarified to provide that all physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative financial products may not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

Adoption of some of the particular alternatives to the proposed rule would require legislative action. The Dept. of Health will refer the various comments to the CNMI legislative committees with health care facility oversight.

MEDICAL PHYSICIAN'S INDEMNITY BOND
(Specimen)

Bond No. _____
Premium: _____
Issue Date: _____

KNOW ALL MEN BY THESE PRESENTS:

That we, (name of medical company), as Principal, both for itself and its member(s) _____ (insert names of members of the LLC) _____, and (name of bonding company), a corporation organized under the laws of the Commonwealth of the Northern Marianas Islands and authorized to execute bonds and undertakings, as Surety, are held firmly bound unto the COMMONWEALTH HEALTH CENTER, the DEPARTMENT OF PUBLIC HEALTH, GOVERNMENT of the COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, and their officers, employees and agents, hereinafter collectively called the Obligee, in an amount not to exceed the principal sum of \$(state amount here)) for the payment whereof well and truly to be made, said Principal and Surety bond them, themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Obligee has agreed to authorize and provide Medical Staff Membership and Privileges of the Commonwealth Health Center or its associate facilities to Principal;

WHEREAS, a condition of such agreement addendum thereto is that the Principal shall provide Medical Malpractice Liability Insurance and in lieu of such insurance coverage, Principal has agreed to provide a good sufficient indemnity bond in the amount stated above to indemnify the Obligee against any financial loss, costs, expenses, or damages, including, but not limited to malpractice claims, or any and all damage or loss occasioned to Obligee as a resulted or related to Principal's provision of services, medical or otherwise, at Commonwealth Health Center or its associate facilities;

NOW THEREFORE, the conditions of this obligation are that the Surety shall indemnify the Obligee against failure of the Principal to faithfully defend and pay all sums of money for any and all claims, losses, costs, or injury arising out of or in relation to the provision of any services, medical or otherwise, performed at or in connection with the Commonwealth Health Center and related facilities, including but not limited to malpractice claims or damage of loss of its property;

First: That at the earliest practical moment, and in any event not later than ninety (90) days after the failure of the Principal to pay to the Obligee any sums owed pursuant to a separate indemnification agreement between Principal and Obligee for any act or acts that would cause a claim to be made under the terms of this Bond, the Obligee shall give the Surety written notice thereof, which notice shall be made to the following address:

(list address of bonding company)

And within 90 days after such failure of the Principal, the Obligee shall file with the Surety affirmative proof of loss and shall upon request of the Surety render every assistance, not pecuniary, to facilitate the investigation and adjustment of any loss.

Second: Any suit or action to recover against the Surety on account of loss hereunder shall be brought before the expiration of 24 months from demand of Obligee against the Principal for payment of such loss but shall not be instituted before the expiration of three (3) months from the filing of proof as aforesaid.

Third: This Bond may be cancelled either by the Surety or this Obligee by written notice served upon the other, or sent by registered mail specifying therein the effective date of such cancellation, provided, however, that this notice is served or sent by the Surety, such effective date shall not be less than sixty (60) days after such service or after the date born by the sender's registry receipt. Notwithstanding a termination by either party, this Bond shall remain effective for any claim, loss or liability which may arise out of or be related to the Principal's actions during the time period in which the Bond was effective plus an additional twenty-four (24) months.

Fourth: The terms of this Bond shall be from _____ day of _____, 20__ to and including the _____ day of _____ 20__.

PRINCIPAL:

SURETY:

By: _____

By: _____

ACKNOWLEDGEMENTS

COMMONWEALTH OF THE)
NORTHERN MARIANA ISLANDS) SS.
MUNICIPALITY OF SAIPAN)

On this _____ day of _____, 20__, before me, a Notary Public in and for the Commonwealth of the Northern Mariana Islands, Municipality of Saipan personally appeared _____ known to me to be persons whose names are subscribed as the authorized representative of _____ and _____ and acknowledged to me that they executed the foregoing instrument on behalf of said corporation for the purposes and consideration contained therein.

Notary Public

IRREVOCABLE LETTER OF CREDIT
(Specimen)

To: Commonwealth of the Northern Mariana Islands
Department of Public Health (DPH)
Commonwealth Health Center and related facilities
And their respective employees, assigns, and agents

REFERENCE: Name of Company or Person authorized by DPH:
Company ID # as assigned by the DPH:
Irrevocable Letter of Credit Number:
Effective Date:
Expiration Date:

Sir/Madam:

You have requested of [**Name of Lending Institution**] (the "Lender") that we establish an irrevocable letter of credit which will remain available on behalf of [**Applicant**] (the "Company") who has applied to the Department of Public Health (the "DPH") for authority to provide medical and related services at the Commonwealth Health Center and its related facilities. The purpose of this letter of credit is to secure payment of any monetary sanction, cost, liability, or expense which may be imposed against the Company, its representatives, successors or assigns, for any loss, cost, expense, damage, or liability arising out of the Company's activities or services, medical or otherwise, at or in connection with the grant of permission by DPH to the Company to provide services at the Commonwealth Health Center or any of its related facilities.

We hereby establish and issue, in favor of the DPH, an irrevocable letter of credit in the amount of _____ thousand dollars (\$ _____) lawful money of the United States of America. The DPH may draw upon this letter of credit, at any time and from time to time, by delivering a Letter of Credit Notice, substantially in the form set forth below (a "Notice"), which Notice shall specify the amount (the "Draw Amount") to be drawn and the bank account (the "Bank Account") to which the Draw Amount should be delivered and shall be signed by an official designated and duly authorized by the DPH, to Lender at the address listed below, or to such other address as the Lender shall notify the DPH in writing by certified mail. Promptly after the delivery of each Notice, the Lender hereby covenants and agrees to deliver, by wire transfer of immediately available funds, the Draw Amount to the Bank Account.

This letter of credit shall be deemed automatically renewed without amendment for successive one-year periods and may be canceled by the Lender by giving thirty (30) days advanced written notice by certified mail of such cancellation to the DPH and the Company, it being understood that the Lender shall not be relieved of liability that may have accrued under this letter of credit prior to the date of cancellation.

The Lender hereby represents and warrants that it is qualified and authorized to issue this letter of credit and is a bank regulated by the Federal Deposit Corporation of the United States.

Except as otherwise expressly stated, this letter of credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision) International Chamber of Commerce Publication No. 500, or any revisions thereto.

Yours Very Truly,
[Name of Lending Institution]
Name:
Title:
Address of Lender:

APPROVAL AND INDORSEMENT

This is to certify that I have examined the foregoing letter of credit and found the same to be sufficient and in conformity to law and that the same has been filed with the Department of Public Health, Commonwealth of the Northern Mariana Islands, this day of _____, 20____.

Name:
Title:

**FORM OF
LETTER OF CREDIT NOTICE**

[Name of Lender]
[Address]

Re: Irrevocable Letter of Credit No. []

Dear Sir or Madam:

You are hereby notified, and the undersigned hereby certifies, that the undersigned is an official designated and duly authorized by the DPH to deliver this notice and that a monetary sanction in the amount of \$ (the "Draw Amount") has been imposed against **[Applicant]** its representatives, successors or assigns, arising out of or related to **[Applicant]** 's services or activities at the Commonwealth Health Center or its related facilities. Pursuant to that certain Irrevocable Letter of Credit referenced above, we hereby request that you deliver payment of the Draw Amount to the bank account listed below by wire transfer of immediately available funds:

Name of Bank Account:
Account Number:

ABA Routing Number:
Reference:
Name of Contact:
Telephone Number:
Facsimile Number:

Please confirm receipt of this Notice and the Federal Reserve wire confirmation number of the delivery of the Draw Amount by sending a facsimile to the person at the number listed above.

Sincerely,

DEPARTMENT OF PUBLIC HEALTH, CNMI

Name:
Title:


PUBLIC NOTICE


NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED AMENDMENTS TO BOARD OF EDUCATION REGULATIONS REGARDING PRAXIS AND TEACHER CERTIFICATION

I, Roman C. Benavente, the Chairman of the Ninth Board of Education for the Commonwealth of the Northern Mariana Islands ("Board") pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10 hereby adopt as permanent the proposed amendments to Public School System Regulations for Certified Personnel, Chapter 2 Sections (b)(10), (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(iv), and (f)(3)(A)(iv) and Chapter 1 Part F Sections 1601 through 1603, as published in Volume 27, Number 06 of the Commonwealth Register dated July 20, 2005 (pages 024670 - 024678). I hereby certify that these amendments have been adopted after the appropriate time for public comment without modification or amendment.

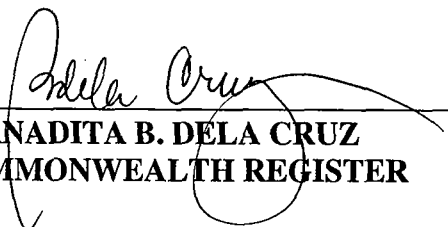
Accordingly, I request that this Notice and Certification of Adoption be published in the Commonwealth Register. Pursuant to 1 CMC sec. 9105(b), these amended regulations are effective 10 days after publication.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 22nd day of September, 2005, on Saipan, CNMI.

By: 
ROMAN C. BENAVENTE
BOARD OF EDUCATION CHAIRMAN

Approved By: 
PAMELA BROWN
ATTORNEY GENERAL, CNMI

Date: 9/22/05

Filed By: 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTER

Date: 9/22/05



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

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Immigration Division
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Fax: (670) 664-3190

Criminal Division
Tel: (670) 664-2366
Fax: (670) 234-7016

ATTORNEY GENERAL OPINION No. 05 -13

**To: Hon. Manuel P. Villagomez, Acting Chair
Marianas Public Lands Authority**

From: Alan J. Barak, Asst. AG, Civil Division
Through: Pam Brown, Attorney General
Date: 8/26/05

**Re: MPLA transfer to CUC emergency fuel fund during state of
emergency**
Within fiduciary duties and allowable

ISSUE AND SHORT ANSWER

Question

May the MPLA Board, consistent with its fiduciary duties, transfer \$1 million of unused CIP funds to the Emergency Fuel Contingency Fund in order to help avoid the disaster of losing power, water and sewage treatment due to the lack of CUC fuel oil?

Short Answer

Yes.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

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Summary

This Opinion examines whether the MPLA Board has acted within the scope of its fiduciary responsibilities in acceding to the Governor's request to transfer \$1 million of idle savings account funds to the CUC's Emergency Fuel Contingency Fund in order to help stave off the loss of power, water and sewage treatment in the CNMI.

By letter of August 24, 2005, the Acting Chairman of the MPLA, Manuel P. Villagomez, wrote the Attorney General, expressing his Board's interest in assisting Governor Juan N. Babauta in meeting the continued state of emergency caused by the high cost of fuel and the inability of CUC to provide power to the people¹. He asked the Attorney General to address the matter as a "top priority".²

This Opinion presents the background, history and authority for, the conclusion that the transfer is well within the scope of the Board's fiduciary responsibilities. The first section provides the background to the Acting Chair's request, including the Governor's Declaration of Disaster Emergency. The legal analysis appears in the second section.

Discussion

The first section of this memo, "Background", provides a description of the events and agencies related to this matter. The second section applies the tools of legal analysis, including review of relevant case law and principles of statutory construction.

1. Background

a. Description of MPLA Board and its duties

MPLA traces its beginnings to a Constitutional agency, the Marianas Public Lands Corporation ("MPLC"). MPLA is the product of the Governor's reorganization and three legislative enactments.³ Most recently, the Legislature renamed the agency "a public corporation to be known as the Marianas Public Lands Authority", headed by a "Commissioner" with a "Board of Directors." PL 12-71 (codified at 1 CMC, Division 2, Chapter 14, §§ 2801-08).⁴

Pursuant to the Constitution the Governor, by Executive Order "dissolved" MPLA, then the Legislature re-established the agency through a series of related enactments. See Law Revision Commission Comments to 1 CMC §§ 2001, 2801, as discussed in endnote 3. The Legislature sought to give MPLA broad powers. It stated its purpose in the most recent amendment to the agency's enabling act:

The Legislature finds that questions have arisen to the extent of the powers and duties of the Board of Public Lands. It is the intent of the Legislature that the Board of Public Lands be given broad powers over its operations, and the leasing of public lands.

PL 12-33, § 1. Findings. In re-enacting the agency, the Legislature repeated the language of the Constitution.

The Framers created two agencies to manage the Commonwealth's public lands and the funds relating to those lands. Article XI of the NMI Constitution, and the Legislature's reenactment, gave the MPLA broad powers within its mission. The following sections are excerpted from article XI:

Section 1: Public Lands. The lands . . . are **public lands belonging collectively to the people of the Commonwealth who are of Northern Marianas descent.**

Section 2: Submerged Lands. . . .

Section 3: Surface Lands. **The management and disposition of public lands except those provided for by N.M.I. Const. art. XI, § 2 shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

....

c) **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

....

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies in the performance of its responsibilities.**

....

b) **The corporation may not transfer a freehold interest in public lands for twenty years after the effective date of this Constitution, except for homesteads as provided under section 5(a), or for use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.**

....

e) **The corporation may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

....

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses**

reasonably necessary for the accomplishment of its functions. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added). The entirety of article XI is set out in the endnote.⁵ The Framers created a companion agency to manage the funds related to the MPLC/MPLA's activities, the Marianas Public Land Trust:

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

....

b) **The trustees shall make reasonable, careful and prudent investments.** For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

....
NMI Const. art. XI, § 6. (Emphasis added)

The statute re-enacting MPLC/MPLA differed in some respects from article XI:

There is established within the Executive Branch an independent public corporation of the Commonwealth. . . to be known as the Marianas Public Lands Authority.

1 CMC § 2801.

§ 2802. Board Powers and Duties.

(a) The Board of Public Lands shall have the following powers and duties:

....

(2) To be responsible for the management, use, and disposition of surface lands of the Commonwealth.

....

(c) The Board of Directors may select, employ, promote and terminate employees, employ contractors and consultants, employ legal counsels, sue and be sued in its own name, provide liability insurance as it considers necessary, make contracts, borrow money within the limitations contained in Article X of the Constitution [on public debt] . . . , **and take any other action necessary for the management or disposition of surface and submerged public lands.**

1 CMC § 2802. (Emphasis added)

§ 2803. Board Members.

(a) The Board of Public Lands shall be composed of five directors, appointed by the Governor with the advice and consent of the Senate, **who shall set policy with respect to public lands for the benefit of the people of the Commonwealth who are of Northern Marianas descent.** . . . No interest in public land shall be transferred except upon approval by the board of the particular

interest to be transferred . . . provided, that any provisions imposed as a condition of legislative approval pursuant to Section 2804 shall not require further approval by the board.

....

(d) . . . The directors shall be held to strict standards of fiduciary care. The governor may remove a director only for cause.

(e) The Board shall act only by the affirmative vote of the majority of the five directors.

....

1 CMC § 2803.

§ 2804. Public Lands: Fundamental Policies.

....

(c) The Board may not transfer a freehold interest in public lands for 20 years after the effective date of the Constitution, except for . . . use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.

....

(f) The Board may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Board may authorize construction of facilities for public purposes.

....

(h) The Board of Directors shall receive all moneys from public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 2804 (c), and shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the Board of Directors shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and nay [sic] other expenses reasonably necessary for the accomplishment of its functions. It shall prepare and submit a budget as a government corporation pursuant to 1 CMC § 7206.

1 CMC § 2804.

There are some limits to the MPLA's duties and powers. For instance, the CNMI Executive Branch, but not the MPLA, has the power, through its normal processes, to acquire and dispose of private land for the public good. *Romisher v. MPLC*, 1 CR 841, 860 (Tr. Ct. 1983) (preliminary injunction), 1 CR 873, 883 at n 3 (1983) (permanent injunction).⁶

This Opinion does **not** address the relationship between MPLA and MPLT, particularly the agencies' respective duties regarding the handling of funds relating to public lands and public land activities. This Opinion does **not** resolve the extent to which the "dissolution" and re-enactment of the MPLC/MPLA **continued** the agency and/or its functions or created a new agency with the same or similar functions. Rather, the Constitutional provisions are set out to present the context of the fiduciary analysis.

b. Description of the CIP funds at issue, including the two related appropriations acts

The Governor asked MPLA to transfer CIP matching funds that were previously obligated for MPLA-related purposes, but remained unused, to the CUC's Emergency Fuel Contingency Fund.⁷ The MPLA Board approved the request.⁸ The Governor restated his request on August 23, 2005, pursuant to the authority granted by the declared State of Emergency, as renewed.⁹

MPLA states that its funds are derived from public land revenues and are restricted for the benefit of NMI descent. (Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1) The amounts at issue are held in a savings account at Bank of Guam¹⁰, recorded on MPLA's books in General Ledger Account 102, "Operations Account"¹¹.

The Legislature was aware that MPLA had accrued these funds, identifying them as "public land lease payments", entrusting them to the Secretary of DPW and CUC's Director as the expenditure authority, and identifying projects for their use. PL 11-78 § 3; PL 11-79 §§ 4, 6, 7.

The two related FY 1999 appropriations acts must be read together. PL 11-79 repealed § 4 of PL 11-78 (Sources of Funds) and addressed certain line item vetoes. The acts permitted the use of the funds "as otherwise provided by law":

Use of public land lease payments for the purposes of the Act shall have priority over Public Law 11-41, and the amount identified herein shall be excluded from the resources available for expenditure pursuant to Public Law 11-41. Section 10 of Public Law 10-29 is not affected by this act, except that notwithstanding such section, the Secretary of Finance shall be required to maintain in the special trust fund only such amounts of the moneys received from public lands as the Marianas Public Land Trust (MPLT) determines will provide MPLT with adequate security for loans made pursuant to Public Law 10-029, as amended, and **the remainder shall be available as resources for the purposes of this Act and as otherwise provided by law.**

PL 11-78 § 3. (Emphasis added)

Another relevant part of the acts shows a nexus to the activities of the CUC:

Expenditure authority shall be as specified by Public Law 11-78, except expenditure authority for specific projects listed below shall be as indicated below . . . (b) Koblerville Homestead - New Power, Water and Wastewater Systems (Phase I) and Tanapag Homestead - New Power, Water and Wastewater Systems (Phase I): Expenditure Authority shall be the Secretary of the Department of Public Works with concurrence of the Executive Director of the Commonwealth Utilities Corporation.

PL: 11-79 § 7. The acts also recognized the general principal that retained MPLC/MPLA funds were to be used for the accomplishment of the agency's functions:

. . . the use of public land revenues is restricted by Article XI, Section 5(g) of the Commonwealth Constitution. Consistent with the Constitution, the public land lease revenues identified by this Act shall be used [sic] solely for the projects specifically related to homestead development.

PL 11-79 § 4. Section 5(g) addressed the uses of MPLC funds not turned over to the MPLT, which included "any other expenses reasonably necessary for the accomplishment of its functions."¹²

However, the projects were not constructed, and MPLA held onto the funds in a savings account.

c. Description of the CUC and the Office of the Governor.

Both the CUC and the Office of the Governor, the transferees of the CIP funds, are agencies of the Commonwealth Government.

CUC is a public power utility, owned by the CNMI Government. It is similar to municipal utilities and public power agencies found throughout the United States. See description in AG Opinion 05-11 (8/9/2005) The CUC is a public corporation of the Executive Branch of the CNMI government. 1 CMC § 8111 et seq. The CUC is part of the CNMI government. CUC is a "public corporation". AG Op 01-03-30, p 4. It has "corporation powers", is allowed to prepare and adopt its own budget, is granted specific exemptions from the CNMI Civil Service System for the hiring, retaining and compensation of its employees, and is permitted to conduct its own procurement, hire within certain limits, secure its own legal counsel, and is exempted from the payment of certain corporate duties and taxes. *Id.*, citing 4 CMC §§ 8121(a), 8123, 8133, 8151.

Presently CUC uses only one fuel, No. 2 diesel oil. The base rates recover 5.493 cents/kwh for it. CUC informational materials indicate that CUC fuel costs presently exceed the revenues recoverable by this base rate number by about 4.5 cents, due to fluctuating oil prices. (CUC Fuel Surcharge Presentation, Nov. 8, 2004, Tinian, pp 7-8 [on file]) Recently, CUC increased its rates through a fuel surcharge, by 3.5 cents/kWh.

CUC is an \$80 million/year company with a \$60 million/year fuel bill.¹³ CUC is on the edge of bankruptcy because, while its fuel costs have doubled over the past year, its base rates have remained static.¹⁴ Thus, while fuel has increased to roughly \$0.12/kWh, the base rate for fuel has remained at the 1993 level of \$0.05493.¹⁵ The under-recovery of fuel costs in CUC rates has ranged from \$3.7 million in 2002 to roughly \$16.6 million in 2004.¹⁶

The prices for CUC's fuel are increasing. As of this writing, crude oil has risen this week to a record \$68 per barrel.¹⁷

The Office of the Governor is an Executive Branch instrumentality of the CNMI government. N.M.I. Const. art. III, §§ 1, 14, 15;¹⁸ 1 CMC §§ 2051-53;¹⁹ 1 CMC § 2001.²⁰

d. The State of Disaster Emergency

The Governor declared a disaster emergency on May 19, 2005, based on the imminent failure of CUC to provide electricity to its customers. Declaration of State of Emergency: Commonwealth Utilities Corporation Lack of Power, May 2005 (Dated May 19, 2005), Com. Reg. Vol. 27, No. 5, p 24533 (6/20/2005) ("Governor's Emergency Declaration") (1 p).²¹

In particular, the Governor found that CUC would be "unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail." *Id.* He determined that "[t]hese conditions present an extreme,

immediate and imminent emergency.” *Id.* The emergency thus threatened the health and physical safety of the populations of Saipan, Rota and Tinian, as well as the economic life of the Commonwealth.

The Governor announced that he would take “all necessary measures”, including “[r]eprogram all necessary money to provide CUC the funds to address the conditions”. Emergency Declaration.

The Legislature subsequently affirmed the declaration in a joint resolution. H.J.R. 14-36 (transmitted June 21, 2005). The joint resolution “supported” the Governor’s declaration of state of disaster emergency and authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems”. *Id.*²²

The emergency declaration power is rooted in the Constitution:

Section 10: Emergency Powers. The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster, or other calamity as provided by law, and may mobilize available resources to respond to that emergency.

N.M.I. Const. art. III, § 10. The Local Disaster Relief Act of 1979, 3 CMC § 5101 et seq., PL 1-40 § 1 et seq., as amended, includes “man-made” disasters in its definition of “disaster” and “local disaster emergency”. 3 CMC § 5114.²³ The purpose of the Act include preparing for and avoiding disasters. 3 CMC § 5112.

The Act explicitly makes the Governor “responsible for meeting the dangers to the Commonwealth and the people affected by disasters.” 3 CMC § 5121(a). The Governor enjoys broad powers to prevent and respond to disasters under the Disaster Relief Act. Once he declares a “disaster emergency”, if the “threat” is “imminent”, these powers include: he may issue executive orders and regulations, provide for the use and distribution of supplies, equipment, and facilities, take control of and transfer forces, suspend regulations, and “[u]tilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth”.²⁴ See also, 1 CMC § 7403 (P.L. 3-68 § 403, as amended) (Governor may declare a “state of emergency” under his constitutional emergency powers).²⁵

In 1981 the Attorney General advised that the Administration could declare an emergency in order to stave off a threatened power shutdown. AG Op. 81-31 (7/23/81), “Declaration of Emergency in Threatened Power Shutdown”.²⁶ In addition to the authority relied on (see just preceding endnote), he noted that CNMI Const. art. III, § 1 implied emergency powers, *citing* Sterling v. Constantin, 287 U.S. 378 (1932) (Governor’s determination of exigency is conclusively correct, but court will determine that action taken is lawfully connected to the exigency).

The Framers of the CNMI Constitution, in their Analysis, commented on the broad powers given the Governor to address a disaster:

Section 10: Emergency Powers of the Governor. **This section authorizes the governor to declare a state of emergency in the event of attack on the commonwealth, civil disturbance, natural disaster or other calamity, such as a serious crisis caused by the unavailability of public utilities, transportation or communications.** It is intended that the governor have all the discretionary authority customarily possessed by the chief executive of a state or city in the United States. For example, the governor may reassign government employees from their normal tasks during an emergency if that is necessary to keep order or protect the public welfare. The governor may deputize citizens on a temporary basis for law enforcement purposes or use the militia if one has been established. **The governor may use contingency funds for disaster aid and divert**

from regular programs during the state of emergency with legislative approval. The governor may institute a curfew or other temporary emergency regulations, which regulations expire when the state of emergency ends.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, Pp 77- 78.^{1,27} (Emphasis added)²⁸

2. Legal Analysis

The Opinion examines the identified funds, their planned use to address the State of Emergency, and the duties of the MPLA Directors.

This Attorney General's legal analysis is binding on CNMI agencies and instrumentalities unless and until overturned by the courts. AG Opinion No. 86-16 (Castro). See, e.g., *People v. Penn*, 302 N.W.2d 298 (Mich. App. 1981). The Constitution and the Commonwealth Code provide that the Attorney General is the attorney for the Commonwealth government:

....The Attorney General shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law.

N.M.I. const., art III, § 11. The CNMI Code provides that the Attorney General is counsel to government agencies.²⁹ The Attorney General must review, and approve as to form and legal capacity, all contracts of the CNMI and its instrumentalities.³⁰ The Attorney General has a statutory and ethical responsibility to advise government clients to refrain from violating the law. The Attorney General can also bring statutory proceedings and common-law-writ-based proceedings to foreclose the pursuit of illegal activities.

The Courts are not bound by Attorney General Opinions, but tend to regard them as "highly persuasive". *United States v. Borja (Mayor of Tinian)*, 2003 MP 8 (2003), citing *Cedar Shake and Shingle Bureau v. City of Los Angeles*, 997 F.2d 620, 625 (9th Cir. 1993). An opinion of the Attorney General should be treated as persuasive authority for the judiciary so far as it is properly and thoroughly researched. *Borja (Mayor of Tinian)* 2003 MP at ¶¶ 20-21.³¹ See, generally, *State Attorneys General: Powers and Responsibilities*, Lynne M. Ross, editor (NAAG 1998).

Both statutory language and court decisions govern this analysis. The CNMI Supreme Court enunciates the governing common law. The Legislature has required the adoption of the common law as presented in the Restatements of the Law.³²

This interpretation adheres to the rules of Constitutional/statutory construction. Ordinarily, Constitutional language must be given its plain meaning. *In re Tenth Legislature Bills*, 5 N.M.I. 155 (1998). Also, *Camacho v. Northern Marianas Retirement Fund*, 1 N.M.I. 362 (CNMI 1990). See also, *Northern Marianas Housing Corp. v. Northern Marianas Land Trust*, 5 N.M.I. 150, 1998 MP 1, 1998 WL 34073630 (CNMI 1998) (The basic principle of statutory construction is that language must be given its plain meaning).

¹The Analysis must be cited with care. It is clarification, approved by the Constitutional Convention, not authority. See endnote 27 for the LRC's discussion.

In particular, for purposes of constitutional interpretation, the express mention of one thing implies the exclusion of another which might logically have been considered at the same time. *Aldan-Pierce v. Mañas*, 2 N.M.I. 122 (1991), *rev'd on other grounds*, 31 F.3d 756 (9th Cir. 1994), *cert. den*, 513 U.S. 1116, 115 S. Ct. 913, 130 L. Ed. 2d 794 (1995). See *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB").³³

- a. A fiduciary duty is the duty to act for another's benefit.

"Fiduciary Duty" is defined in Blacks Law Dictionary as a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person. It is the highest standard of duty implied by law. *Black's Law Dictionary*, Sixth Edition 625 (1990). *Govendo v. Marianas Public Land Corp.*, 2 N.M.I. 482, 491 n.5, 1992 WL 62888, p. 3 n.5 (CNMI Supreme Ct. 1992).

Beneficiaries of a fiduciary relationship require the "undivided loyalty" of a trustee, and, as such, the trustee must act "honestly [and] faithfully." *Govendo*, 2 NMI at 491, 1992 WL 62888 at 3, citing *Romisher v. MPLC*, 1 CR 843 (1983).

Generally, the provisions of the Restatement of Trusts 2d would govern the nature of the MPLA Board's trusteeship of public lands. "In the Commonwealth, the rules of the common law as expressed in the Restatements of the Law as approved by the American Law Institute serve as the applicable rules of decision, in the absence of written or local customary law to the contrary." 7 CMC § 3401. *Ito v Macro Energy, Inc.*, 4 N.M.I. 46 (1993). In determining the terms of the trust by which MPLA's Board is bound, "[a]mong the circumstances which may be of importance in determining the terms of the trust are the following: . . . (2) the value and character of the trust property; (3) the purposes for which the trust is created; . . . (5) the circumstances under which the trust is to be administered; (6) the formality of informality . . . with which any instrument containing the manifestation is drawn. Restatement of Trust 2d, § 164, comment "c".

Thus, as a fiduciary, the MPLA is responsible for public lands and the proceeds therefrom (until proceeds are turned over to the MPLT). As the statute (and Constitution) state, the beneficiaries are people of Northern Marianas descent. The circumstances of the administration are those of a public agency, of the Commonwealth government.

The documents establishing the fiduciary relationship are formal – the laws of the CNMI. The CNMI courts have addressed government fiduciary duty within the context of the US Government toward the people of the Northern Marianas:

In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965).

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).³⁴ In the instant case there is no issue of ethical or moral conduct; if anything, the moral position of the Board in helping to stave off the health and economic disaster of the failure of the CUC is a high one.

Thus, the typical controversy of a corporate board's fiduciary responsibilities may not apply here. There is a rule of "strict fiduciary responsibility" to a corporation. A breach of fiduciary duty occurs when an injury or loss to the corporation results from a director's: (1) negligence; (2) fraudulent misappropriation of corporate property to benefit the director or a third party; (3) acquisition of any undue personal advantage, benefit, or profit; or (4) other similar conduct sustaining injury or loss to the corporation. *South Seas Corp.*

v. Sablan, 525 F.Supp. 1033 (D.N. Mariana Islands 1981). The “injury or loss” is relative – the depletion of a bank account versus the termination of power, water and sewage treatment for the beneficiaries.

As a general rule, a corporate director should acquire at least a rudimentary understanding of the business of a corporation. The “business judgment rule” will ordinarily protect a director’s decision, unless s/he is grossly negligent and completely abdicates responsibility, and fails to exercise judgment as director. *F.D.I.C. v. Benson*, 867 F.Supp. 512 (S.D.Tex. 1994).³⁵ There is no question that the Board members understand the MPLA’s management of the public lands or of the proceeds therefrom. Further, they had at their disposal more than two weeks between the Governor’s first letter for assistance, on July 29, 2005, and their action, August 16, 2005. They were further informed by the Governor’s Declaration almost three months’ before, and the intervening public debate.³⁶

A board’s decision on an artificial crisis, taken without proper information, will be reversed. *Smith v. Van Gorkom*, 488 A.2d 858 (Del.Supr. 1985) (Board of directors did not reach “informed business judgment” in voting to sell company for low price, but rather, were grossly negligent in approving sale of company upon two hours’ consideration.) By contrast, the instant crisis is real, has been ongoing, and has been confirmed in the Governor’s Declaration and the Legislature’s subsequent Joint Resolution.

It has been held that specific statutory or constitutional provisions control over the general. *McDonald v. Schnipke*, 155 N.W.2d 169, 172 (Mich. 1968). Thus, where a State constitution’s general provision empowered the governor to remove executive branch officials for, *inter alia*, gross neglect, but a more specific constitutional provision on the militia had not yet been executed by statute, the governor’s removal of the commandant of the state’s national guard under the more general constitutional provision was void. *Id.* In the instant case specific statutory provisions regarding the declaration of a disaster emergency and the reprogramming of unused funds would control over the general duties to the MPLA Board to the beneficiaries. Further, the specifics of the MPLA enabling act control over the general responsibility to the beneficiaries. See part 2.b, just *infra*.

It would seem, therefore, that the decision of the MPLA Board, whether to provide the unused savings account funds to the CUC Emergency Fund in order to keep power on for MPLA’s beneficiaries, should be examined in light of the circumstances, the extent to which the Board members understood the relationship of the requested action to MPLA’s “business” and the related statutes.

- b. The MPLA Board owes a fiduciary duty to its beneficiaries, persons of Northern Marianas descent to “benefit” them.

By its terms the Constitution charged the MPLA’s Directors with “direct[ing] the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.” NMI Const. art. XI, § 4(a). The directors shall be held to strict standards of fiduciary care. NMI Const. art. XI, § 4(c).

The question presented for this Opinion is whether the Board’s use of funds in its care, as requested to help avert a disaster involving the elimination of electric power, water pumping, and sewage conveyance and treatment is a “benefit” within the scope of the fiduciary’s activities.

- c. The Board acted within its fiduciary duty when it used MPLA idle resources to maintain essential electricity services to stave off the failure of CUC services to the CNMI’s people.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the

CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

At the time the MPLA considered transferring the requested savings account funds, the validity of the public purpose in doing so was well settled. There was in place a lawful declaration of a state of emergency. Indeed, the Legislature had affirmed the Governor's Declaration and provided him with 100% fiscal reprogramming authority in order to address it. The only issue for the Board was whether their action comported with their fiduciary responsibilities.

i. The transfer is "as provided by law".

First, the appropriations acts, PL 11-78 and PL 11-79, addressed directly funding CUC-related facilities and indirectly defaulted to the Governor's Emergency Declaration to assist CUC. The acts looked to funding power, water and sewer for Koblerville. They included CUC as a concurring expenditure authority. Then, the language boldfaced *supra*, page 7, as a default, allowed the available public land funds to be allocated as "otherwise provided by law". The Governor's Emergency Declaration is "law" in this sense. Therefore, the Board's use of the idle funds is not only acceptable; it may be viewed as contemplated in the appropriations act.

ii. The Board may transfer property to another government agency for a "public purpose".

Second, MPLA can transfer funds to CUC, another Government agency. MPLA has a special relationship to the CNMI's Government and to the public purposes of the Government. The MPLA enabling act specifically empowers the Board to transfer property and authorize works for "public purposes". 1 CMC § 2804(c) and (f). Further, the restrictions on transfer of freeholds are waived for transfers to another government agency. 1 CMC § 2804(c). This relationship is embodied not only in the statute, but was evidenced in the Constitution.

An emergency will support strong measures. A recent well-publicized Pennsylvania decision supports the use of extraordinary measures by trustees in the midst of a financial crisis seeking to preserve the essence of the trust. *In re Barnes Foundation*, 871 A.2d 792 (Pa. Apr. 27, 2005) (Appeal of non-full-party student will be quashed, allowing for immediate implementation of trial court's restructuring and relocation of internationally-recognized nonprofit art gallery). A review of the history of the Barnes Foundation controversy shows that the late trustor had firmly required that his internationally-acclaimed art collection stay in his suburban Philadelphia house. The trustees successfully petitioned the trial court to revise the terms of the trust, because the building was deteriorating, the location made it impossible to accommodate enough of the public to continue the gallery's operations or care for its paintings, and potential funders would not contribute to the trust unless the facility was moved and its governance restructured.

In the instant case, no revision of the MPLA or its mission was sought. The Board members, as fiduciaries, were simply asked to contribute unused funds during an emergency to protect their beneficiaries.

Thus, for instance, if the Board had transferred a \$1 million piece of real estate to the Government, so that the Government could sell or lease the land to generate cash for a "public purpose"³⁷ – e.g., to pay for the imported oil required to keep the power on – the Board could have done that. And the Board could have done that without reference to the interests of the people of Northern Marianas descent.

In this instance it has been asked to transfer funds, not land. Therefore, a fortiori, it may transfer funds deriving from the land to use for a public purpose by the CUC, another agency of the Government. See also, Attorney General letter 02-443, Re: PL 13-16 (\$2.6 million appropriation to MVA) (Aug. 16, 2002) (Legislature's direction to MPLA to transfer to MVA landing fees held in trust account shall be presumed lawful).

iii. The Board may transfer its discretionary funds.

Third, while the Board must transfer land proceeds to the MPLT each year, it is permitted to retain funds for "any other expenses reasonably necessary for the accomplishment of its functions". 1 CMC § 2804(h). The Legislature recognized this in PL 11-78 § 3's citing to article XI, § 5(g), which contains this language. Its functions include benefitting people of Northern Marianas descent. Those people were the same people who rely on the continued flow of power, water and sewage treatment to maintain their homes, families and businesses. The Board acted responsibly in seeking to keep these services available to them in the emergency.

iv. The Board was required to transfer lawfully reprogrammed funds.

Fourth, the Governor had the legal power and authority to reprogram the unused funds. The appropriations acts provided for reprogramming by an appropriation bill or pursuant to 1 CMC § 7302. PL 11-79 § 8.³⁸ The statute allows for such reprogramming, of 25% of the appropriation. 1 CMC § 7402(b). The Legislature's subsequent joint resolution 14-34 authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems.

Thus, the Board was presented with a valid order for reprogramming funds to a public purpose concurred in by both the Legislative and Executive branches of government.

This subsection alone might support the agency's providing the savings funds during an emergency in order to keep power, water and sewage treatment flowing to its beneficiaries. In light of the three other provisions, just discussed, the MPLA Board is well within its fiduciary responsibilities in making the requested transfer.

d. The MPLA Board acted within its fiduciary duties because it could not deny the lawful request to use the identified funds to help stave off the power-related disaster emergency.

The MPLA Board's acceding to the Governor's request was not only within its fiduciary responsibilities, it was not optional. The Governor had lawfully declared a State of Disaster Emergency, affirmed by the Legislature. His emergency powers included employing such resources as the MPLA savings account containing the unused CIP funds to stave off the power emergency. It was not for the Board to determine independently whether the emergency powers should be exercised with respect to the idle funds. Thus, there was no violation of a fiduciary duty.

- e. The *Analysis* to the Constitution indicates the Framers' intent that MPLA's Board have the flexibility to manage its revenues for proper purposes.

To the extent that the purposes for the MPLA Board's activities are traceable to the Constitution, the expressions of the Framers are relevant. The Framers addressed the MPLC/MPLA in their comments to the Constitution, explaining that the Constitution had given the corporation broad powers to address funds from the public lands and broad discretion in handling those funds:

Section 4: Marianas Public Land Corporation.No further action is needed on the part of the corporation or any branch of government to constitute the corporation as a legal entity. . . .The provisions of sections 4 and 5 of this article constitute the basic rules of organization and governance that would ordinarily be found in the charter, articles of incorporation or bylaws of a corporation. **Organizational and policy matters not specified by the Constitution are left to the discretion of the corporation.** . . .

....

Section 4(d). This provision specifies that the directors may take action by a majority vote of the total number of directors. Action by any smaller number does not bind the corporation.

This provision specifies that **the corporation shall have all of the powers available to a corporation under Commonwealth law. This means that the corporation can exercise any power or privilege given to corporations that is not inconsistent with the limitations imposed on the corporation by the Constitution.**

Section 3 gives a broad grant of powers to the corporation to manage and dispose of the public lands. This provision in section 4(d) that gives the public land corporation all of the power available to a corporation under Commonwealth law is intended only to add to or clarify the powers of the public land corporation. It does not permit the legislature to enact any limitations on the powers of corporations and then require that such a limitation be applied to the public land corporation at the expense of the powers granted by the Constitution.

....

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, 150-51. (Emphasis added)

Section 5: Fundamental Policies. **This section sets out the fundamental policies** that must be followed by the corporation in carrying out its responsibilities. **All matters not specifically mandated by the Constitution or delegated to the legislature are left to the discretion of the corporation.** The corporation is not subject to any of the limitations imposed by article X [regarding public debt and indebtedness].

....

Section 5(g). This section provides for the disposition of funds derived from the public lands. These funds include the payments made by the United States for property leased under article VIII of the Covenant. The funds from the public lands are placed in a

trust fund that is an entity separate from the corporation. This separates the functions of land management and money management. This provision requires that the corporation turn over the proceeds from the public lands to the trust fund but does not include any time requirement that the moneys be turned over promptly.

The corporation is permitted to retain a portion of the funds for administration purposes with two restrictions: the funds must be necessary for administration and the expenses of administration must be reasonable.

Administration includes administration of the management of the public lands and administration of the disposition of public lands. **The determinations with respect to what is necessary and reasonable are made by the corporation.**

It is intended that the Marianas Public Land Corporation be financially independent of the legislature and that it meet its expenses with the retained funds. There is no limitation on the percentage of the total revenues received that the corporation may retain except the limitation of reasonableness and necessity set out in the last clause. The corporation also has the power to borrow to meet expenses.

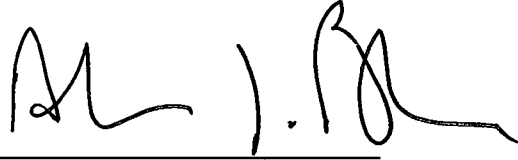
This provision does not prohibit the legislature from appropriating funds for expenditures by the public land corporation for management or disposition of the public lands or other responsibilities assigned to the corporation by the legislature.

. . . . All revenues from the public lands received on and after the effective date of the Constitution go to the public land corporation. This includes payments for the transfer of freehold, leasehold, and other interests made before the effective date of the Constitution by the government of the Northern Mariana Islands or nay [sic] predecessor entity and transfers made by the corporation. Any payment made to any agency or entity other than the corporation is of no effect and the corporation may hold the payee in default.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 152, 158-59. Thus, the Framers expressed the intention for the Board to address flexibly the care and disposition of public lands and the proceeds therefrom. The instant emergency and the Board's response, by transferring idle funds to a sister agency in order to stave off the disaster of no power, no water and no sewage treatment, is just such flexibility.

Conclusion

A careful analysis of the MPLA, the MPLA Board and the Board's duties, and the present disaster emergency demonstrates that the Board of the MPLA has operated well within its fiduciary duties and responsibilities in agreeing to transfer its idle savings account funds to the use of the CUC's Emergency Fuel Contingency Fund. Such a transfer is within the Board's fiduciary duties and responsibilities.



Date: August 26, 2005

Alan J. Barak, Asst. AG, Civil Division



Date: August 26, 2005

Concurred by: Pam Brown, Attorney General

ENDNOTES

1. Governor Babauta reasserted his request for emergency assistance in an August 22, 2005, memo to the Chairwoman of the MPLA:

To: Ana Demapan-Castro, Chairwoman, Marianas Public Lands Authority Board of Directors
Cc: Attorney General; Secretary of Finance; Members, [MPLA] Board of Directors; Commissioner, [MPLA]; Special Assistant for Management & Budget; Special Assistant for Administration
From: Governor
Subj: TRANSFER OF FUNDS

On July 29, 2005 I wrote to Marianas Public Lands Authority (MPLA) regarding the continued State of Emergency in the Commonwealth that exists as a result of the high cost of fuel and the inability of the Commonwealth Utilities Corporation (CUC) to provide power to our people. I requested MPLA to assist the Executive Branch and CUC to address this emergency situation by identifying and transferring funds for reprogramming to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated July 29, 2005 . (Attached).

On August 9, 2005, the Office of the Governor was informed by MPLA that it had identified CIP matching funds that were previously obligated, but remained unused. I subsequently requested that MPLA approve the transfer of these unused CIP matching funds to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated August 11, 2005 (Attached).

As such, pursuant to the approval of the MPLA Board of Directors and the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution, 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, as invoked in the Declaration of State of Disaster Emergency on May 19, 2005, the renewal/continuation of such Declaration of State of Disaster Emergency issued on June 19, 2005, July 18, 2005 and August 17, 2005, respectively; and, pursuant to the authority granted by the adoption of House Joint Resolution No. 14-36, I hereby request you to transfer One Million dollars (\$1,000,000.00) from the account of the Marianas Public lands Authority (General Saving Account No. 0203-429012) located at the Bank of Guam, Garapan Branch to the CUC Emergency Fuel Contingency Fund (Business Unit #1608).

To effectuate this transfer, I respectfully request the MPLA Commissioner to authorize the funds to be remitted to:

.....

This action is necessary to address critical fuel, generator rehabilitation and maintenance issues facing CUC and the people of the Commonwealth. Furthermore, the Special Assistant for Management and Budget and the Secretary of Finance are directed, by copy of this memorandum, to transfer the entire amount remitted by MPLA to the CUC Emergency Fuel Contingency Fund (Business Unit #1608.47210).

If you have any question related [sic] matter or require any additional information, please do not hesitate to contact my office.

/s

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

Juan N. Babauta

2. Letter of Aug. 24, 2005, fr Acting Chairman MPLA, M.P. Villagomez to Attorney General P. Brown:

VIA HAND DELIVERY

Re: Legal Opinion

Dear Attorney General Brown:

As you may be aware, Governor Juan N. Babauta is requesting that MPLA transfer \$1,000,000.00 from its Bank of Guam account to the CUC Emergency Fuel Contingency Fund, to be used to assist the Commonwealth in the continued State of Emergency. Enclosed is a copy of the Governor's most recent Memorandum.

Although the MPLA Board of Directors approved the Governor's request at a special public meeting held in Rota, lengthy discussion over the legality of the transfer took place in executive session prior to the Board action. As a result of those and subsequent discussions on the subject, the MPLA Board continues to be troubled by application of the cited authority for using NMI descent funds for such purposes.

As you know, MPLA funds derived from public land revenues are restricted for the benefit of NMI descent, and the MPLA Board is held to a strict fiduciary responsibility over the disposition of such funds.

In order to satisfy the Governor's request, the MPLA Board requests that you provide an official Attorney General Opinion, limited to this specific request by the Governor. MPLA stands ready and willing to accommodate the Governor immediately upon receipt of your opinion if you find that the request is allowable and will not be a violation of the Board Members' fiduciary responsibilities.

We ask that you give this request your top priority, as the Governor and CUC require prompt action on our part.

Thank you for your assistance,

Sincerely,

/s

Manuel P. Villagomez
Acting Chairman

Enclosure

cc: Governor
Board Members
Commissioner
Comptroller
Legal Counsels

3. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The Comment set out E.O. 94-3 in its entirety, including the section dissolving the MPLC and moving it to the Department of Land and Natural Resources:

Section 306. Department of Lands and Natural Resources. [Section 306 VACATED by PL 10-57, § 4]

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

Executive Order 94-3. The Legislature repealed the change. PL 10-57. The Legislature then repealed PL 10-57 and substituted a new Board of Public Lands, Office of Public Lands, and Administrator of Public Lands, as an independent agency. PL 12-33 (effective Dec. 5, 2000) (ordered codified as 1 CMC, Division 2, Chapter 14). The Legislature again amended the statutory scheme with PL 12-71.

4. According to the Law Revision Commission Comment to § 2801 there were technical deficiencies in the repeal and reenactments of PL 12-33 and PL 12-71, some of which the Commission corrected:

The Commission assigned a different number sequence to the reenacted sections than that provided in PL 12-33.

PL 12-71 became effective November 13, 2001 and contained some technical deficiencies. The first deficiency is the amendment of subsection (a) above without conforming amendments to subsection (b) and the remainder of the act; a global amendment provision was not included in PL 12-71. Additionally, the reference in subsection (a) above to the term of the Board of Directors is unclear and also in conflict with 1 CMC § 2803(d). Furthermore, it appears that in the last sentence of subsection (a) above, the reference to "effected" should have been "affected." Finally, the reference in PL 12-67 to "H.B. 12-257" should instead be to "PL 12-33."

1 CMC § 2801, Comment.

5. Article XI of the NMI Constitution gave the MPLA and MPLT broad powers within their missions:

Section 1: Public Lands. The lands to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under Covenant Article VIII, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are **public lands belonging collectively to the**

people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands. The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Surface Lands. **The management and disposition of public lands** except those provided for by N.M.I. Const. art. XI, § 2 **shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

b) One director shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, and three shall be residents of the third senatorial district; provided that of the five directors, at least one shall be a woman and at least one shall be a person of Carolinian descent. Each director shall be a citizen or national of the United States, a resident of the Commonwealth for at least five years immediately preceding the date on which the director takes office, a person with at least two years management experience, a person who has not been convicted of a crime carrying a maximum sentence of imprisonment of more than six months, a person who is able to speak Chamorro or Carolinian and a person of Northern Marianas descent.

c) The directors shall serve a term of four years except that two of the first five directors appointed shall serve a term of two years and three shall serve a term of four years. A director may not hold a paid position in the corporation. **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

e) The directors shall make an annual written report to the people of the Commonwealth describing the management of public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in Commonwealth land.

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies** in the performance of its responsibilities.

a) The corporation shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and one village homestead. A person may not receive a freehold interest in a homestead for three

years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least fifteen years as of the effective date of this Constitution. At any time after receiving the freehold interest, the grantee may mortgage the land provided that all funds received from the mortgagee be devoted to the improvement of the land. Other requirements relating to the homestead program shall be provided by law.

b) **The corporation may not transfer a freehold interest** in public lands for twenty years after the effective date of this Constitution, **except** for homesteads as provided under section 5(a), or **for use for a public purpose by another agency of government**, or for land exchanges to accomplish a public purpose as authorized by law.

c) The corporation may not transfer a leasehold interest in public lands that exceeds twenty-five years including renewal rights. An extension of not more than fifteen years may be given upon approval by three-fourths of the members of the legislature.

d) The corporation may not transfer an interest in more than five hectares of public land for use for commercial purposes without the approval of the legislature in a joint session.

e) **The corporation may not transfer an interest**, and may prohibit the erection of any permanent structure, **in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

f) The corporation shall adopt a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate.

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary** to meet reasonable expenses of administration and management, land surveying, homestead development, and **any other expenses reasonably necessary for the accomplishment of its functions**. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added)

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

a) The trust shall have three trustees appointed by the governor with the advice and consent of the senate. After this Constitution has been in effect for ten years, the number of trustees appointed by the governor with the advice and consent of the senate shall be increased to five. Three shall be from Saipan, one from Rota, and one from Tinian. At least one trustee shall be a woman and at least one trustee shall be of Carolinian descent. The trustees shall serve for a term of six years except that the term of office shall be staggered, accomplished as follows: three trustees shall serve for four years and two trustees shall serve for six years as determined by drawing of lots.

b) **The trustees shall make reasonable, careful and prudent investments.**
For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

c) If the legislature authorizes a Marianas development bank and provides that all United States economic assistance for economic development loans provided under Covenant § 702(c), shall be deposited as capital in that bank, the trust shall use up to fifty-five percent of its receipts in a year to increase the total capital available to the bank to the sum of ten million dollars. After the bank has more than ten million dollars in total capital, the bank shall pay the excess above ten million dollars to the trust until the trust has been fully repaid for its contribution to the bank.

NMI Const. art. XI, § 6. (Emphasis added)

6. The Court in *Romisher* held that the MPLC lacked the Constitutional authority to receive funds for, and negotiate a deal regarding, **private** interests in the US military's acquisition of Tinian real estate. *Romisher v. MPLC*, 1 CR at 860 (Tr. Ct. 1983) (preliminary injunction), upheld in 1 CR 873, 883 n 3 (1983) (permanent injunction). MPLC's power went to the disposition of public lands, held the Court. The Executive was to negotiate the value of the private interests, disburse the funds and acquire title in the sale.

7. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors from Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

8. Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

9. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

10. The \$1 million is held in Bank of Guam General Savings Account No. 0203-429012. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

11. Source, phone conversations with MPLA counsel of 8/25/05 and 8/26/05.

12. The Constitution's article XI, § 5(g) says:

(g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses reasonably necessary for the accomplishment of its functions.** The annual budget of the corporation shall be submitted to the legislature for information purposes only.

13. See, e.g., CUC's most recent annual financial report, most recent cash flow statement (6/27/05) and its sole fuel oil contract with Mobil Oil Co., #CUC-PG-05-0013. [all on file]

14. CUC's Comptroller describes a "financial crisis" and has projected negative cash flow by the beginning of Year 2005 into the indefinite future, **without** increasing the rates for the fuel surcharge. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 1.

CUC's oil price per gallon never rose above 88 cents/gal for the years 2001-02, then increased for 4 months in 2003 to almost \$1.00/gal, to drop to 78 cents/gal in June, then finish 2003 at about 92 cents/gal, then climb in 2004 to a high of \$1.17 in September, dropping to about \$1.12 in December. Source: Chart I, Production Fuel, Average Monthly Purchase Price Per Gallon, January 2001 to December 2004 (author, Ed Williams, CUC Comptroller's Office).

15. Memo Fr CUC Comptroller, Thru: Executive Director, CUC, to CUC Board of Directors, re: Financial Crisis Situation at CUC, dated Tuesday Jan 25, 2005. (2 pp):

I am writing you this letter to inform you of the serious financial situation that is facing CUC today. We face a situation that, if it is not addressed immediately, could lead to power shedding and ultimately to island wide black outs in Saipan, Tinian and Rota within the next few months.

With these black outs will also come the disruption of our water and sewer services. The ripple effect of our power shut down will cause wide spread negative economic impact on all aspects of our lives; it will be felt by our businesses, health care systems, education systems, tourism industry, etc.

By the end of this week we will have to deal with the fact that CUC can not meet the \$2 Million advance payment requested by Mobil on January 28 to stay within our credit limit of \$10 Million. This may jeopardize the fuel delivery in February.

Three weeks from today our Cash Flow projection shows that we will have a shortfall of \$1.1 Million. This is the day on which we are to pay Mobil for December's fuel. Failure to make this payment could possibly delay further deliveries until a credible payment plan can be established.

Our projections for cash flow without a fuel surcharge show CUC going further into debt. (See Attached) We must also realize that forecasting revenue may be unrealistic if we are forced into load shedding. If we are not supplying 24-hour power, our revenues will drop dramatically.

One suggestion to address our crisis has been to float a bond. However, while we may wish to pursue this in addition to a fuel surcharge, we must realize that it will take a minimum of 4 to 6 months at best to float a bond and we may have to seek the assistance of the Legislature and Governor if the bond underwriters will require a Full Faith and Credit from CNMI Government, which could even further lengthen the time until any funds became available.

At the present moment, because of the cost of fuel, the cost of production of Electricity exceeds the revenues generated by its sale. This cannot be allowed to continue. The actual costs of fuel must be recovered and the fuel surcharge is the most direct and rational approach to this problem.

I urge the Board to adopt the proposed emergency regulations today so that we may begin to address our revenue shortage immediately.

Thank you for your attention and assistance.

/s

Sohale Samari
CUC Comptroller

16. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 2.

17. "Oil Leaps to Record \$68 on Storm, U.S. Gasoline Draw", NY Times (www.nytimes.com) (Reuters) (Aug 25, 2005). The run-up in oil prices is likely to continue for a long time, given the multiple factors affecting prices – weather, production capacity, political events and worldwide demand:

August 25, 2005
Oil Hits Record \$68 on Storm, Gas Draw
By REUTERS

Filed at 6:10 a.m. ET

LONDON (Reuters) - Oil surged to a record \$68 a barrel on Thursday, hounded by supply concerns due to a growing threat to oil facilities from an Atlantic storm and a large fall in U.S. gasoline stocks.

U.S. light crude was up three cents at \$67.35 a barrel by 0958 GMT, pausing after hitting \$68 in early trade, the highest since U.S. crude futures started trade in 1983. London Brent crude was up 12 cents to \$66.13.

Dealers are concerned about a thin stock cushion after a rash of disruptions and tensions in oil-producing countries cut crude output and propelled prices to a series of record peaks.

Gasoline stockpiles in the United States, the world's top oil consumer, beat forecasts to register a slide of 3.2 million barrels in the week to August 19, widening the supply gap from a year ago, the government Energy Administration Agency said.

Stocks of the auto fuel have contracted for eight straight weeks, led by higher demand as the peak driving season has almost two weeks to run its course.

Compounding the fears, a tropical storm is swirling toward Florida, threatening U.S. oil and gas production facilities in the Gulf of Mexico.

"The market is really starting to get unhinged," said John Brady at ABN AMRO in New York. "The majority can be attributed to the storm, and some geopolitical concerns as well."

Tropical storm Katrina, which formed in the Bahamas on Wednesday, was moving on a path that would likely cut across southern Florida and into the Gulf of Mexico later this week, the U.S. National Hurricane Center said.

The storm was expected to hit the Miami area by Friday as a weak hurricane moving slowly across the state into the Gulf.

Market participants fear the storm may threaten oil and gas producing areas in the central and eastern Gulf of Mexico, where the United States derives between 20 and 25 percent of domestic crude and natural gas production.

gas production.

The unusually active Atlantic hurricane season has produced 11 named storms and could culminate in as many as 21 tropical storms and 11 hurricanes, forecasters have said.

SUPPLY WOES LINGER

Refinery snags have also skewed risks to the upside as the oil industry struggles to keep pace with demand growth, which has thus far proven remarkably resilient amid soaring costs.

"There is very strong demand and we don't see that demand receding," the International Monetary Fund's chief Rodrigo Rato, said in a teleconference on Thursday. "Prices are not going back to the levels seen at the beginning of 2004."

Adding to the list was Shell Oil Co.'s 153,000 barrel-per-day (bpd) refinery in Martinez, California, which suffered a malfunction in a production unit on Tuesday.

Tesoro Corp. said a 70,000-bpd gasoline-producing unit at its 168,000-bpd Golden Eagle refinery in Martinez, California, was shut on Wednesday following a fire.

And Huntsman Corp. declared a force majeure on Wednesday on a large part of its production of methyl tertiary butyl ether (MTBE), a gasoline octane-booster, from its refinery in Port Neches, Texas. Trade sources said the force majeure would last for 45 days.

Output in Ecuador, which mostly supplies crude to California, is still down to around 80 percent of its 530,000-bpd level after attacks on oil infrastructure last week.

Protesters, who have choked off oil exports, are threatening a hunger strike to pressure the government on their demands, dealing a blow to settlement talks.

The market also watched for disruption in Nigeria, where some fuel stations shut down ahead of an expected 60 percent hike in fuel prices. Previous government attempts to raise prices have led to crippling general strikes in the world's 8th largest oil exporter.

18. Sections 1 and 14 of the Constitution make the Governor the head of the Executive Branch, and Section 15 empowers him to reorganize the Executive:

Section 1: Executive Power. The executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws.

....

Section 14: Heads of Executive Departments. Each principal department shall be under the supervision of the governor and, unless otherwise provided by law, shall be headed by a single executive. The governor shall appoint the heads of executive departments with the advice and consent of the senate. The governor may remove the heads of executive departments. The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth.

Section 15: Executive Branch Departments. Executive branch offices, agencies and

instrumentalities of the Commonwealth government and their respective functions and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them so far as practicable according to major purposes. . . Regulatory, quasi-judicial and temporary agencies need not be a part of a principal department. The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law. The legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions and duties. **The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders** which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

N.M.I. Const. art. III, §§ 1, 14, 15.

19. The Office of the Governor was created by PL 1-8:

§ 2051. Office of the Governor.

There is in the Commonwealth government the office of the Governor, composed of the Governor, the Governor's Council and persons appointed by the Governor to the following positions:

- (a) A Special Assistant for Administration;
- (b) A Special Assistant for Planning and Budgeting;
- (c) A Special Assistant for Programs and Legislative Review;
- (d) An Executive Assistant for Carolinian Affairs;
- (e) A Public Information and Protocol Officer; and
- (f) A private secretary.

§ 2052. Office of the Governor: Staff.

The Governor may employ other staff as required to assist the office of the Governor in performing its functions, subject to budgetary appropriation. The staff shall be within the civil service.

§ 2053. Office of the Governor: Duties.

The Governor has the powers and duties as provided in the Commonwealth Constitution or as provided by law. In addition, the Governor shall receive official visitors and conduct official ceremonies of the Commonwealth. These duties and responsibilities may be delegated to the Lieutenant Governor or to elected or appointed officials of the Commonwealth.

1 CMC §§ 2051-53. E.O. 94-3 and PL 11-47 added staff to the Office and converted staff to the Excepted Service. See next endnote.

20. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The "Office of the Governor" is, for the most part assumed, rather than designated in the reorganization. However, it is mentioned as an agency in which all employees are subject to the Excepted Service. E.O. 94-3 § 509(b)(1). See also PL 11-47 (return of certain positions to Office of the Governor).

21. The text of the Governor's State of Emergency Declaration was as follows:

Declaration of State of Emergency:
Commonwealth Utilities Corporation
Lack of power May 2005

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

I find that CUC will be unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail. These conditions present an extreme, immediate and imminent emergency.

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

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

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

/s

Juan N. Babauta,
Governor

Dated this __19th__ day of May, 2005

22. The resolution stated as follows:

House Joint Resolution No. 14-36

Supporting the Governor's declaration of state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation and authorizing the Governor 100 percent reprogramming authority of available CNMI funds to remedy the power generation problems.

Whereas, on May 19, 2005, Governor Juan N. Babauta declared a state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation (CUC) for CUC's inability to provide service; and

Whereas, CUC will be unable to pay for its fuel oil supplies in the immediate future; and

Whereas, CUC's power generation levels are currently reduced to almost zero reserves; and

Whereas, without electricity the CUC water and wastewater pumping systems will also fail; and

Whereas, the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation; and

Whereas, it is the intent of the Legislature to authorize the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Whereas, the Commonwealth Constitution, Article 10 Section 3, provides that "public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature"; and

Whereas, the Commonwealth Constitution, Article 10 section 4, also provides in pertinent part the "public indebtedness may not be authorized for operating expenses of the Commonwealth government or its political subdivisions."

Now, therefore, be it resolved by the House of Representatives, Fourteenth Northern Marianas Commonwealth Legislature, the Senate concurring, that the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation and authorizes the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Be it further resolved that the Speaker of the House of Representatives and the President of the Senate shall certify, and the House Clerk and the Senate Legislature [sic] Secretary shall attest to the adoption of this joint resolution and thereafter the House Clerk shall transmit a certified copy to the Honorable Juan N. Babauta, Governor of the Commonwealth of the Northern Mariana Islands.

Adopted by the House of Representatives on May 25, 2005 and by the Senate on June 15, 2005

Certified by:

Benigno R. Fitial
Speaker of the House

Joaquin G. Adriano
President of the Senate

Attested to by:

Evelyn C. Fleming
House Clerk

Joseph M. Mendiola
Senate Legislative Secretary

23. The man-made disaster appears as part of the definition of "disaster" and "local disaster emergency":

(a) **"Disaster" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, fires, oil spills, or other water contamination **requiring emergency action to avert** danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in any part of the Commonwealth **which, in the determination of the Governor is of sufficient severity and magnitude to warrant assistance by the Commonwealth to supplement the efforts and available resources of the political subdivisions thereof and relief organizations** in alleviating the damage, loss, hardship or suffering caused thereby.

(b) "Emergency" means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, drought, fire, explosion, or other catastrophe in any part of the Commonwealth which requires federal emergency assistance to supplement the Commonwealth and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(c) "Major disaster" means any typhoon, tornado, storm, floods, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, fire or other catastrophe in any part of the Commonwealth which, in the determination of the President of the United States, causes damage of sufficient severity and magnitude to warrant major disaster assistance under U.S. Disaster Relief Act (42 U.S.C. § 5121 et seq.), above and beyond emergency services by the federal government to supplement the efforts and available resources of the Commonwealth and its political subdivisions.

(d) **"Local disaster emergency" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, highwater, wind-driven waters, tidal waves, earthquakes, fires, oil spills, water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in one particular political subdivision.

(e) "Political subdivision" means any district, village, community or other unit of local government recognized as such by laws or customs of the Commonwealth.

3 CMC § 5114 (Emphasis added).

24. The Governor has very broad powers to prevent and respond to disasters:

§ 5121. The Governor and disaster emergencies.

(a) The Governor is responsible for meeting the dangers to the Commonwealth and the people affected by disasters.

(b) Under this chapter, the Governor may issue executive orders and regulations and may amend or rescind them. Executive orders shall have the force and effect of law when promulgated in accordance with the procedures set forth in this chapter. The Governor shall issue regulations as provided by law, for the administration and enforcement of this chapter, and such regulations shall have the force and effect of law if they are not in conflict with the expressed provisions of this chapter or other laws of the Commonwealth.

(c) A disaster emergency shall be declared by executive order of the Governor if the Governor finds a disaster has occurred or that occurrence or the threat thereof is imminent. The state of disaster emergency will remain in effect until the Governor finds that the threat or danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order, but no state of disaster emergency may continue for longer than 30 days unless renewed by the Governor. The Governor shall issue an executive order which may terminate a state of disaster emergency at any time. An executive order issued under this subsection shall be filed promptly with the Commonwealth Disaster Control Office and the Attorney General's office, and shall immediately be disseminated to the general public.

(d) An executive order declaring a state of disaster emergency shall serve to activate the disaster response and recovery aspects of the Commonwealth, local, and inter-jurisdictional disaster emergency plans applicable to the political subdivisions or area in question, and the authority for the deployment and use of any forces to which the plan or plans apply, and for use or distribution of any supplies, equipment and materials and facilities assembled, stockpiled or arranged, to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

(e) During the continuance of any state of disaster emergency, the Governor shall be in charge of all forces and personnel, and the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate regulations, but nothing herein restricts the Governor's authority to do so by executive orders issued at the time of the disaster emergency.

(f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary-action in coping with the emergency;

(2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;

(3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Subject to any applicable requirements for compensation under 3 CMC § 5132, utilize any private property if the Governor finds this necessary to cope with the disaster emergency; provided, however, that any such property that is not destroyed or totally damaged shall be returned to the owner immediately following the termination of the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Commonwealth if the Governor deems this action is necessary for the preservation of life or public health or safety; provided, however, that any person so evacuated shall be permitted to return to the place from which he or she

was evacuated immediately following the termination of the disaster emergency;

(6) Prescribe routes, modes of transportation, and destination in connection with evacuation, and requisition and take possession and control of any government vehicle for any reasonable period of time in order to assist with evacuation or with other necessary emergency functions or duties;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(9) Make provisions for the availability and use of temporary emergency housing.

3 CMC § 5121.

25. The general emergency powers provision is as follows:

(a) Whenever the Governor uses his authority pursuant to N.M.I. Const. art. III, § 10, the Governor shall as soon as practicable transmit to the legislature a report describing in detail the emergency which required exercise of such authority, the measures being taken to deal with the emergency, and a financial plan for meeting the cost of these measures. This plan shall indicate any function, program, or project which will have to be curtailed or deferred during the emergency due to the emergency itself or due to fiscal constraints, any additional revenues which may be needed to ensure sufficient funds, and any additional information which the Governor deems appropriate. This plan shall also include, if a determination can be made at that time, the recommendations of the Governor for any necessary reprogramming, appropriations, or any other statutory changes which the Governor deems advisable to deal with the emergency or to adjust the fiscal position of the government subsequent to the emergency. If this determination cannot be made at that time, the recommendation shall be transmitted to the legislature as soon as practical. A state of emergency shall automatically terminate within 60 days of its proclamation; unless the Governor shall, prior to the end of the 60 day period, notify the presiding officers of the legislature that the state of emergency has been extended, for a like term, and giving the reason for extending the state of emergency.

(b) If the legislature is not in session when the Governor prepares the report required by subsection (a) of this section, the Governor shall call the legislature into special session for the purpose of receiving the report, and of taking other action as may be necessary under the circumstances, as soon as it is physically prudent to hold a special session.

1 CMC § 7403.

26. The Chief of Civil Litigation, Peter Van Name Esser, concluded that a utility shortage or stoppage constitutes a "calamity" under Art. iii, § 10 of the CNMI Constitution.

He cited the Analysis of the Constitution, which presents "...a serious crisis caused by the unavailability of public utilities, transportation or communications," as an example of an emergency.

And he relied on Webster's definition of "emergency" as "any event or occasional combination of circumstances which calls for immediate action or remedy, pressing necessity; exigency," citing *People v. Ansen*, 105 P2d 321 (Cal. 1937) (Municipal streetcar driver was entitled to show in defense of prosecution for running "stop" signal that "emergency" supported continued travel through intersection); *Geisendorfer*

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

v. Mayor and City Council of Baltimore, 3 A.2d 860 (Md. 1947) (Emergency is lack of funds for school system); and Mullins v. Henderson, 170 P2d 118 (1942) (Mayor may use emergency powers to avert shutdown of street railway).

AG Op. 81-31 (7/23/81).

27. The LRC's "Constitution Annotated" discusses the *Analysis*, its stated purpose of explaining each section of the Constitution, and its limited use as authority:

Courts have cited the *Analysis* in several decisions. According to the *Analysis*' brief preface:

The purpose of this memorandum is to explain each section of the Constitution of the Commonwealth of the Northern Mariana Islands and to summarize the intent of the Northern Marianas Constitutional Convention in approving each section. This statement was approved by the Convention on December 6, 1976 with the direction that it be available to the people along with the Constitution for their consideration before the referendum on the Constitution.

Id. at 1. The 1976 *Analysis* was approved by the Convention, and published in a small, blue paperback booklet, 215 pages in length. The *Analysis* is mentioned in article III, § 23(b) (directing the resident executive for indigenous affairs to "coordinate the translation and distribution of such official documents as the Constitution of the Northern Mariana Islands and the Covenant and analysis thereof").

Comments to many sections in this publication include quotations from the *Analysis*. It is important to note that while courts have often cited the *Analysis* in support of rulings, they are not obligated to follow its interpretation of Constitutional provisions. In short, "the *Analysis* does not have the force law." *Camacho v. Civil Service Commission*, 666 F.2d 1257, 1264 (9th Cir. 1982) (rejecting *Analysis* interpretation of article III, § 16). According to a Commonwealth Trial Court decision:

The *Analysis* is not the law. It was not voted on by the electorate. At most, it is an attempt to clarify what the law is as stated in the Constitution. To use the *Analysis* as authority to overcome the clear language of the Constitution is not permissible.

Camacho v. Camacho, 1 CR 620, 628-29 (Trial Ct. 1983) (rejecting *Analysis*' interpretation of schedule on Transitional Matters. § 4).

Comm.. Law Rev. Com'n, Constitution of the Commonwealth of the Northern Mariana Islands, annotated, 1st ed. (June 1995), p xiii-xiv. (Fn's omitted)

28. The *Analysis* refers to legislative approval – "The governor may use contingency funds for disaster aid and divert from regular programs during the state of emergency with legislative approval." – but there is no such language on legislative approval in article III, § 10.

29.1 CMC § 2153(h): Attorney General Duties

The Attorney General shall have the powers and duties as provided in the Commonwealth Constitution. In addition, the Attorney General shall have the following powers and duties:

....

(h) To act, upon request, as counsel to all departments, agencies and instrumentalities of the Commonwealth, including public corporations, except the Marianas Public Land Trust. Subject to availability of funds by budgetary appropriation, separate legal counsel may be retained for particular matters.

1 CMC § 2153(h).

30.1 CMC § 2153(g).

31. Faced with two conflicting opinions of the CNMI Attorney General, the Supreme Court, responding to a certified question from the U.S. District Court, rejected the earlier, four-sentence-long opinion containing "ninety words with no reference to case law or legislative history" as "unpersuasive" in favor of the Attorney General's thoroughly researched brief. *Borja (Mayor of Tinian)*, 2003 MP ¶ 21.

32. *Castro v. Hotel Nikko Saipan, Inc.*, 4 N.M.I. 268, 275 (1995), citing 7 CMC § 3401.

33. The Mafnas' court's decision was "The absence of any language excluding such interests from the restriction in Article XII leads us to conclude that they are within the restriction." *Aldan-Pierce v. Mafnas*, 2 N.M.I. 122 (1991), at n 24.

The principle of "expressio unius est exclusio alterius" was addressed in the legislative context as the existence of express exceptions to a rule gives rise to a presumption that no other exceptions were intended. *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB"). The case cited *Andrus v. Glover Constr. Co.*, 100 S. Ct. 1905, 1910 (1980); Norman J. Singer, 2A *Sutherland Statutory Construction* § 47.11 (5th ed. 1993). MVB, p 28. See also *E-Tours Inc. v. Marianas Visitors Authority*, Civ. No. 00-0078D, p 7 (Super. Ct. 2000).

34. The full text of the District Court's statement is as follows:

It is now settled that the United States stands in relation to the peoples of Micronesia as a trustee. See, e.g., *Palacios v. Commonwealth of the Northern Mariana Islands*, Civ.App. No. 81-9017 (D.N.M.I. (App. Div.) 1983); *Gale v. Andrus*, 643 F.2d 826, 830 (D.C.Cir. 1980) ('the entire authority of the United States in the Trust Territory is derived from a trust'); *Ralpho v. Bell*, 569 F.2d 607, 619 (D.C.Cir. 1977) ('the United States does not hold the Trust Territory in fee simple, as it were, but rather as a trustee'). In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965). The nature of the fiduciary obligations which the United States shoulders in its capacity as a trustee to a race or nation of peoples is well summarized in *Smith v. United States*, 515 F.Supp. 56, 60 (N.D.Cal. 1978), a decision based on the United States-Indian trust relationship. In *Smith*, Judge Sweigert describes those fiduciary duties as duties that must be exercised with 'great care,' *United States v. Mason*, 412 U.S. 391, 398, 93 S.Ct. 2202, 2207, 37 L.Ed.2d 22 (1973), in accordance with 'moral obligations of the highest responsibility and trust,' that must be measured 'by the most exacting fiduciary standards.' *Seminole Nation v. United States*, 316 U.S. 286, 297, 62 S.Ct. 1049, 1054, 86 L.Ed. 1480 (1942). This Court previously has held that the 'very purposes which engendered the judicially created Indian fiduciary doctrine apply a fortiori to the Micronesian-U.S. relationship.' *Palacios*, supra, slip op. at 10.

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).

35. With respect to the business judgment rule, see also *Francis v. United Jersey Bank*, 432 A.2d 814 (N.J.1981) (A director should become familiar with fundamentals of business in which corporation is engaged and because directors are bound to exercise ordinary care, they cannot set up as a defense lack of knowledge needed to exercise the requisite degree of care; and if one feels that he has not had sufficient business experience to qualify him to perform the duties of a director, he should either acquire the knowledge by inquiry, or refuse to act).

36. This Opinion will not catalogue the almost-daily press coverage of the CUC emergency, as it is well known, and the press clippings can be assembled if needed.

37. The Constitution's language was "for use for a public purpose by another agency of government", NMI Const. art. XI, § 5(c), and, with respect to an interest in public lands located within 150 feet of the high water mark of a sandy beach, specifically excepted to authorize construction of facilities "for public purposes", NMI Const. art. XI, § 5(e).

38. The appropriations act restricted reprogramming to the same senatorial district:

Section 8. Reprogramming. Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reprogrammed by an appropriation bill of the CNMI Legislature or pursuant to the process specified in or 1 CMC 7302, all or in part among the projects funded by this Act to alternative projects included in the CIP Plan adopted by Section 5 of Public Law 11-78. However, notwithstanding other provisions of law, funds can only be reprogrammed from one project in a senatorial district to another project in the same senatorial district. Reprogramming of funds to alternative projects not included in the CIP Plan, must comply with the Plan Amendment Process as specified in Section VII of the CIP Plan.

PL 11-79 § 8. Since the overwhelming majority of CUC's power is consumed on the Island of Saipan, the reprogramming presented to the Board was to the same Senatorial District as the Koblerville project. As to the CIP Plan process, the State of Emergency supercedes the necessity to revise the CIP Plan, as a one of the regulatory provisions subject to suspension.



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

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Saipan, MP 96950

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Tel: (670) 664-2341/42
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Tel: (670) 664-2366/67/68
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Investigative Unit
Tel: (670) 664-2310/12
Fax: (670) 664-2319

**Division of
Immigration**

Saipan
Tel: (670) 236-0922/23
Fax: (670) 664-3190


Rota
Tel: (670) 532-9436
Fax: (670) 532-3190

Tinian
Tel: (670) 433-3712
Fax: (670) 433-3730

**Domestic Violence
Intervention Center**
Tel: (670) 664-4583/4
Fax: (670) 234-4589

MEMORANDUM AND ORDER

TO: All Immigration Personnel

FROM: Pam Brown, Attorney General 

DATE: September 1, 2005

RE: Admission of Bangladeshi Citizens

As of today, the CNMI will no longer admit citizens of Bangladesh for any purpose. This is due to the high frequency of document fraud in that country. We are unable to verify the authenticity of travel documents originating there and therefore must deny entry in the best interests of the Commonwealth. Please do not process any entry permit applications from citizens of Bangladesh.



Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Division of Environmental Quality



P.O. Box 501304 C.K., Saipan, MP 96950-1304
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**Public Notice of Erratum
CNMI Aboveground Storage Tank Regulation**

The CNMI Division of Environmental Quality hereby gives notice of a printing error in Volume 27, Number 4 of the Commonwealth Register (May 2005); the final page of the recently adopted CNMI Aboveground Storage Regulations was inadvertently excluded. The excluded page, reproduced herein, addressed, in part, procedures for the issuance of administrative orders; severability of regulatory provisions; and delaying the effective date of the regulation 10 (ten) calendar days after the notice of adoption was published.

The complete version of the CNMI Aboveground Storage Regulations was available to the general public for review and comment at the DEQ Offices, on the DEQ webpage, and by written request or telephone request to DEQ. The printing error that excluded the final page of the regulations was limited solely to the Commonwealth Register. DEQ did not receive comments regarding the provisions that appeared on the last page of the regulations. Therefore, the duly adopted DEQ Aboveground Storage Tank regulations will remain in full force and effect with the addition of the final page.

SEP 21 2005

Date

John I. Castro, Jr., Director
Division of Environmental Quality

- 23.2.3 Any person subject to an Order imposing penalties pursuant to 23.2.2 may request, in writing, a hearing before the designated hearing officer. Request for a hearing shall be served upon the Division within seven (7) calendar days from the date the Order is received. Failure to request a hearing within seven (7) calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the Order.
- 23.2.4 Persons subject to orders issued pursuant to the Act and these regulations may also request an informal Settlement Conference. An informal Settlement Conference shall not affect the person's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.
- 23.2.5 Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, et seq.

PART 24 SEVERABILITY

Should any provision of these regulations or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and/or the application of the affected provision to other persons or circumstance shall not be affected thereby.

PART 25 EFFECTIVE DATE

These regulations will take effect (ten) 10 calendar days after notice of adoption is published in the Commonwealth Register.

COMMONWEALTH REGISTER

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 01-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **SAIPAN** and **TINIAN** effective **02:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, and **TINIAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta", written over a circular stamp.

JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 001

DATE: August 30, 2005

TIME: 2:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.3 DEGREES NORTH AND LONGITUDE 149.8 DEGREES EAST, OR ABOUT 365 MILES SOUTHEAST OF AGRIHAN, 330 MILES SOUTHEAST OF PAGAN, 270 MILES EAST OF SAIPAN, 280 MILES EAST OF TINIAN, AND 320 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST-NORTHWEST AT 13-MILES PER HOUR. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 12 TO 24 HOURS.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON LATER TODAY.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS DECLARED TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND TROPICAL STORM WARNING FOR THE ISLAND OF ROTA AS OF 2:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, AND SAIPAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

EMERGENCY DECLARATION NO. 02-2005

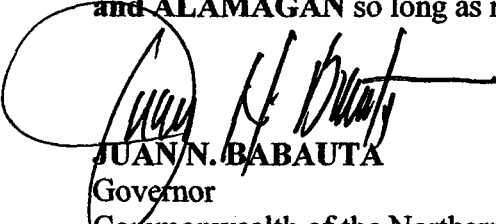
DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** for **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** effective **05:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **05:30 P.M., AUGUST 30, 2005**, on the islands of **ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 002

DATE: August 30, 2005
TIME: 5:30 P.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 4:00 P.M. THIS AFTERNOON, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 151 DEGREES NORTH AND LONGITUDE 149.1 DEGREES EAST, OR ABOUT 340 MILES SOUTHEAST OF AGRIHAN, 300 MILES SOUTHEAST OF PAGAN, 280 MILES SOUTHEAST OF ALAMAGAN, 225 MILES EAST OF SAIPAN, AND 230 MILES EAST OF TINIAN, AND 370 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS. TROPICAL STORM NABI 14W WILL MAINTAIN ITS CURRENT SPEED WITH A GRADUAL TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 50 MPH. NABI WILL CONTINUE TO STRENGTH...POSSIBLY BECOMING A TYPHOON TONIGHT. TROPICAL STORM FORCE WINDS EXTEND OUTWARD UP TO 90 MILES.

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W, GOVERNOR JUAN N. BABAUTA HAS MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF SAIPAN AND TINIAN AND UPGRADED TROPICAL STORM WARNING TO TROPICAL STORM CONDITION III FOR THE ISLAND OF ROTA, AGRIHAN, PAGAN, AND ALAMAGAN AS OF 5:30 P.M. THIS AFTERNOON.

RESIDENTS OF TINIAN, ROTA, SAIPAN, ALAMAGAN, AGRIHAN, AND PAGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TROPICAL STORM NABI (14W)

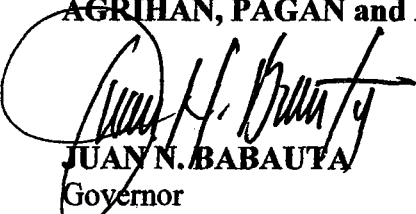
EMERGENCY DECLARATION NO. 03-2005 DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **UPGRADED TROPICAL STORM CONDITION III** to **TROPICAL STORM CONDITION II** for the islands of **SAIPAN** and **TINIAN**, and maintains **TROPICAL STORM CONDITION III** for the islands of **ROTA, AGRIHAN, PAGAN** and **ALAMAGAN** effective **08:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **08:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN** and **ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TROPICAL STORM NABI 14W
BULLETIN NO. 003

DATE: August 30, 2005
TIME: 8:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 7:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS LOCATED NEAR LATITUDE 15.1 DEGREES NORTH AND LONGITUDE 148.5 DEGREES EAST, OR ABOUT 315 MILES SOUTHEAST OF AGRIHAN, 275 MILES SOUTHEAST OF PAGAN, 250 MILES SOUTHEAST OF ALAMAGAN, 185 MILES EAST OF SAIPAN, 190 EAST OF TINIAN, AND 230 MILES EAST-NORTHEAST OF ROTA. TROPICAL STORM NABI 14W IS MOVING WEST AT 13 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS...TROPICAL STORM NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 65 MPH. NABI WILL CONTINUE TO STRENGTHEN....

BECAUSE OF THE ANTICIPATED THREAT OF TROPICAL STORM NABI 14W. GOVERNOR JUAN N. BABAUTA HAS UPGRADED TROPICAL STORM CONDITION III TO TROPICAL STORM CONDITION II FOR THE ISLANDS OF SAIPAN AND TINIAN AND MAINTAIN TROPICAL STORM CONDITION III FOR THE ISLANDS OF ROTA, AGRIHAN, PAGAN AND ALAMAGAN AS OF 8:30 P.M. THIS EVENING ACCORDING TO NATIONAL WEATHER SERVICE, TIYAN, GUAM TROPICAL STORM NABI 14W WILL INTENSIFY INTO A TYPHOON BY EARLY TOMORROW MORNING.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN AND SAIPAN, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ROTA, ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF TROPICAL STORM NABI 14W AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TROPICAL STORM NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 04-2005

DATE: 8/30/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **UPGRADED TROPICAL STORM CONDITION II** to **TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **TYPHOON CONDITION II** for the island of **ROTA**, and **TYPHOON CONDITION III** for the islands of **AGRIHAN**, **PAGAN** and **ALAMAGAN** effective **11:30 P.M., AUGUST 30, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **11:30 P.M., AUGUST 30, 2005**, on the islands of **SAIPAN**, **TINIAN**, **ROTA**, **AGRIHAN**, **PAGAN** and **ALAMAGAN** so long as required by the emergency situation.

Handwritten signature of Juan N. Babauta in black ink.

JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 004

DATE: August 30, 2005
TIME: 11:30 P.M.

HERE IS THE LATEST INFORMATION ON **TROPICAL STORM NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 P.M. THIS EVENING, TROPICAL STORM NABI 14W WAS UPGRADED TO TYPHOON NABI 14W AND WAS LOCATED NEAR LATITUDE 14.6 DEGREES NORTH AND LONGITUDE 147.9 DEGREES EAST, OR ABOUT 325 MILES SOUTH-SOUTHEAST OF AGRIHAN, 280 MILES SOUTH-SOUTHEAST OF PAGAN, 250 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 150 MILES EAST-SOUTHEAST OF SAIPAN, 155 EAST OF TINIAN, AND 185 MILES EAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 14 MILES PER HOUR., DURING THE NEXT 12 TO 24 HOURS... TYPHOON NABI 14W, WILL GRADUALLY SLOW DOWN AND TURN SLIGHTLY TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE **75 MPH**. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF **TYPHOON NABI 14W**. GOVERNOR **JUAN N. BABAUTA** HAS UPGRADED **TROPICAL STORM CONDITION II** TO **TYPHOON CONDITION I** FOR THE ISLANDS OF SAIPAN AND TINIAN AND **TYPHOON CONDITION II** FOR THE ISLAND OF ROTA, AND **TYPHOON CONDITION III** FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 11:30 P.M.

GOVERNOR **JUAN N. BABAUTA** IS STRONGLY ADVISING THE **RESIDENTS OF TINIAN, SAIPAN AND ROTA**, TO SECURE ALL WINDOWS, LOOSE OBJECTS, MOVE SMALL BOATS TO SAFE HAVEN AND FOR THE RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CLOSELY MONITOR THE PROGRESS OF **TYPHOON NABI 14W** AS IT MOVES TOWARD THE MARIANA ISLANDS.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF **TYPHOON NABI 14W** AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 05-2005

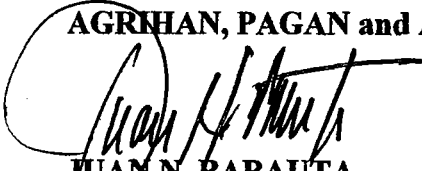
DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN** and **TINIAN**, and **UPGRADED TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the island of **ROTA**, and **MAINTAINS TYPHOON CONDITION III** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **02:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **02:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W

BULLETIN NO. 005

DATE: August 31, 2005

TIME: 2:30 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 1:00 A.M. THIS MORNING, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.0 DEGREES NORTH AND LONGITUDE 147.5 DEGREES EAST, OR ABOUT 290 MILES SOUTH-SOUTHEAST OF AGRIHAN, 240 MILES SOUTH-SOUTHEAST OF PAGAN, 215 MILES SOUTH-SOUTHEAST OF ALAMAGAN, 120 MILES EAST-SOUTHEAST OF SAIPAN, 125 MILES EAST OF TINIAN, AND 165 MILES EAST-NORTHEAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 14-MILES PER HOUR. DURING THE NEXT 12 TO 24 HOURS, THIS GENERAL MOTION WILL CONTINUES WITH A SLIGHT TURN TOWARD THE WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 75 MPH. NABI 14W WILL COTNINUE TO INTENSIFY DURING THE NEXT 24 HOURS.

BECAUSE OF THE ANTICIPATED THREAT OF TYPHOON NABI 14W, GOVERNOR JUAN N. BABAUTA HAS MAINTAIN TYPHOON CONDITION I FOR THE ISLANDS OF SAIPAN AND TINIAN AND HAS UPGRADED TYPHOON CONDITION II TO TYPHOON CONDITION I FOR THE ISLAND OF ROTA, AND MAINTAIN TYPHOON CONDITION III FOR THE ISLANDS OF AGRIHAN, PAGAN, AND ALAMAGAN AS OF 2:30 A.M. THIS MORNING.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, AND ROTA TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF TYPHOON NABI 14W AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIHAN SHOULD CONTINUE TO MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TYPHOON NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

EMERGENCY DECLARATION NO. 06-2005

DATE: 8/31/05

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands **DECLARED READINESS** and has **MAINTAINED TYPHOON CONDITION I** for the islands of **SAIPAN, TINIAN and ROTA** and **UPGRADED TYPHOON CONDITION III** to **TYPHOON CONDITION II** for the islands of **AGRIHAN, PAGAN and ALAMAGAN** effective **10:30 A.M., AUGUST 31, 2005**; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be executed, effective **10:30 A.M., AUGUST 31, 2005**, on the islands of **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN** so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta", written over a circular stamp or seal.

JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 009

DATE: August 31, 2005
TIME: 10:30 A.M.

HERE IS THE LATEST INFORMATION ON TYPHOON NABI 14W AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT 10:00 A.M. THIS MORNING, TYPHOON NABI 14W WAS LOCATED NEAR LATITUDE 15.5 DEGREES NORTH AND LONGITUDE 146.3 DEGREES EAST, OR ABOUT 230 MILES SOUTH OF AGRIHAN, 185 MILES SOUTH OF PAGAN, 155 MILES SOUTH OF ALAMAGAN, 45 MILES NORTHEAST OF SAIPAN, 60 NORTHEAST OF TINIAN AND 120 MILES NORTHEAST OF ROTA. TYPHOON NABI 14W IS MOVING WEST AT 10 MILES PER HOUR., DURING THE NEXT 12 HOURS.... TYPHOON NABI 14W IS EXPECTED TO TURN WEST-NORTHWEST.

MAXIMUM SUSTAINED WINDS ARE 85 MPH. NABI WILL CONTINUE TO INTENSIFY DURING THE NEXT 12 HOURS.

BECAUSE OF THE CONTINUING THREAT OF TYPHOON NABI 14W, GOVERNOR JUAN N. BABAUTA MAINTAINS TYPHOON CONDITION I FOR THE ISLANDS OF SAIPAN, TINIAN AND ROTA, AND UPGRADE TYPHOON CONDITION III TO TYPHOON CONDITION II FOR THE ISLANDS OF AGRIHAN, PAGAN AND ALAMAGAN AS OF 10:00 A.M. THIS MORNING.

DAMAGING WINDS ARE IMMINENT OR OCCURRING. NORTH WINDS 40 TO 50 MPH BECOMING NORTHEAST AND INCREASING TO TYPHOON FORCE 65 TO 75 MPH WITH GUSTS TO 100 MPH IN THE MORNING...THEN SHIFTING TO THE SOUTHEAST IN THE AFTERNOON. WINDS WILL SHIFT TO SOUTHWEST TONIGHT AND GRADUALLY DECREASE TO 30 TO 40 MPH AS TYPHOON NABI 14W MOVES WEST OF THE MARIANAS.

GOVERNOR JUAN N. BABAUTA IS STRONGLY ADVISING THE RESIDENTS OF TINIAN, SAIPAN, ROTA, TO REMAIN INDOORS AND CLOSELY MONITOR THE PROGRESS OF TYPHOON NABI 14W AS IT CLOSELY APPROACHES THE ISLANDS. RESIDENTS OF ALAMAGAN, PAGAN AND AGRIGAN SHOULD CONTINUE TO CLOSELY MONITOR AS WELL.

THE EMERGENCY MANAGEMENT OFFICE WILL CONTINUE TO MONITOR THE MOVEMENT OF TYPHOON NABI 14W AND WILL ISSUE ADDITIONAL INFORMATION AS SOON AS IT BECOMES AVAILABLE. PLEASE CONTINUE TO MONITOR OFFICIAL BULLETINS AVAILABLE THROUGH LOCAL MEDIA SERVICES, NOAA WEATHER RADIO BROADCAST AT 162.5 MEGAHERTZ, OR THE EMERGENCY INFORMATION HOTLINE AT TELEPHONE NUMBERS 322-0222 OR 322-0220.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON NABI (14W)

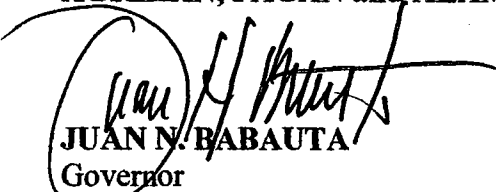
EMERGENCY DECLARATION NO. 07-2005 DATE: 9/01/05

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "ALL CLEAR CONDITION" for the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN effective 5:00 A.M., SEPTEMBER 01, 2005; and

WHEREAS, in accordance with the provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution, the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that operational portions of the CNMI Emergency Operations Plan be terminated, effective 5:00 A.M., SEPTEMBER 01, 2005, on the islands of SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN and ALAMAGAN.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands



Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep., Director

TYPHOON NABI 14W
BULLETIN NO. 016

DATE: September 01, 2005
TIME: 5:15 A.M.

HERE IS THE LATEST INFORMATION ON **TYPHOON NABI 14W** AS RECEIVED FROM THE NATIONAL WEATHER SERVICE, TIYAN, GUAM, AND COMPILED AT THE EMERGENCY MANAGEMENT OFFICE, OFFICE OF THE GOVERNOR.

AT **05:00 A.M** THIS MORNING, **TYPHOON NABI 14W** WAS LOCATED NEAR **LATITUDE 16.9 DEGREES NORTH AND LONGITUDE 142.2 DEGREES EAST**, OR **250 MILES WEST-NORTHWEST OF SAIPAN, 245 MILES WEST-NORTHWEST OF TINIAN, 265 MILES NORTHWEST OF ROTA, 230 MILES WEST-SOUTHWEST OF ALAMAGAN, 230 MILES WEST-SOUTHWEST OF PAGAN...AND 250 MILES WEST-SOUTHWEST OF AGRIHAN.**

TYPHOON NABI 14W IS MOVING **WEST-NORTHWEST** AT **13 MPH**. THIS GENERAL MOTION IS EXPECTED TO CONTINUE OVER THE NEXT 24 HOURS. **MAXIMUM SUSTAINED WINDS ARE 120 MPH** AND CONTINUE TO INTENSIFY OVER THE NEXT 24 HOURS.

BECAUSE **TYPHOON NABI 14W** IS MOVING AWAY AND NO LONGER CONSIDER A THREAT TO OUR AREA, GOVERNOR **JUAN N. BABAUTA** HAS DECLARE "**ALL CLEAR CONDITONS**" FOR THE ISLANDS OF **SAIPAN, TINIAN, ROTA, AGRIHAN, PAGAN AND ALAMAGAN** AS OF **4:30 A.M.** THIS MORNING.

AS A RESULT OF THE ALL CLEAR CONDITION, **ALL GOVERNMENT EMPLOYEE ARE TO REPORT BACK TO WORK THIS MORNING (THURSDAY, SEPTEMBER 01, 2005)**

GOVENOR **JUAN N. BABAUTA** IS STILL REMINDING THE RESIDENTS TO TAKE CAUTION AGAINST HEAVY RAINFALL AND POSSIBLE FLOODING ALONG ROADWAYS AND IN LOW-LYING AREAS, AND HAZARDOUS SURF CONDITIONS ALONG COASTAL AREAS.

THIS WILL BE THE FINAL BULLETIN ON TYPHOON NABI 14W UNLESS CONDITION CHANGE.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:


**COMONWEALTH UTILITIES CORPORATION
LACK OF POWER AUGUST 2005.**

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on July 18, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. In addition, Engine Numbers 3, 4 and 8 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Reports for Power Plant I dated August 3, 2005 and August 17, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

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

The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of this authority for the first ninety (90) days of the State of Disaster Emergency shall be transmitted to the presiding officers of the Legislature as soon as practicable.


JUAN N. BABAUTA

Dated this 17th Day of August 2005.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

DECLARATION OF A STATE OF DISASTER EMERGENCY:

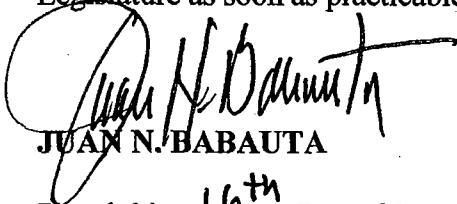
COMONWEALTH UTILITIES CORPORATION
LACK OF POWER SEPTEMBER 2005.

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, do declare a continued State of Emergency for the Commonwealth of the Northern Mariana Islands (CNMI), with respect to the Commonwealth Utilities Corporation (CUC) and its inability to provide power generation service to the CNMI.

This Declaration of a State of Disaster Emergency is made after finding that the recommendations and justifications that existed for the Declaration of a State of Disaster Emergency on August 17, 2005 remain in existence and that emergency measures must remain in place in order to insure the safety of the people of the CNMI. Although Engine Number 8 is now online and in full operation after undergoing emergency replacement of its foundation bolts, Engine Numbers 3 and 4 at Power Plant I remain offline and are undergoing emergency repairs. See Power Generation Status Report dated September 14, 2005 (Attached). As such, I find that the threat or danger to the CNMI caused by the lack of 'back-up' or reserve power generation capacity, the continued need to initiate critical maintenance and repair of power generation facilities; and the uncertain financial condition of CUC and its ability to make all required fuel payments due to increased fuel costs, mandate the issuance of this State of Disaster Emergency Declaration.

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

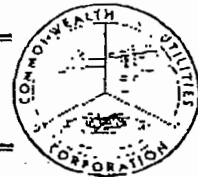
The Declaration of State of Disaster Emergency dated May 19, 2005, the Renewal of the Declaration of State of Disaster Emergency dated June 19, 2005, the Declaration of State of Disaster Emergency dated July 18, 2005, the Declaration of State of Disaster Emergency dated August 17, 2005 and all memoranda, directives and other measures taken in accordance with such Declarations, therefore, shall remain in effect for an additional thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of my authority during the State of Disaster Emergency will be transmitted to the presiding officers of the Legislature as soon as practicable.



JUAN N. BABAUTA

Dated this 16th Day of September 2005.

**GENERATION STATUS
AS OF SEPTEMBER 14, 2005**



Power Plant	Design MW	Available MW	Restriction %	Std. Run hours for PMI	Run hours to-date	Overdue hours	Remarks
PP I							
D/E 1	7.27	6.5	89.4	36000	60,170	24,170	Overdue for 36,000 hrs. PMI
D/E 2	7.27	6.5	89.4	4,000	8,018	4,018	Overdue for 4,000 hrs. PMI
D/E 3	7.27	0.0	0.0	12000	20,701	8,701	Down due to crankpin seizure (8/1/05)
D/E 4	7.27	0.0	0.0	36000	44,690	8,690	Down due to crankpin seizure (7/16/05)
D/E 5	13.04	10.0	76.7	12000	26,188	14,188	Overdue for 12,000 hrs. PMI
D/E 6	13.04	10.0	76.7	4000	5,974	1,974	Overdue for 4,000 hrs PMI
D/E 7	13.04	10.0	76.7	12000	26,200	14,200	Overdue for 12,000 hrs PMI
D/E 8	13.04	10.0	76.7		118		Operational
Total	81.24	53					
PP II							
D/E 1	2.5	1.6	64.0				Operational
D/E 2	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 3	2.5	0.0	0.0				Under Rehabilitation/waiting for parts
D/E 4	2.5	0.0	0.0				Completion of power packs on progress
D/E 5	2.5	0.0	0.0				Operational (off-line for inspection 9/14/05)
D/E 6	2.5	0.0	0.0				Governor problem (elect'l. limit switch)
Total	15.0	1.6					
PP III							
D/E 1	1.5	0.0	0.0				Not operational
D/E 2	1.5	0.0	0.0				Not operational
D/E 3	1.5	0.0	0.0				Not operational
Total	4.5	0					
PP IV							
D/E 1	3.50	0.00	0.0				Down / Crankshaft problem
D/E 2	2.50	2.00	80.0				Operational
D/E 3	2.50	1.80	72.0				Operational
D/E 4	2.50	2.00	80.0				Operational
D/E 5	2.50	2.10	84.0				Operational
D/E 6	1.00	0.00	0.0				Down \ Generator bearing problem
D/E 7	1.00	0.90	90.0				Operational
D/E 8	1.00	0.90	90.0				Operational
D/E 9	1.00	0.90	90.0				Operational
Total	17.50	10.60					
Grand Total	118.24	65.20					

Remarks:

ecgilboy

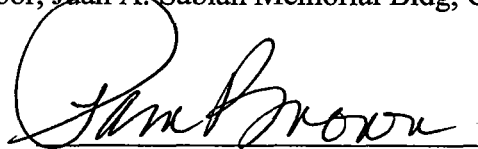
PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement a program to provide emergency short-term humanitarian aid to abandoned, unemployed alien workers. These regulations are promulgated as a necessary component of the administration of funds given to the Commonwealth by the United States Department of the Interior for Labor and Immigration Reform. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Commonwealth Register subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: The United States Department of the Interior has granted the Commonwealth Office of the Attorney General funds for the purpose of providing humanitarian aid to abandoned alien workers. Effective October 1, 2005 Karidat, Social Service, an agency that has been providing emergency relief to abandoned workers, will no longer be administering that program. Therefore, it is necessary to immediately adopt these regulations to eliminate a lapse in providing short-term emergency assistance to persons in crisis due to abandonment and who are unable to provide adequate food or shelter for themselves.

INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

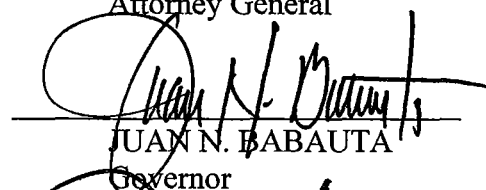
Submitted by:


PAMELA BROWN

Attorney General

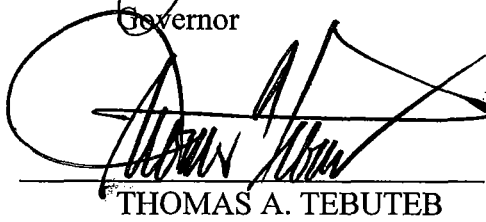
9/9/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

9/9/05
Date

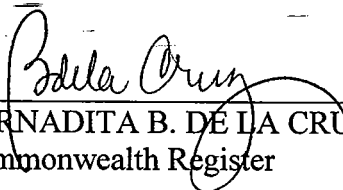
Received by:


THOMAS A. TEBUTEB

Special Assistant for Administration

9/12/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/12/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9th day of September 2005


PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS REGARDING HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Office of the Attorney General is adopting rules and regulations governing the provision of short-term humanitarian aid to abandoned alien workers.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

These emergency regulations govern how, and to whom, short-term emergency financial assistance may be provided from funds received from the United States Department of the Interior for that purpose, and from other sources.

Brief Summary of the

Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of funds given to that office by the United States Department of the Interior for the purpose of providing financial assistance to abandoned, unemployed alien workers.
- (2) Establish criteria for eligibility for relief.
- (3) Establish the amount and length of time for which relief is available, and conditions that may accompany the granting of relief.

For Further

Information Contact:

Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations:**

None

Dated this 14th day of September 2005.

Submitted by:

A handwritten signature in cursive script, appearing to read "Pamela Brown".

PAMELA BROWN
Attorney General

HUMANITARIAN AID FOR ABANDONED, UNEMPLOYED ALIENS

I. These Regulations establish and govern the provision of short-term humanitarian aid to alien workers who have been abandoned by their employers and who have been unable to secure new temporary or permanent employment. Exclusive jurisdiction over this program is vested in the Attorney General or her or his designee. The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible aliens and their employment status and in facilitating implementation of the program.

II. Definitions:

- a. *Abandoned*: A person is considered abandoned if her or his employer has left the jurisdiction or ceased business operations and any of the following circumstances exist;
 1. without fully compensating the worker(s) in full for all hours worked, or
 2. without following the procedures to be followed under the Alien Labor Rules and Regulations and employment contract for termination of employees due to reduction in force or cessation of business activity, and worker repatriation, or
 3. without providing to the worker (s) one-way airfare to the point of hire, or
 4. if the employer provided food and/or housing, without providing for adequate food and shelter for the worker(s) for a reasonable period of time following cessation of the business activity.
- b. *Alien worker*: A person whose most recent entry into the Commonwealth was for purposes of employment under Immigration Regulation 706 (K), or any person who falls within the definition of "Nonresident Worker" as defined in the Nonresident Workers Act, 3 CMC § 4412(i).
- c. *Humanitarian Aid*: Short-term assistance provided to an alien worker for food, other necessities, and shelter.
- d. *Voucher*: A monetary instrument issued by the Office of the Attorney General Humanitarian Aid Fund, not to exceed a sum certain, that identifies the person in whose favor the voucher is issued, that may be used for the purchase of food, other necessities, or housing. Vouchers are non-transferable and shall expire 30 days from their date of issuance. Vouchers may not be redeemed for cash or used for purchase of items other than food, other necessities, or housing.

III. The Fund:

There is a Fund administered by the Office of the Attorney General for the purpose of providing short-term humanitarian aid to abandoned alien workers. Expenditures from the Fund shall be made on a first-come-first served basis. The money in the fund shall come from sources identified by the Attorney General and shall not be

subject to reappropriation. Disbursements may be made by voucher redeemable at a specified location or locations, or may be made by cash or check.

IV. Eligibility determination:

Eligibility for humanitarian aid is based on need. The alien worker must show by proof acceptable to the Attorney General their status and eligibility for humanitarian aid. The Attorney General may perform such additional investigation into the worker's circumstances as is necessary to verify the status and request, and may ask the worker to provide such documents as may be necessary to a fair determination of eligibility. The Attorney General may require proof that the worker has actively been seeking work but has been unable to become employed.

V. Amount and conditions of grant:

The Attorney General may grant a worker not to exceed an aggregate total of \$200.00 for food, necessities, and housing allowance. The Attorney General may condition receipt of the aid upon the worker's promise to reimburse the Fund for moneys received in the event the worker becomes reemployed, or upon the worker's assignment of rights to an administrative or judicial award up to the amount of the humanitarian aid provided to the worker. Any such repayments shall be without interest.

Humanitarian aid is available only for emergency assistance.

The Attorney General may provide actual meals and/or lodging instead of a disbursement to the worker from the fund if warranted by the circumstances.

VI. Termination of Eligibility:

Humanitarian aid is available only one time, and only for a 30-day period from the first award. An application for aid is not subject to renewal.

VII. Other Eligible Persons:

The Attorney General may designate other persons eligible for humanitarian aid because of circumstances occurring outside the labor laws, such as foreign students abandoned by their sponsors, or other unusual circumstances as may from time to time arise. While the humanitarian aid program is intended primarily for short-term emergency assistance to alien workers, nothing shall prohibit the Attorney General from designating other persons or groups of persons as eligible for assistance based on need.

VIII. Miscellaneous:

1. Humanitarian aid may be denied to a person making a false statement or representation in connection with an original application or renewal application for humanitarian aid.
2. A person receiving similar assistance from another provider is not eligible for aid from the Office of the Attorney General.
3. A worker must attempt to become lawfully employed and thereby eliminate their need for aid.
4. Humanitarian aid may be denied to a person who, after receiving aid, uses the funds provided for purposes other than food and necessities and shelter.

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT RULES AND REGULATIONS IMPLEMENTING P.L. 11-66 (3 CMC § 4701 *et seq.*).

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General (AGO) finds that under 1 CMC § 9104(b), the public interest requires the passage of regulations to implement P.L. 11-66 (3 CMC § 4701 *et seq.*) These regulations are promulgated pursuant to the authority given in 3 CMC § 4702, and the transfer of responsibility for Immigration matters to the Attorney General by Executive Order 03-01. The AGO further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Registrar of Corporations, subject to the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: P.L. 11-66 creates a fund administered by the Attorney General to provide payments of uncollected administrative awards and for repatriation of alien workers who have been abandoned by their employers. During the first quarter of this year three employers of alien workers ceased operations and stranded a large number of alien workers in the Commonwealth without a means for them to repatriate. One company also owes workers a substantial amount in unpaid wages. The burden fell to the Commonwealth to use the fund created by P.L. 11-66 to return workers to their places of recruitment. The large demand placed on the fund by these recent events has demonstrated the need to clarify how the fund is to be administered in order to provide relief to the largest number of people and resolve uncertainties regarding the operation of the fund.

INTENT TO ADOPT: It is the intent of the Attorney General to adopt these emergency regulations pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Pamela Brown, Attorney General, or Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950.

Submitted by:


PAMELA BROWN
Attorney General

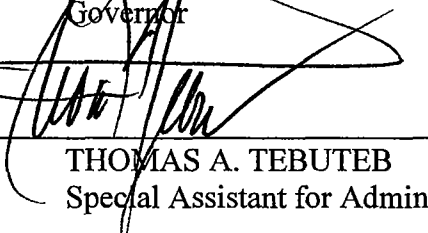
8/29/05
Date

Concurred by:


JUAN N. BABAUTA
Governor

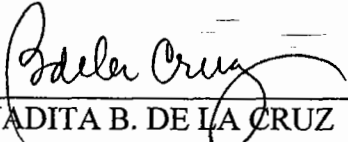
8/30/05
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

9/1/05
Date

Filed and Recorded by:

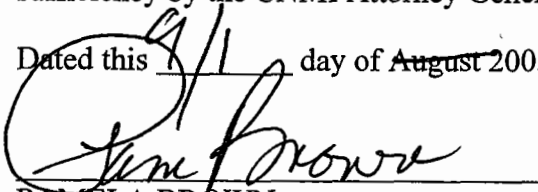


BERNADITA B. DE LA CRUZ
Commonwealth Register

9/1/05
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 9/1 day of August 2005



PAMELA BROWN
Attorney General

PUBLIC NOTICE

PROPOSED EMERGENCY REGULATIONS IMPLEMENTING

P.L. 11-66 (3 CMC § 4701 *et seq.*).

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, *et seq.* The Office of the Attorney General is adopting rules and regulations to implement P.L. 11-66, the Nonresident Workers Relief Act.

Citation of

Statutory Authority:

The Office of Attorney General is authorized to promulgate regulations to implement the Nonresident Workers Relief Act, 3 CMC § 4701 *et seq.* by 3 CMC § 4702 and the transfer of Immigration-related matters to the Attorney General by Executive Order 03-01.

Short Statement of

Goals and Objectives:

The emergency implement the Nonresident Workers Relief Act by defining terms and eligibility for relief, establishing the amount of payments, and by stating time limits and restrictions on requests for relief.

Brief Summary of the Proposed Regulations:

These emergency regulations are promulgated to:

- (1) Give the Attorney General responsibility for administration of the fund created by P.L. 11-66, 3 CMC § 4701 *et seq.*
- (2) Provide that workers must be unemployed in order to claim relief under the Act, and must execute an assignment of rights in favor of the Commonwealth in the event unpaid wages or repatriation funds are collected on behalf of the worker.
- (3) Provide that the amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.
- (4) Provide a 5-year time limit for claiming relief, and prohibit a worker who has received an award from reentering the Commonwealth for any reason for 180 days.

For Further

Information Contact:

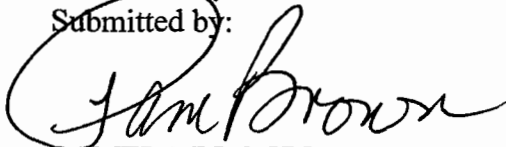
Kevin A. Lynch, Assistant Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950. (670) 664-2341(voice) or (670) 664-2349 (fax).

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

P.L. 11-66, as codified in 3 CMC § 4701 *et seq*, Executive Order 03-01 regarding the transfer of Immigration-related duties from the Secretary of Labor and Immigration to the Attorney General.

Dated this 9/1 day of ~~August~~ 2005.

Submitted by:



PAMELA BROWN
Attorney General

**NOTISIAN PUBLIKU POT ENSIGIDAS NA REGULASION SIHA
YAN NOTISIAN INTENSION PARA U MA'ADOPTA
AREKLAMENTO YAN REGULASION SIHA POT PARA U
MA'ENFUETSA I LAI PUBLIKU 11-66
(3 CMC SEKSIONA 4701 *et seq.*).**

ENSIGIDAS: I Commonwealth I Sankattan Siha Na Islas Marianas, gi Ofisinan I Abugâdu Henerât (AGO) masodda' na papa I lai 1 CMC Seksiona 9104(b), na I enteres publiku a gâgâgao para I mapâsan I regulasion siha pot para u ma'enfuetsa I Lai Publiku 11-66 (3 CMC Seksiona 4701 *et seq.*). Este na regulasion siha man ma'establesi sigun I aturidât ni ma'entrega gi hâlom 3 CMC Seksiona 4702, yan I matransferin I responblidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01. I Abugâdu Henerât a sodda mâs na I enteres pu

RASON I ENSIGIDAS: I Lai Publiku 11-66 a fatitinas I ma'atministreha na fundu ginen I Abugâdu Henerât para u probeniyi âpas I ti man marikokohi na premiun atministrasion yan para I dipottasion I estrangheru siha ni man ma abandona ni mu'empleleha siha. Durânten I fine'nina na quarter gi este na sâkkan tres na man empleleha estrangheru siha ma na pâra I operasion I bisnis niha ya ma'abandona kantidâha na estrangheru siha gi hâlom I Commonwealth sen hâfa na ditension pot dipottasion Guaha un kompania lokkue a didibe' I empleao-ña siha la'meggai na âpas suetdu. Todu este siha na problema man popodong gi Commonwealth ni para u ma'usa I man ma'establesi na fundu gi Lai Publiku 11-66 para u mabira tatte' I estrangheru siha amânu nai man ma'enlista para u fan macho'chu'. I tutât gâstum este siha na sinesedi gof tatkilo ya enao na manisisita para u ma na klâru hâfa taimanu para u ma'atministreha I fundu yanggen para u maprobeniyi ayudu para I mâs tatkilo' na tutât taotao ya u masâiba I ti man siguru na operasion I fundu.

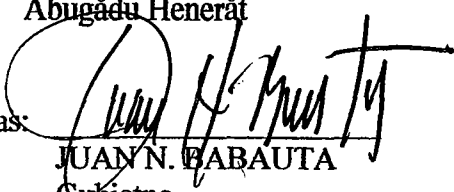
INTENSION PARA U MA'ADOPTA: I intension I Abugâdu Henerât para u adopta este siha na Ensigidas na Regulasion siha sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2). Des pues na, an hâyi enteresao na petsona siña muna halom tinige' opinion siha pot este ensigidas na rekomendasion siha para as Pamela Brown, I Abugâdu Henerât, osino as Kevin A. Lynch, Ayudânten I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950.

Ninahalom as:

PAMELA BROWN
Abugâdu Henerât

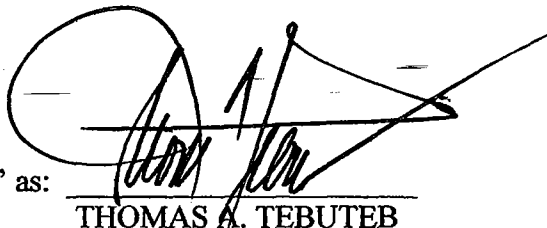
Fecha

Kinonfotme as:



JUAN N. BABAUTA
Gubietno

9/22/05
Fecha



Marisibe' as: THOMAS A. TEBUTEB
Espisiât Na Ayudânte Para I Atministrasion

Fecha

Pine'lo yan Rinikot as: Bernadita B. DeLa Cruz
BERNADITA B. DELA CRUZ
Rehistradoran I Commonwealth

9/22/05
Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I Ensigidas Na Regulasion siha ni man che'che'ton esta man ma'ina yan ma'apueba pot para u fotma yan ligât suficiente ginen I Ofisinan I Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi _____, 2005.

PAMELA BROWN
Abugâdu Henerât

NOTISIAN PUBLIKU

MAN MAPROPONE NA ENSIGIDAS NA REGULASION SIHA MA'ENFUETSA I LAI PUBLIKU 11-66 (3 CMC Seksiona 4701 *et.seq.*).

Este na amendasion ma'establesi ni para u konsiste ni Administrative Procedures Act, I CMC Seksiona 9101, *et.seq.* I Ofisinan I Abugâdu Henerât ma'adodopta I areklamento yan regulasion siha para u enfuetsa I Lai Publiku 11-66, I Nonresident Workers Relief Act.

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para u enfuetsa I Nonresident Relief Act, lai 3 CMC Seksiona 4701 *et seq.* ginen I lai 3 CMC Seksiona 4702 yan I matransferin I responsabilidât I asunton I Imigrasion para I Abugâdu Henerât ni Executive Order 03-01.

Kada'da' Na Finiho

Yan Diniseha:

I ensigidas na enfuetsamenten I Nonresident Workers Relief Act a dififina I palabrâ siha, yan I kuâlifikaon I ayudu, ma'establelesi I tutât I âpas, yan u mamensiona I tiempo yan I pribision I man gâgâgao ayudu.

Kada'da' Na Mensâhe

Pot I Man Mapropone

Na Regulasion siha: Este I ensigidas na regulasion siha man ma'establesi para; uma

1. Entrega I Abugâdu Henerât responsabilidadât para I atministrasion pot I ma'establesin fundu ginen I Lai Publiku 11-66, 3 CMC Seksiona 4701 *et seq.*
2. Probeniyi na I man machochochu' ti ma'empleleha yanggen para u ma'ayuda papa I Akto, ya debi di u fan laknos assignment of rights ni a supopotta I Commonwealth pot asunton I ti man ma'apâpâsi na suetdu yan I dipottasion salâpe an marikohi para I empleao siha.
3. Probeniyi na I tutât I âpas debi di u akto na tutât I premiun atministrasion dumaña yan I âpas ticket batkonaire para I dipottasion, gi I tutât ti debi di u upus \$3,000.00

4. Probeniyi na I singko años na tiempo para I ginagaon ayudu, ya u probidu I macho'cho'chu' ni a risibe' I premiuna para u hálom talo' gi Commonwealth para maseha háfa na rason gi hálom siento-ochienta (180) diha siha.

Para Mås

Infotmasion Ágang: Si Kevin A. Lynch, Ayudánten I Abugádu Henerát, gi Ofisinan I Abugádu Henerát, gi mina dos bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan MP 96950. Numirun Tilifon (670) 664-2341 (voice) osino (670) 664-2349 (fax).

**Annok I Man Achule'
Yan/pat Man Inafekta
Na Lai, Areklamento,
Regulasion, yan Otden**

Siha: Lai Publiku 11-66, ni makodigu gi 3 CMC Seksiona 4701 *et seq.*, Executive Order 03-01 ni tineteka I matransferin I responibilidadat I asuntun I Imigrasion ginen I Sekretarion I Labor yan Immigrasion para I Abugádu Henerát.

Mafecha gi este fine'nina na ha'áne gi Septiembre, 2005.

Ninahalom as:

PAMELA BROWN
Abugádu Henerát

**-ARONGOL TOULAP REEL GHITIPWOTCHOL ALLÉGH KKAAL ME
ARONGOL AGHIYEGHIL IGHA EBWE FILLÓÓY ALLÉGH KKA EBWE
ATOTOOLONG P.L. 11-66 (3 CMC táilil 4701 et seq.).**

GHITIPWOTCHOL: Commonwealth Téel falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap (AGO) e schungi bwe faal 1 CMC táilil 9104(b), bwe llól tipeer toulap bwe rebwe mweiti ngáli fféerúl allégh igha rebwe ayoora P.L. 11-66 (3 CMC táilil 4701 et seq.) allégh kkaal nge e akkaté bwelle bwáng ye toowow mereel 3 CMC táilil 4702 me alusul bwángil immigration ngáli Sów Bwungúl Allégh sáangi akkúleyal Sów Lemelem 03-01. AGO ebwal schungi bwe tipeer toulap bwe rebwe tabweey fillóól allégh kkaal llól eliigh (30) rállil yaal arongowow, me bwelle igha allégh kkaal ebwe schéeschéél ammwello llól Register of Corporations, kkapasal igha ebwe alughulughulo mereel Sów Lemelem, me ebwe fischeló llól ebwughúw ruweigh (120) rááilil.

AWEWEEL GHITIPWOTCHOL: P.L. 11-66 e ayoora fundo ye e toowow mereel Sów Bwungúl Allégh Lapalap igha ebwe ayoora óbwóssul administrative awards me assáfalil schóóy angaang kka aramasal lúghúl ikka samwoolur e lighitiiló mwirimwiril. Ótol first quarter llól rágh yeel élésháy employers kka samwoolur schóóy angaang e ayuwuló yaar angaang me re ssogh schóóy angaang kka aramasal lúghúl rebwe asáfaliir ló wóól falúweer. Eyoor kkompania ye esáál kke óbwósuur layúr schóóy angaang. Weires yeel nge a lo ngáli Commonwealth bwe ebwe yááli salaapi ye e fféer sáangi P.L. 11-66 iye ebwe asefáaliir schóóy angaang kka aramasal lúghúl ló wóól falúweer bwelle recruitment. Llapal salaapi ye ekke tittingór bwelle reel mwóghútúl yeel nge ebwe affatewow ebwe faisúl yaar mwóghút ágheli salaapi yeel igha ebwe alisiir aramas kkaal me aghatchúwuló meeta kka ese welepakk bwelle reel fundo.

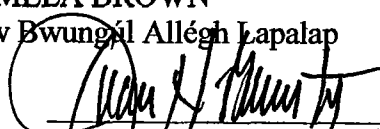
AGHIYEGHIL FILLÓ YEEL: Aghiyeghil Sów Bwungúl Allégh Lapalap bwe ebwe fillóóy ghitipwotchol Allégh kkaal bwelle 1CMC talil 9104 (a)(1) me (2). Schéeschéél, schóókka eyoor mángemángiir nge rebwe ischilong reel Pamela Brown, Sów Bwung, me ngáre Kevin A. Lynch, Sów Alillisil Sów Bwung, Bwulasiyool Sów Bwungul Allegh, Aruwowal pwo, Juan A. Sablan Memorial Bldg, Capitol Hill, Seipél MP 96950.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Rál

Alúghúlúgh sáangi:



JUAN N. BARAUTA
Sów Lemelem

9/22/05

Rál

Mwir sáangi:



THOMAS A. EBEUB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Commonwealth Register

Ral

ARONGOL TOULAP
POWMOL GHITIPWOTCHOL ALLEGH KKAAL IYE EBWE AYOORALONG
ALLEGHUL TOULAP 11-66 (3 CMC TALIL 4701 et seq.).

Lliwel yeel nge ebwe akkate bwelle reel Administrative Procedure Act, 1 CMC talil 9101, et seq. Bwulasiyool Sów Bwungúl Allégh nge ebwe fillóóy allegh kkaal bwe ebwe ayoora Alléghúl Toulap 11-66, ammwelil schóóy angaang kkaal (Nonresident Workers Relief Act.).

Akkatéél bwángil: Bwulasiyool Sów Bwungúl Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl ammwelil schóóy angaang kka aramasal lúghúl, 3 CMC talil 4701 et seq. sáangi 3 CMC talil 4702 me alusul mwóghútúl immigration ngáli Sów Bwungúl Allégh Lapalap sáangi Akkuleyal Sów Lemelem 03-01.

Aweweel pomwol lliwel: Ghitipwotchol atotoolong reel Ammwelil schóóy angaang kka aramasal lúghúl iye ebwe aweweey yaal term me aghatchú fillongol, atotoolong llapal salaapi, me abwáári ótol aighúghúl me restriction sangi tigorol relief.

Akkateel akkááw bwángil allegh: Ghitipwotchol Allégh kkaal nge ebwe akkaté bwelle ebwe:

- (1) Ngalleey Sów Bwungúl Allégh bwángil reel ebwe mwóghut agheli fundo ye e toowow mereel P.L 11-66, 3 CMC talil 4701 et seq.
- (2) Ayoorallong bwe schóóy angaang kka aramasal lughul nge rese kke angaang igha rebwe tingorol relief sangi allegh yeel, me rebwe alleghelo bwangil iye toowow mereel Commonwealth ngare rese obwossuur me assefalil salaapi ikka re bwughi sangi yaal angaang.
- (3) Ayoorallong llapal obwos ye ebwe scheescheel llapal yaal administrative award fengal me meel air fare, iye ebwal toolong llapal iye essobw luulo eliigh sangaras (3000.00).
- (4) Ayoora otol limoow raagh (5-year time limit) reel tingorol relief, me ayuulo schooy angaang kka raa bwughil award meigha re sefallong llo Commonwealth bwelle meeta llo ebwughuw waliigh (180)raalil.

Sáangi allégh ye 1 CMC talil 2153, iye a lliwel mereel Alléghúl Toulap 10-50, alléghúl ghitipwotchol yeel nge raa takkal amweri fischiy me allégheló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ llól _____ 2005

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

Aramas ye ubwe faingi:

Kevin Al. Lynch, Sow Alillisiil Sow Bwungul Allegh Lapalap, Bwulasiyool Sow Bwung, Aruwowal pwo, Juan A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950. (670) 664-2341 (voice) me ngare (679) 664-2349 (fax).

Akkateel akkaaw bwangil allegh: P.L.11-66, iye raa alleghelo lloil 3 CMC talil 4701 et seq, akkuleyal Sow Lemelem 03-01 bwelle reel alullusul ngare mwoghutul Immigration ye e ghil ngali yaal angaang mellol Secretary of Labor me Immigration ngali Sow Bwungul Allegh Lapalap.

Rallil ye _____ lloil _____ 2005

Isaliyallong:

PAMELA BROWN
Sow Bwungul Allegh Lapalap

REGULATIONS IMPLEMENTING P.L. 11-66

I. Definitions:

- a. *Administrative award*: An administrative award is a finding or order issued by the Department of Labor, Division of Administrative Hearings stating that an employer is financially liable to a current or former employee as a result of a cause of action arising from the employment relationship.
- b. *Air fare*: Air fare is the cost of air transportation for the alien worker from the Commonwealth to the point of recruitment.
- c. *Unemployed*: An alien worker is unemployed if he or she is not subject to a contract approved by the Director of Labor or his designee and does not have an application for a work permit pending with the Department of Labor.

II. Administration:

The Office of the Attorney General has primary responsibility and authority for the administration of the Commonwealth Nonresident Worker Relief Act of 1999, P.L. 11-66, 3 CMC § 4701 *et seq.* (the Act). The Department of Labor shall work cooperatively with the Attorney General to provide information identifying eligible nonresident workers and their status and in facilitating implementation of the Act.

III. Eligibility and amount of payment:

To be eligible for funds and air fare under the Act the worker must be unemployed. If an application for a work permit is pending with the Department of Labor when the worker requests relief, the worker must resign by written notice provided to the Department and the prospective employer. If a worker is on Temporary Work Authorization (TWA) awaiting relief under the Act, the TWA will expire upon the issuance of the repatriation ticket.

The alien worker must execute an assignment of rights in favor of the Commonwealth government to any amounts collected on behalf of the worker. The assignment of rights shall be on a form and in a manner proscribed by the Attorney General. The form shall also provide that any amounts collected by the Commonwealth in excess of the amounts spent for repatriation and payment of the administrative award shall be remitted to the worker, provided the worker notifies the Attorney General of the worker's address in his or her home country.

The amount of the payment shall be the actual amount of the administrative award plus repatriation air fare, in a combined total amount not to exceed \$3000.00.

IV. Time limits:

- a. To be eligible for relief under the Act the alien worker must make a claim for payment and repatriation within five (5) years from the date of the Administrative Order granting the administrative award. For persons eligible for relief under this regulation who have been granted administrative awards but have not requested relief, the five-year period shall commence on the date of adoption of this regulation. Claims made after expiration of the five-year period shall be barred except for good cause shown to the Attorney General.

- b. An alien worker who avails of relief pursuant to the Act shall not be permitted to reenter the Commonwealth for any reason for 180 days from the date of departure.

V. Restrictions:

- a. Employers and employees are not eligible for reimbursement under the Act for airfare provided to repatriated workers.
- b. Exclusive jurisdiction to resolve disputes arising under the Act or these Regulations is vested in the Attorney General by virtue of the Attorney General's authority to administer the Immigration laws.



Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs
Office of the Secretary

Caller Box 10007
Saipan, M.P. 96950



**NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENTION
TO ADOPT AMENDMENTS TO EXISTING MANUAL OF OPERATIONS
GOVERNING THE NUTRITION ASSISTANCE PROGRAM**

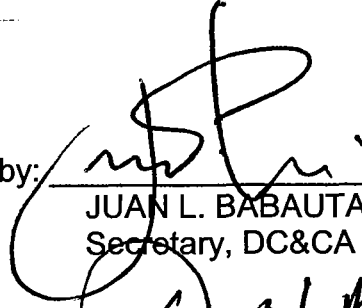
EMERGENCY: The Secretary of the Department of Community and Cultural Affairs finds that, pursuant to 1 CMC § 9104(b), the public interest requires the adoption of Emergency Regulations, upon concurrence by the Governor, to implement changes to the existing MANUAL OF OPERATIONS governing the Nutrition Assistance Program (NAP). The proposed Amendments would create a greater degree of security against counterfeiting or other misuse of Nutritional Assistance Food Stamp Coupons. The Secretary further finds that the public interest requires adoption of these amendments within fewer than thirty (30) days notice for the reasons stated below. These amendments in the MANUAL OF OPERATIONS shall become effective upon publication, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

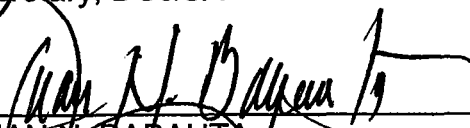
REASON FOR EMERGENCY: The counterfeiting and other fraudulent misuse of Nutritional Assistance Food Stamp Coupons has become more frequent and sophisticated in nature. In order to protect unsuspecting vendors and the banks who redeem these coupons, it is necessary to change the physical look of the coupons and to institute additional requirements to insure that only coupons issued to eligible participants of the Nutritional Assistance Program are used at the stores of authorized retailers.


CONTENT: Attached to this Notice of Emergency are the amendments to the Manual Of Operations.

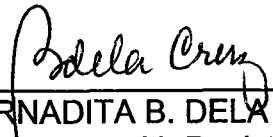
INTENT TO ADOPT: The Secretary intends to adopt these amendments to the existing regulations, requirements, policies and procedures contained in the Nutritional Assistance Program Manual Of Operations as permanent regulations, requirements, policies and procedures pursuant to 1 CMC § 9104(a)(1) and (2), and therefore publishes in the Commonwealth Register this notice of opportunity to submit comments. If necessary, a Hearing will be provided. Comments on the amendments to the Nutritional Assistance Program Manual Of Operations may be sent to: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

AUTHORITY: The Secretary is authorized to promulgate these regulations pursuant to 2 CMC § 5522(a).

Issued by:  8/29/05
 JUAN L. BABAUTA
 Secretary, DC&CA
 Date

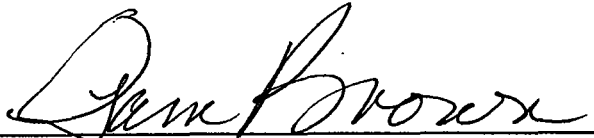
Concurring by:  8/29/05
 JUAN N. BABAUTA
 Governor
 Date

Received by:  8/29/05
 THOMAS A. TEBUTEB
 Special Assistant for Administration
 Date

Filed and Recorded by:  8/29/05
 BERNADITA B. DELA CRUZ
 Commonwealth Register
 Date

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 29th day of August, 2005.


 PAMELA BROWN
 Attorney General

Public Notice
Department of Community and Cultural Affairs

**EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS**

Citation of Statutory Authority: Pursuant to Article X, Section 8 of the Commonwealth Constitution and 1 CMC § 2553(j) and 1 CMC § 2557.

Short Statement of Goals and Objectives: To insure the use of only legitimate Food Stamp coupons by NAP authorized recipients.

Brief Summary of The Amendments: Nutritional Assistance Program Manual of Operations is amended to provide that NAP Food Stamp Recipients when redeeming coupons must do the following; 1) present a valid photo I.D. 2) present a valid Food Stamp Identification card. 3) Print the Photo I.D number and Food Stamp I.D. card number along with printing and signing their name on the back of each coupon. All this must be done in the presence of the vendor cashier.

For further Information Contact: The Nutritional Assistance Program at 235-9889.

Citation of Related and/or Affected Statutes, Regulations and Orders: NAP Manual of Operations Chapter VIII

EMERGENCY AMENDMENTS TO THE
NUTRITIONAL ASSISTANCE PROGRAM
MANUAL OF OPERATIONS

Nutritional Assistance Program Manual of Operations Chapter VIII Section (K)(4) is hereby amended to read as follows:

4. Use of Identifications Cards. The **Adult Head of Household** or its Authorized Representative shall present his Nutrition Assistance Program Identification Card and a Photo Identification, and on the back of each coupon, print the NAP I.D. card number & Photo I.D. number and their name and then sign each coupon in the presence of the cashier for the Authorized Retailers when exchanging **Nutrition Assistance Program Coupons** for eligible food and other eligible items enumerated on item K.2 and 3 above. The Adult Head of Household or its Authorized Representative shall also present his Nutrition Assistance Program Identification Card and a Photo Identification when performing Recertifications at Certification Unit, and picking up benefits at the designated Issuance Agent Location.

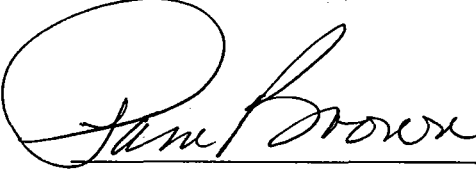

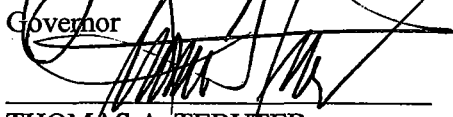
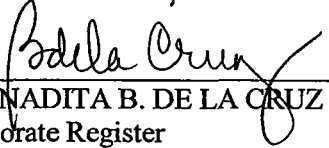
To be added to the NAP Manual of Operations Chapter VIII is the following:

- L. All NAP Program Coupons issued on or before August 31, 2005 must be redeemed at NAP authorized retailers on or before August 31, 2005.

PUBLIC NOTICE

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

The Commonwealth of the Northern Mariana Islands, Office of the Attorney General, notifies the general public of proposed amendments to Immigration Regulations §§706 and 707. It is the intent of the Attorney General to adopt such amendments, proposed on an emergency basis in May of 2005 pursuant to 1 CMC §9104(a)(1) and (2), as permanent. This publication of the proposed amendments in the Commonwealth Register provides notice and opportunity for comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendments to Pamela Brown, Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Building, Capitol Hill, Saipan, MP 96950 or by fax at (670) 664-2349 during the thirty (30) day period immediately following the publication of these proposed amendments.

Submitted by:	 PAMELA BROWN Attorney General	<u>8/19/05</u> Date
Concurred by:	 JUAN N. BABAUTA Governor	<u>8/22/05</u> Date
Received by:	 THOMAS A. TEBUTEB Special Assistant for Administration	<u>8/23/05</u> Date
Filed and Recorded by:	 BERNADITA B. DE LA CRUZ Corporate Register	<u>8/23/05</u> Date

Pursuant to 1CMC §2153, as amended by Public Law 10-50, amendments attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 19 day of August 2005.


PAMELA BROWN
Attorney General

PUBLIC NOTICE
PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTIONS 706 and 707

**Citation of
Statutory Authority:**

The Office of Attorney General is authorized to promulgate regulations for entry and deportation of aliens in the Commonwealth of the Northern Marianas pursuant to Executive Order 03-01 and 3 CMC § 4312(d).

**Short Statement of
Goals and Objectives:**

The Attorney General finds that it is in the public interest to amend Immigration Regulations §§706K, 706P and 707 to require that all non-resident workers entering the Commonwealth of the Northern Mariana Islands to work in establishments licensed to serve alcohol be at least twenty-one (21) years of age. Specifically, the Attorney General finds that the employment of non-resident workers under the age of 21 in alcohol establishments has created problems for both criminal and immigration enforcement authorities, has led to inexperienced workers entering the CNMI, and is not consistent with the efficient enforcement of the liquor laws.

The Attorney General further finds that the current Immigration Regulation §706P is not sufficiently defined as falling outside of the Non-resident Workers Act and is therefore not effective in its present form.

The Attorney General further finds that it is in the public interest that Immigration Regulation §707 be amended to include reference to an "Overseas Employment Certificate" or OEC. An OEC is an official document issued by the Government of the Philippines to workers applying for employment abroad. The Attorney General finds that, in the case of Filipino workers, this certificate can be the best evidence of the worker's identity, employment eligibility, and job category.

**For Further
Information Contact:**

Ian M. Catlett, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2366 or facsimile (670) 234-7016.

**Citation of Related
and/or Affected Statutes,
Rules and Regulations,
and Orders:**

The proposed amendments affect or are related to Immigration Regulations Sections 706 and 707.

Dated this 19 day of August 2005.

Submitted by:



PAMELA BROWN
Attorney General

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

I Ofisinan I Abugâdu Henerât, gi Commonwealth I Sankattan Siha Na Islas Marianas, a notifikika I publiku henerât pot I man mapropone na amendasion siha gi Regulasion Imigrasion Seksiona 706 yan 707. I intension-ña I Abugâdu Henerât para u adopta I man ma'amenda, I mapropone gi ensigidas na manera gi Mâyu 2005 sigun I lai 1 CMC Seksiona 9104 (a)(1) yan (2), petmanente. Este na publikasion I man mapropone na amendasion gi Rehistradoran I Commonwealth a probeniyi notisia yan opotunidât para u guaha opinion siha. Yanggen nisisârio, u maprobeniyi inekungok publiku. Todu I man interesao na petsona siña u mana fan hâlom tinige' opinion siha pot I man mapropone na amendasion guatto as Pamela Brown, I Abugâdu Henerât, gi Ofisinan I Abugâdu Henerât, gi mina Segundo na bibienda, gi as Juan A. Sablan Memorial Building, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi (670) 664-2349 durânten I trenta (30) diha siha na tiempo imidiâmente tinitiyi I publikasion este man mapropone na amendasion siha.

Ninahâlom:

PAMELA BROWN
Abugâdu Henerât

Fecha

Kinonfotme as:

JUAN N. BABAUTA
Gubietno

9/22/05

Fecha

Marisibe' as:

THOMAS A. TEBUTEB
Espisiât Nâ Ayudânte Para I Atministrasion

9/22/05

Fecha

Pinelo' yan
Marikot as:

BERNADITA B. DELA CRUZ
Rehistradoran I Koporasion

9/22/05

Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I amendasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan suficiente ligat ni Ofisinan I Abugadu Henerat I CNMI.

Mafecha gi este mina _____ na ha'ane gi Agostu 2005.

PAMELA BROWN
Abugadu Henerat

NOTISIAN PUBLIKU

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707

Annok I Aturidât

I Lai:

I Ofisinan I Abugâdu Henerât ma'aturisa para u establesi regulasion siha para I entrâda yan dipottasion I estrangheru siha gi Commonwealth I Sankattan Siha Na Islas Marianas sigun I Executive Order 03-01 yan I lai 3 CMC Seksiona 4312 (d).

Kada'da' Na Mensâhe

Pot I Finiho yan

Diniseha siha:

I Abugâdu Henerât masodda' na I enteres publiku para u ma'amenda I Regulasion Imigrasion Seksiona 706 K, 706P yan 707 para u ma'otden todû I hotnalerun Estrangheru siha ni man hâhâlom gi Commonwealth I Sankattan Siha Na Islas Marianas ni para u fan macho'chu' gi I man malisensia na bisnis ni man man bebende maneska na debi di u bente-uno (21) âños na idât. Spesifikâtmente,

I Abugâdu Henerât a sodda' na I ma'emplea na estrangheru siha ni papa I idât bente uno (21) âños gi bisnis siha ni man man bebende maneska ma na guaguaha prublema siha para I kriminât yan aturidât enfuetsamenten imigrasion, muna fan ekspirinsao siha na hotnaleru ya man hâhâlom gi CNMI, ya ti man konsiste ni enfuetsamenten I lai siha gi bândan maneska. I Abugâdu Henerât masodda' mâs na I presente na Regulasion Imigrasion Seksiona 706P ti madefina sufisiente na popodong gi sanhiyong I Non-Resident workers Act ya enao na ti efektibu gi presente na fotmasion.

I Abugâdu Henerât masodda' mâs na gaige gi I enteres publiku na I Regulasion Imigrasion Seksiona 707 na u ma'amenda ya u enklusu I refiriensian I "Overseas Employment Certificate" osino OEC. I OEC, ofisiât na dokumento ni malaknos ginen I gubietnamenton I Filipinas para I hotnaleru siha ni man aplilika para u fan ma'emplea gi otro tâno'. I Abugâdu Henerât a sodda' na, gi I kaosan I hotnalerun Filipina siha, este na setifiku siña un maolek na ebidensian I aidentifikasion I hotnaleru, kuâlifikaon empleao, yan I katigorian cho'chu'.

Para Mås

Infotmasion Ågang: Si Ian M. Catlett, Ayudånten I Abugådu Heneråt, gi Ofisinan I Abugådu Heneråt, Numirun Tilifon (670) 664-2366 osino Facsmile gi (670) 664-7016.

**Annok I Man Achule'
Yan/pat Inafekta Na
Lai, Areklamento,
Regulasion yan Otden**

Siha: I man mapropone na amendasion siha a afekta osino man achule' yan I Regulasion Imigrasion Seksiona 706 yan 707.

Mafecha gi este mina _____ na ha'åne gi Agosto 2005.

Ninahålom as:

PAMELA BROWN
Abugådu Heneråt

MAN MAPROPONE I AMENDASION SIHA GI REGULASION IMIGRASION SEKSIONA 706 yan 707:

Regulasion Imigrasion Seksiona 706K ma'amenda pot para u taitai:

Petmisun Entrádan Hotnalerun Estrangheru – I estrangheru ni humáháloom gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI) pot para u pofotma tempuláron na setbisiu osino hotnát ni masetifika na kuálifikao na estrangherun hotnaleru ginen I Dipáttamenton I Hotnát siña ma'entrega petmisun entráda kumo kinonfotme ni Lai Publiku 3-66, fuerra di maseha háyi na estrangheru papa I bente-uno (21) años na idát debi di u ma'aprueba para u háloom papa este na seksiona para u facho'chu' gi I malisensia na bisnis ni man man bebende maneska.

Regulasion Imigrasion Seksiona 706P ma'amenda pot para u taitai:

Petmisun Entrádan Espisiát na Manera siha – masedi I estrangheru papa I espisiát na manera siha para u saga ligát ya u facho'chu' háloom I Commonwealth sen más aturisasion papa I lai Commonwealth. I gumugu'ot I petmisu papa este na seksiona madespensa ni probension siha gi Non-Resident Act (3 CMC sect. 4411 et.seq.). Este na petmisu debi di u marinueba kada sakkan sigun I disision I Ofisinan Abugádu Henerát. Siña madiroga este na petmisu yanggen masodda' ni Abugádu Henerát na I espisiát na manera papa I petmisu ni malaknos ti eksiste esta.

Regulasion Imigrasion Seksiona 707 ma'amenda pot para u taitai:

Areklamenton Aturisasion Para Aplikasion Entráda.

- A. Aplikasion siha para I Aturisasion I Petmisun Entráda debi di u mana fan háloom gi Ofisinan I Imigrasion. Todu I aplikasion yan I dokumenton supottasion siha humuyong iyun I Ofisinan I Imigrasion. I aplikasion siha debi di u ma'arekla gi entre siette (7) diha siha ni todú I man aplikátble na nisisidát siha. I Aturisasion I Petmisun Entráda siempre man mafitma solamente ni Ofisiát Imigrasion fuerra di I Petmisun Entrádan Kada'da' Na Tiempo Bumisnis. Todu I dokumento siha debi di u fan mafitma papa I Penan I Chatmanhula.
- B. I Man Nisisário siha na Dokumeto Yanggen Para u Mapolu' gi Rihistradora.
1. Kabáles na Aplikasion
 2. Kopian Setifikun Finañágu ni masetifika,
 3. Maseha háfa na dokumento makonsidera ni I Ofisiát Imigrasion ya u

nisisário para u ma'apueba na dokumenton supottasion I katigorian aplikasion entráda, a enklulusu, I disision I Abugádu Henerát, I Overseas Employment Certificate (OEC) malaknos ni Gubietnamenton I Filipinas para I aplikánte.

- C. I ápas I aplikasion debi di u madipositu guatto I CNMI Treasurer an u polu I nisisário na dokumento siha gi Rehistradoran. Ti siña manana'lo tatte' I ápas aplikasion guatto gi aplikánte. I aplikasion siña u mahañágue guatto I Ofisinan I Imigrasion. Yanggen para un tugi'e' chek tugi'e' I CNMI Treasurer.
- D. Ti siña man ma'aksepta I aplikasion siha ginen I estrangheru siha yanggen man gaige gi hálom CNMI pot rason na man gaige sa pot man gai'kaosa gi Labor, Imigrasion osino asunton ligát siha. Lao, yanggen esta masátba I asunto, siña I estrangheru man aplika ni petmisun entráda, a riñueba osino tulaika I estao-ña.

**ARONGORONGOL TOULAP
POMWOL LLIWEL NGÁLI ALLÉGHÚL IMMIGRATION 706 ME 707**

Commonwealth Téél falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh Lapalap ekke arongaar toulap reel pomwol lliwel kkaal ngáli Alléghúl Immigration Talil 706 me 707. Mángemángil Sów Bwungúl Allégh bwe ebwe fillóoy lliwel kkaal, pomwol yeel igha re ghitipwotchol ótol Móózo 2005 bwelle reel 1 CMC táilil 9104 (a)(1) me (2), ebwe schééschéél. Akkatéél lliwel kkaal mellól Commonwealth Register e ayoora ammataf me bwángil aghiyegh. Ngáre e welepakk, arongorongol toulap imwu rebwe ayoora. Alongeer schóókka eyoor mángemániir nge emmwel rebwe ischilong reel Pamela Brown, Sów Bwungúl Allégh Lapalap, Bwulasiyool Sów Bwung, Aruwowal pwó, Juab A. Sablan Memorial Building, Capitol Hill, Seipel, MP 96950 me fax reel (670) 664-2349 ótol eliigh (30) rállil yaal akkatééwow powmol lliwel kkaal.

Isaliyallong:

PAMELA BROWN
Sów Bwungúl allégh Lapalap

Rál

Alúghúlúgh sáangi:

JUAN N. BABAUTA
Sów Lemelem

Rál

Mwir sáangi:

THOMAS A. TEBUTEB

Rál

Ammwel sáangi:

BERNADITA B. DELA CRUZ
Corporate Register

Rál

Sáangi allágh ye 1 CMC táilil 2153, iye aa lliwel mereel Allághúl Toulap 10-50, lliwel kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungól Allógh Lapalap

Rállil ye _____ llól Agosto 2005.

PAMELA BROWN
Sów Bwungúl Allégh Lapalap

**ARONGORONGOL TOULAP
POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL
IMMIGRATION TÁLIL 706 ME 707**

Akkatéél bwángil: Bwulasiyool Sów Bwungul Allégh Lapalap nge eyoor bwángil bwe ebwe akkaté alléghúl atotoolong me asáfalil aramasal lúghúl kka relo llo Commonwealth Téél falúwasch Marianas bwelle akkúleyal Sów Lemelem 03-01 me 3 CMC talil 4312(d).

Aweweel pomwol lliwel: Sáangi allégh ye 1 CMC talil 9104 (b), Sów Bwungúl Allégh Lapalap e schungi bwe llól tipeer toulap bwe rebwe fillóoy Alléghúl Immigration kkaal Tálil 706K, 706P me 707 igha ebwe yááyá ngáli alongeer schóól angaang kka aramasal lúghúl ikka re toolong llól Commonwealth Téél falúwasch Marianas rebwe angaang llól bwuley ye eyoor yaal lisensial áschí bwe rebwe ngálleer llól ruweigh me eew (21) rághil. Schééschéél, Sów Bwungúl Allégh Lapalap e schungi bwe schóól angaang kka aramasal lúghúl ikka re lo faal ruweigh mè eew (21) ikka re lo llo leliyel aschi re ayoora féfféér nggów me bwángiir immigration, iye re schungi bwe schóóy angaang mellól CNMI, nge rese tabweey alléghúl áschí.

Sów Bwungúl Allégh Lapalap ebwal schungi bwe alléghúl immigration kka ighila tálil 706P nge ese féerú alléghúl ngáre aramasal lúghúl me ese ghi fisch mwóghútúl ighila.

Sów Bwungúl Allégh Lapalap ebwal sóbwósóbwóló yaar schungi tipeer toulap bwe alléghúl immigration Tálil 707 rebwe fillóoy igha rebwe atoowowu mille “Overseas Employment Certificate” me ngáre OEC. Mille OEC nge schééschéél dokkomento ye e toowow mereel Gobennol Philippine ngaliir schóóy angaang kka re tittingór (apply) angaang mewóól akkááw falúw. Sów Bwungúl Allégh Lapalap e schungi, Schéél alúghúlúgh yeel nge ekke bwaári weleposol ngáre kkapasal schóóy angaang, fillongol angaang, me job category.

Reel ammataf faingi: Ian M. Catlett, Sów Alillisil Sów Bwungú Allégh, Bwulasiyool Sów Bwungúl Allégh, tilifoon (670) 664-2366 me facsimile (670) 234-7016.

Akkatéél bwángil akkááw allégh: Pomwol lliwel kkaal nge ebwe mwóghút me ngáre e ghilighil ngáli Alléghúl Immigration Tálil 706 me 707.

Rállil ye _____ llól Agosto 2005.

Isaliyallong: _____
PAMELA BROWN
Sów Bwungúl Allégh

ARONGORONGOL TOULAP

Alléghúl Immigration Tálil 706K iye aa ssiwel bwe rebwe árághi:

Lisensial schóóy angaang kka aramasal lúghúl – Schóóy lúghúl kka re toolong CNMI bwe tempiróriyo bwe rebwe alillis me féérú labor ikka raa certified bwe rekke angaang sangi Depattamentool Labor nge emmwel bwe rebwe ngálleer lisensial atotoolong bwelle reel Alléghúl Toulap No. 3-66, ese mmwel aramasal lúghúl kka faal, ruweigh me eew (21) rághil rebwe alúghúlúghúúr rebwe atolongoor faal tálil ye ubwe féérú angaang mellól bwuley ye eyoor lisensial bwe ubwe amwóghútú áschi.

Alléghúl Immigration Tálil 706P iye re fillóóy bwe rebwe árághi:

Lisensial atotoolong ye ghi welepakk – lisensial aramasal lúghúl kka re faal mwóghútúghút ye e ghi welepakk igha ebwe allégh yaal ebwe lootiw me angaang llól Commonwealth me essóbw yoor bwángil alléghúl Commonwealth. Schóókka eyoor yaar lisensia ikka re lo faal tálil yeel nge re exempted sáangi alléghúl schóóy angaang kka aramasal lúghúl (3 CMC talil 4411 et seq.). Lisensia yeel nge emmwel rebwe apiyówuta kkada ráágh me amwaschúúló sáangi schungiyeer sów bwungúl allégh bwelle mwóghút ye e ghi welepakk faal lisensia ye e toowow iye ese melaw lo.

Alléghúl Immigration Tálil 707 iye aa ssiwel bwe rebwe árághi:

Bwángil Entry Application Procedure:

- A. Schéél tingór reel Bwángil lisensial atotoolong nge ebwe isisilong reel Main Office llol Immigration. Alongal schéél tingór me dokkomentol nge ebwe toowow bwe yaal Bwulasyool Immigration. Schéél nge ebwe fféérló llól fisuuw (7) ráálil iye ebwe tabweey alongal tittingór kka e fil. Bwángil Lisensial atotoolong nge re mákkey sáangi Immigration Officer saabw reel Short-Term Business Entry Permits. Alongal dokkomento nge ebwe alúghúlúghúló faal penalty of perjury.

B. Dokkomento kka ebwe ammwello:

1. Schéel tittingór kka a takkaló,
2. Kkopia alúghúlúgh reel birth certificate:
3. Alongal dokkomento nge e allégh sáangi Immigration Officer bwelle ebwe ffat schéel tittingór entry classification, ebwal toolong, bwángil sów bwungúl Allégh, schéel alúghúlúgh ngáli schóoy angaang kka lúghúl (OES) iye e toowow mereel Gobennol Philippine ngáli applicant.
4. One and one quarter inch (1-1/4") frontal photograph e wewee schagh ngáre e schótchól me e bwesch me ngáre e kkoloot.

C. Méel schéel tingór yeel nge ebwe isisilong llól CNMI Treasurer bwe ebwe Ammwelghatchdokkomentool. Óbwós yeel nge ese mmwel rebwe asáfáli. Schéel Tingór nge emmwel ubwe mail. Salaapi (checks) nge ebwe mwete ngáli Treasurer mellol CNMI.

D. Alongeer schóoy lúghúl kkaal nge ressóbw alisi yaar tingór (applications) mellól Commonwealth ikka re lollo bwelle igha eyoor yaar fitighogho mellól Labor, immigration me ngáre legal matter. Bwal eew, ngáre schagh ffataló mwóghútúghút, schóoy lúghúl aa mmwel rebwe tingór (apply) lisensial atotoolong, fféer sefál me ssiwelil kkapasal ngáre e alúghúlúghúlóme labor, immigration me ngáre legal matter.

PROPOSED AMENDMENTS TO IMMIGRATION REGULATION SECTION 706 and 707:

Immigration Regulation §706K is amended to read:

Nonresident Worker Entry Permit – An alien who is coming temporarily to the CNMI to perform temporary service or labor who has been certified as an eligible nonresident worker by the Department of Labor may be granted an entry permit in accordance with Public Law No. 3-66, except that no alien under the age of twenty-one (21) shall be approved for entry under this section to perform work of any kind in an establishment licensed to serve alcohol.

Immigration Regulation §706P is amended to read:

Special Circumstances Entry Permit- permits an alien under special circumstances to legally remain and work in the Commonwealth without further authorization under Commonwealth law. A permit holder under this section is exempted from the provisions of the Non-Resident Workers Act (3 CMC §4411 et seq.). This permit shall be subject to annual renewal at the discretion of the Office of the Attorney General. This permit may be revoked upon a finding by the Attorney General that the special circumstances under which the permit was issued no longer exist.

Immigration Regulation §707 is amended to read:

Authorization For Entry Application Procedure.

- A. Applications for Authorization for Entry permits shall be submitted to the Main Office for Immigration. All applications and supporting documents become the property of the Office of the Immigration. Applications shall be processed within seven (7) days of compliance with all applicable requirements. Authorization For Entry permits will be signed only by the Immigration Officer except for Short-Term Business Entry Permits. All documents shall be filled out under penalty of perjury.
- B. Necessary documents for filing:
1. A completed application form,
 2. Certified copy of birth certificate,
 3. Any document deemed by the Immigration Officer to be necessary to substantiate the applicant's entry classification, including, at the discretion of the Attorney General, an Overseas Employment Certificate (OEC) issued by the Government of the Philippines to the applicant.
 4. One and one quarter inch (1-1/4") frontal photograph in either black and white or color.
- C. The application fee shall be deposited with the CNMI Treasurer by filing the necessary documents. The fee is non-refundable. Application may be made by mail. Checks must be made to "Treasurer of the CNMI".

- D. Applications shall not be accepted from aliens present in the Commonwealth whose presence is permitted solely because they have a pending labor, immigration or legal matter. However, once said matter is decided, the alien may apply for an entry permit, renewal or change of status if the alien prevailed in the labor, immigration or legal matter.

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Saipan, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tel: 670.664.2209 fax: 670.664.2211

**PUBLIC NOTICE OF PROPOSED REGULATIONS
WHICH ARE AMENDMENTS TO THE REGULATIONS OF
THE COMMONWEALTH TELECOMMUNICATIONS COMMISSION**

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Telecommunications Commission ("CTC"), intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CTC intends to adopt them as permanent, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b))

AUTHORITY: The CTC is required by the Legislature to adopt rules and regulations regarding those matters over which the CTC has jurisdiction, including its internal affairs. (4 CMC § 8313(b)(6); 4 CMC § 8301, *et seq.*, Public Law 12-39).

THE TERMS AND SUBSTANCE: The Regulations provide clear legal authority for the CTC to meet "virtually", rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's Open Meetings Act, 1 CMC § 9901, *et seq.* Typically one or more Commission members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Regulations define the virtual meeting and set out the requirements for public participation.

These Regulations shall be amendments to the CTC Regulations. These amendments add to the Regulations of the CTC, the attached **new Section 1-700 (Meetings)**.

THE SUBJECTS AND ISSUES INVOLVED: There are independent, but related, reasons for the promulgation of these regulations.

1. The Regulations provide procedures for the CTC to conduct its meetings when one or more of the Commissioners is not physically present. This is necessary because of the Commission's dispersed geographical representation (multiple islands) and the difficulties of travel in bad weather, as well as the complexities of the travel schedules of the Commissioners. The Regulations allow one or more of the Commissioners to call in

to the announced meeting place, a practice common in the business world.

2. The Regulations also provide procedures that conform to the CNMI's Open Meetings Act to insure that any member of the public may attend a CTC meeting and hear and view everything that every CTC Commissioner can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Commissioners are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Commissioners see and hear.

3. The Regulations also provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin boards – one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.


4. The Regulations also provide that the Commission's regular meetings shall ordinarily be the third Thursday of every month.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to CTC Acting Director Adam Turner, *Attn: New CTC Regs*, Box 505049, Capitol Hill, Saipan MP 96950 or fax 670.664.2211 or email to director@nmctc.com with the subject line "New CTC regs". Comments are due by November 30, 2005. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

Proposed regulations approved by the CTC on November 16, 2004, and

Submitted by:




JOSEPHINE DLG MESTA
Secretary, CTC




Date

Received by:


THOMAS A. TEBUTEB
Governor's Special Assistant for Administration

9/22/05
Date

Filed and
Recorded by:


BERNADITA B. DE LA CRUZ
Commonwealth Registrar

9/22/05
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 22nd day of Sept, 2005.



PAMELA S. BROWN,
Attorney General

0 CTC NOPR Meetings Oct 2005.wpd

COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
KOMISION TELECOMMUNICATION I COMMONWEALTH

Norman T. Tenorio, Kabesiyo
Caller Box 505049, Capitol Hill, Saipan MP 96950
(Fine'nina na Bibienda gi Building Honorable Juan A. Sablan)
Numirun Tilifon: 670-664-2209 Fax 670-664-2211

**NOTISIAN PUPBLIKU POT I MAN MAPROPONE NA REGULASION SIHA
NI MAN MA'AMENDA I REGULASION I KOMISION TELECOMMUNICATION I
COMMONWEALTH**

MA'INTENSION I AKSION PARA U MA'ADOPTA ESTE SIHA MAN MAPROPONE NA REGULASION SIHA: I Komision Telecommunication (CTC) gi Commonwealth I Sankattan Siha Na Islas Marianas, ma'intensiona para u ma'adopta i man mapropone na regulasion siha ni man che'che'ton petmanente, sigun i areklamenton i Akton Areklamenton Atministrasion, 1 CMC Seksiona 9104 (a). I Komision Telecommunication I Commonwealth ma'intensiona para u ma'adopta petmanente, ya man nãã'i' trenta (30) diha siha na notisia pot i intension. Siempre efektibu i regulasion siha dies (10) diha siha despues di i inadoptasion. (1 CMC Seksiona 9105 (b))

ATURIDÁT: I Komision Telecommunication I Commonwealth (CTC) ma'otden ni Lehislatura para u ma'adopta i areklamento yan regulasion siha ni tineteka eyu siha na asunto ni responsibilidad, a enklulusu i asunton sanhalom. (4 CMC Seksiona 8313 (b)(6); 4 CMC Seksiona 8301, et seq., Lai Publiku 12-39).

REGULASION YAN I SUSTANSIAN-NIHA: I Regulasion siha maprobeniyi mäs klãru na ligåt aturidåt para i Komision Telecommunication I Commonwealth na para u fan hunta "Konfiriensian Ilektrisdåt" ("virtually") adimäs hu gaige petsonåt, tatkomo u ma'atiende ni pumalu siha na taotao anai ma anunsia i lugåt i hunta, papa i Akton i CNMI pot Mababan I Hunta, 1 CMC Seksiona 9901, et. seq. Seso tenga uno pat mäs na membrun komision hu atiende ginen i konfiriensian tilifon, ni gai spika gi anai ma hunta i dinaña. I regulasion madefina i konfiriensian ilektrisdåt ya ma na guaha nisisidåt siha para i patisipaon i publiku.

Este na regulasion debi di u ma'amenda para i Regulasion i Komision Telecommunication I Commonwealth. Este na amendasion ma'omenta i Regulasion siha gi Komision Telecommunication I Commonwealth ni man che'che'ton na nuebu na Seksiona 1-700 (Hunta siha).

I PUNTO YAN ASUNTO SIHA NI MAN TINETEKKA: Man independente, lao ti man achule', pot rason para u ma'establesi este na regulasion siha.

1. I Regulasion siha maprobeniyi areklamento siha para i Komision Telecommunication I Commonwealth para u makondukta i huntan-niha yanggen uno osino mäs na membrun komisina siha ti man gaige petsonåt. Nisisário este pot rason na guaha membrun i komisina

ma prisensta otro siha na tano' gi isla-ta siha ya guaha-na besis nai bumaba i tiempo, parehu

ha' yan i sifaalan i batkon aire para i Komisina siha. I Regulasion siha a sesedi uno osino mas na membrun komisina para u ma'agang i lugat i hunta, este na prinaktika sesso gi bisnis i tano' .

2. I Regulasion siha a probeniyi lakkue areklamento anai siha makonfotma i Akton i Binaban i Huntan i CNMI para u ma'insura na maseha hayi na petsona siha ma'atiende para u ma'ekungok yan ina todú i hafa i membrun komisina mahuhungok yan i'ina, fuerra di ayu siha i man mapetmiti sikretu na pribilehu sigun i lai. Yanggen uno osino mas na membrun komisina man a'agang gi tilifon, i petsona ni ha atetiende debi di u na setbi i speakerphone anai siha u fan a'hungok gi sagan i hunta. Yanggen makondukta i hunta gi Internet, i mu atetiende debi di u manasetbe Computer anai siha u fan a'hungok yan a'li'e' yan i pumalu komisina.
3. I Regulasion siha a probeniyi lakkue para u guaha Computer anai siha makondukta i hunta yanggen masusedi ya gai annoko i tiempon-niha. Parehu ha' este yan i gasetan i computer, yanggen un petsona ha infotma i mensahe, ya i otro u oppe' gi birada, guaha na besis nai tinaka diha siha osino gi ora, estaki munayan i asunto.
4. I Regulasion a probeniyi lakkue na i regulat na hunatan komisina debi di u mahunta gi tetseru na Huebis kada mes.

DIREKSION YANGGEN PARA U MAPOLU YAN MAPUPBLIKA: Este siha I Man Mapropone na Regulasion debi di u mapupblika gi Rehistradoran i Commonwealth gi seksionan i man mapropone ya nuebu anai ma'adopta (1 CMC Seksiona 9102 (a)(1)) ya i notisia debi di u malaknos gi kombiniente na lugat siha gi civic center yan ofisinan gobietnamento siha gi kada distritun senadot siha, todú i dos Engles yan i lengguáhen prinsipat ni Natibu, Chamorro yan Refaluwasch. (1 CMC Seksiona 9104 9(a)(1)).

YANGGEN PARA UN NA GUAHA OPINION SIHA: Nahalom osino mail i opinion siha guatto as Adam Turner i Acting Director gi Komision Telecommunication I Commonwealth, Atension: Nuebu Na Regulasion Komision Telecommunication I Commonwealth, gi Box 505049, gi Capitol Hill, giya Saipan, MP 96950 osino fax guatto gi 670-664-2211 osino email guatto gi director@nmictc.com ni matitilu "Nuebu Na Regulasion Komision Telecommunication I Commonwealth". Uttimo i opinion siha gi Nobiembre 30, 2005. Pot fabot nahalom i opinion yan mensahe kinontra siha. (1 CMC Seksiona 9104 (a)(1))

I Man Mapropone Na Regulasion siha man ma'aprueba ni Komision Telecommunication I Commonwealth gi Nobiembre 16, 2004, ya

Ma Nahalom as: _____
JOSEPHINE DLG. MESTA

Fecha

Sekretaria,
Komision Telecommunication I Commonwealth

Marisibe' as: _____
THOMAS A. TEBUTEB
Espiãt Na Ayudãnten i Atministrasion i Gobietno

_____ Fecha

Pinelo' yan Rinikot as: _____
BERNADITA B. DELA CRUZ
Rehistradoran i Commonwealth

_____ Fecha

Sigun i lai 1 CMC Seksiona 2153 (e) (i inapruedan i Abugãdo Henerãt ni regulasion siha ni para u ma'establesi pot para u fotma) yan 1 CMC Seksiona 9104 (a)(3) (ma'aprueda ni Abugãdo Henerãt) i man mapropone na regulasion siha man che'che'ton esta man ma'ina yan ma'aprueda pot para u fotma yan ligãt sufisiente ni Abugãdo Henerãt ya debi di u mapublika (1 CMC Seksiona 2153 (f) (publikasion i areklamento yan regulasion siha)).

Mafecha gi este mina _____ na ha'ãne gi _____, 2005

PAMELA BROWN
Abugao Henerãt

**Commonwealth of the Northern Marianas Islands
Commonwealth Telecommunications Commission**

Norman T. Tenorio, Chair
Caller Box 505049, Capitol Hill, Seipel, MP 96950
(1st Floor Hon Juan A. Sablan Building)
tilifoon: 670. 664.2209 fax: 670. 664. 2211

**ARONGORONGOL TOULAP REEL POMWOL ALLÉGH KKAAL IKKA
SSIWELI ALLÉGHÚL COMMONWEALTH TELECOMMUNICATIONS
COMMISSION**

AGHIYEGHIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:

Commonwealth Téél falúw kka falúwasch, Commonwealth Telecommunications Commission (“CTC”), e mángi bwe ebwe schééschéél fillóóy pomwol allégh kka e appasch, sáangi mwóghútúl Administrative Procedure Act, 1 CMC táilil 9104(a). CTC nge e mángi bwe ebwe schééschéél fillóóy, me essóbw luuló eliigh(30) rallil yaal arongowow. (Id.) Allegh kkaal nge ebwe schééschéél allégheló llól seigh(10)rááilil mwiril yaal filló. (1CMC talil 9105 (b))

BWÁNGIL: Schóóy allégh nge re tittingór bwe CTC ebwe fillóóy allégh kkaal bwelle mwóghút ye CTC eyoor bwángil reel, ebwal toolong internal affairs. (4 CMC táilil 8313 (b)(6); 4 CMC táilil 8301, et seq., Alléghúl Toulap 12-39).

ALLÉGH KKAAL ME AWEWEEL: Allégh kkaal nge ebwe ayoora bwáng ye e ffat alléghúl ngáli CTC reel ebwe fil ngáli “virtually”, mmwal igha ipighil aramas, ngáre schagh amweyút re tabweey mwiisch me bwuley ye re fili, sáangi CNMI Open meeting Act, 1 CMC talil9101, et seq. Schééschéél nge escháy me ngáre fitimal mwiischil Commission nge emmwel ebwe kkapas llól telephone conference, fengál me speaker phone igha re fili bwe mwiisch ebwe lo iye. Allégh kkaal nge ekke affata ghatchúl mwiisch me isisiwow yááyál kkaal ngáliir alillisil toulap

Allégh kkaal nge ebwe ssiwel ngáli Alléghul CTC. Ssiwel kkaal nge ebwe schu ngáli Alléghúl CTC, Talil kka e ffe 1-700 (Mwiisch kkaal), aweewe reel akkaté kkaal.

ALLÉGH ME AWEWE KKA E FIL FENGÁL: Eyoor independent, nge e weewe fengál, kkapasal akkatéél allégh kkaal.

1. Allégh kkaal nge e ayoora mwóghútúghútúl CTC reel ebwe atéew mwiisch igha escháy me ngáre fitimal Commissioners ikka ipighil rese lo. Milleel nge e welepakk bwelle igha re lo wóól akkááw falúw (multiple islands) me nggówal raal ótol yaar fáráágh, me bwal ótol weiresil yaar Commissioners fáráágh. Allégh kkaal nge emmwel bwe escháy me ngáre iyo meleir Commissioners rebwe failong bwe rebwe ira iya igha ebwe lo mwiisch iye, Fasúl féfféer me wóól falúw tóttómwógh.

2. Allégh kkaal nge e bwal ayoora mwóghut-ye ebwe alúghúlúghúw CNMI's Open Meetings Act igha ebwe affata bwe inaamwo iyo meleir membroot toulap nge ebwe tabweey mwiischil CTC me amweri fischiy, kkapasal alléghúl igha executive ese tabweey mwiisch me akkáaw allégh e fil reel confidential me proprietary material. Ngáre escháy me iyo meleir Commissioners rekke mwaliili fengál wóól tilifoon, aramas kkaal nge rebwe connect sáangi tilifoon me ngáre emmwel bwe rebwe ásáling mereel speaker phone mellól kkwóto. Ngáre mwiisch yeel e tooto mereel internet, schóókka relo nge ebwe yoor yaal access ngáli computer igha ebwe weri me rongorong meeta Commissioners re weri me rongorong.
3. Allégh kkaal e bwal ayoora yaal access computer igha ebwe computerized mwiisch kkaal igha ebwe lááláay mwóghútúl. Milikkaal nge e weewe schagh computer bulletin board-escháy ebwe isisilong yaal message, escháy ebwe appalawal mwirilóól, emmwel ebwe fitoow ráal me fitoow oora, me sóbwósóbwóló, ngáre schagh ssiwelil text-based aa ffataló nge aa akkayuulo.
4. Allégh kkaal e bwal ayoora bwe ótol yaar mwiisch Commissioners nge ebwe aluuwal weipis llól maram.

AFAL REEL AISIIS ME AKKATÉÉWOW: Pomwol Allégh kkaal nge ebwe atotoolong llól Commonwealth Register llól Tálil la re pomwoli me allégh kka re fillóoy ikka e ffé (1 CMC Tálil 9102 (a)(1) me arongorong yeel ebwe aisis ghatch llól civic center me llól Bwulasiyool local government mellól alongal senatorial district, e weewe schagh llól Amerikónu me llól kkapasal Refalúwasch me Remeraalis. (1 CMC Tálil 9104 (a) (1))

ISISILONGOL MÁNGEMÁNG: Afanga me bwughiiló yóómw mángemáng reel CTC Acting ngáli Adam Turner, Attn: Allághúl CTC kka e ffe, Box 505049, Capitol Hill, Seipél MP 96950 me fax reel 670.664.2211 me ngáre email ngáli director@nmictc.com ngáli kkapasal "New CTC regs". Aghiyegh nge essóbw luuló Nobembre 30, 2005. Óutu ghal soong ów isisilong yáami data, ghuley'ami me ngáre aingiingil. (1 CMC Talil 9104 (4)(a)(2))

Alúghúlúghúl pomwol allégh kkaal sáangi CTC Nobembre 16, 2004, me

Isaliyáallong:

JOSEPHINE DLG MESTA
Sekkeretóriyol, CTC

Rál

Mwir sáangi:

THOMAS A. TEBUTEB
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi: _____
BERNADITA B. DELA CRUZ
Commonwealth Registrar

Rál _____

Sáangi allágh ye 1 CMC Tálil 2153 (e) (alúghúlúghúl AG reel allégh kka ebwe akkatééwow) me 1 CMC tálil 9104 (a)(3) (bwughi alúghúlúghúl AG) pomwol allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap me ebwe akkatééló (1 CMC tálil 2153 (f) (akkatéél allégh kkaal)).

Rállil ye _____ llál _____, 2005.

PAMELA S. BROWN,
Sów Bwungól Allégh Lapalap

Commonwealth of the Northern Mariana Islands
Commonwealth Telecommunications Commission

Proposed Amendment to Regulations:

Add to the Regulations of the Commonwealth Telecommunications Commission Part 1, the following new Section 1-700 (Meetings):

Section 1-700 Meetings

This section is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and 4 CMC § 8138(b)(6)(i) (promulgating administrative regulations).

- a. In general.
 - i. The Commission shall act at its meetings, or as otherwise provided in these Regulations.
 - ii. The Commission shall make provision for the virtual attendance of Commissioners, if a Commissioner so requests.
 - iii. Meetings shall be noticed as required by law.
 - iv. A copy of meeting materials distributed to the Commissioners shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.
- b. Time. The time for the regular meetings of the Commission shall be the third Thursday of every month at 6:00 p.m., except as otherwise permitted or provided by law.
- c. Location.
 - i. Meetings shall be held at such place as the Chair may determine unless otherwise provided by the Commission, and the location shall be properly noticed to the public.
 - ii. The Commission may meet virtually, and any Commissioner may attend a meeting virtually.
 - iii. When the Commission meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any

person attending shall have the same access to the meeting as each attending Commissioner at the site. Typically this will include use of a speaker phone for a conference call meeting.

- iv. Votes of Commissioners may be received by electronic means and announced at a meeting.
- d. Rules. Meetings of the Commissioners shall be conducted according to Robert's Rules of Order, most recent revision, unless:
 - i. otherwise specified in these Regulations; or
 - ii. the Rules are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.
- e. Regular Meetings. Regular meetings shall be held as determined by the Commission's Regulations and as additionally determined by the Commission.
- f. Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Commission.
- g. Executive Session. Ordinarily the Commission's meetings shall be open to the public. The Commission may meet privately, in Executive Session, for the following purposes:
 - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
 - (2) To discuss pending or potential litigation or investigations;
 - (3) To discuss aspects of the Commission's business affairs that are confidential and/or proprietary by law;
 - (4) To address a matter that may give rise to a conflict of interest, or an appearance of a conflict, in the absence of the Commissioner(s) related thereto; and
 - (5) To address other matters permitted by law.
- h. Virtual discussions.
 - i. The Commission may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given so that a person seeking to review the discussion as

it happens shall have substantially the same access to the discussion as each participating Commissioner.

- ii. Typically such a discussion shall be by electronic bulletin board open to the view of the public.
 - iii. Such discussion shall be noticed according to these Regulations and shall comply with CNMI law regarding open meetings.
 - iv. The Commission shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
- i. **Accessibility.** The Commission shall comply with the accessibility requirements required by law and may, upon a person's request accommodate other special needs relating to sight, sound, language or location.
- j. **Definitions.** For the purposes of this Section, the following definitions shall apply:
- i. **ELECTRONIC MEANS** includes telephone, video-conference, electronic-telecommunications-mediated written, aural and/or video means, including, but not limited to, mediated through the internet, and/or email.
 - ii. **REAL TIME** or real-time means immediately before, during and/or after, as in "as it happens".
 - iii. **VIRTUAL** or **VIRTUALLY** when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 FAX: (670) 664-1115

**PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO THE AMENDED RULES AND REGULATIONS
FOR THE OPERATION OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LOTTERY**

The Secretary of Finance hereby gives notice to the general public that the Department of Finance is proposing to amend the Amended Rules and Regulations for the Operation of the CNMI Lottery, as originally published in the Commonwealth Register, Volume 22, No.6, June 20, 2000, Commonwealth Register, Volume 24, No. 8, August 21, 2002 and Commonwealth Register, Volume 25, No. 8, September 18, 2003, and as amended by the Rules and Regulations for the Operation of the Commonwealth of the Northern Marianas Lottery as adopted in the Commonwealth Register, Vol. 26, No. 4, April 23, 2004. This amendment is made pursuant to the Department's authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §9305, 1 CMC §9306, the Commonwealth Administrative Procedure Act, 1 CMC §9101 *et. seq.*, and Executive Order 94-3.

The purpose of these amendments are enacted to implement, interpret, prescribe and clarify the policies and procedures required to implement, regulate and supervise the operation of the CNMI Lottery. These Rules and regulations shall have the force and effect of law.

The proposed regulations may be inspected at, and copies obtained from the Secretary's Office, EDP Bldg., Capitol Hill, Saipan, MP. 96950. The proposed regulations are published in the Commonwealth Register.

The Secretary of Finance is soliciting comments on this proposed amendment to the Amended Rules and Regulations for the Operation of the CNMI Lottery from the general public. Anyone interested in commenting on this proposed amendment may do so in writing. Comments may be addressed to the Secretary of Finance, Department of Finance, P.O. Box 5234 CHRB, Saipan, MP. 96950. All comments must be received within 30 days from the date of this notice published in the Commonwealth Register.

Certified By:

Fermin M. Atalig
Secretary of Finance
Department of Finance

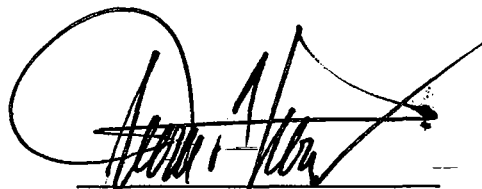
Date: 9/14/05

Filed By:

Bernadita B. Dela Cruz
Commonwealth Register

Date: 9/22/05


Received By:


Thomas A. Tebuteb
SAA, Office of the Governor

Date: 9/22/05

Pursuant to 1 CMC §2153, as amended by P.L. 10-50, the regulations attached hereto have been reviewed and approved by the CNMI Attorney General.

Dated this 22nd day of September 2005.


Pamela Brown
Attorney General

**NOTISIAN PUBLIKU POT I MAN MAPROPONE NA
AMENDASION SIHA PARA I MAN MA'AMENDA NA
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
LOTTERY GI COMMONWEALTH I SANKATTAN SIHA NA ISLAS
MARIANAS**

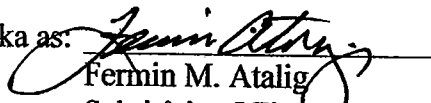
I Sekretarion I Finance man nãna' i' notisia para I publiku henerat na I Dipattamenton I Finance man propopone para u amenda I Man Ma'amenda Na Areklamento yan Regulasion siha Para I Operasion I Lottery gi Commonwealth I Sankattan Siha Na Islas Marianas (CNMI), ni mapublika originat gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, gi Rehistran I Commonwealth, Baluma 24, Numiru 08, gi Agostu 21, 2002 yan Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septiembre 18, 2003, ya ni inamenda ni I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery anai ma'adopta gi Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abril 23, 2004. Este na amendasion mafatinas sigun I aturidat yan otden I dipattamento ni mamensiona gi Commonwealth Code a enklulusu lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Seksiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 *et seq.*, yan Executive Order 94-3.

I propositun este na amendasion man ma'otdena para u ma'enfuetsa, ma'sangan, ma'otden yan maklaruyi I areklamento yan manera I manisisita para u ma'enfuetsa, gubietna yan maneha I operasion I CNMI Lottery. Este na Areklamento yan Regulasion siha debi di u gai fuetsa yan efektibu gi Lai.

I man mapropone na regulasion siha ma'ina gi, ya I kopia siha siha u fan machule' gi Ofisinan I Sekretario, gi EDP Bldg., giya Capitol Hill, giya Saipan, MP 96950. I man mapropone na regulasion siha man mapublika gi Rehistran I Commonwealth.

I Sekretarion I Finance man gãgãgao opinion siha pot I man mapropone na amendasion para I man ma'amenda na Areklamento yan Regulasion siha para I Operasion I CNMI Lottery ginen I henerat publiku. Maseha hãyi enteresao munahalom opinion pot I man mapropone na amendasion siha munahalom gi tinige'. Siha mahanãgue' I opinion siha guatto gi Sekretarion I Finance, gi P.O.Box 5234 CHRB, giya Saipan MP 96950. Todu I opinion siha debi di u marisibe' gi halom trenta (30) diha siha anai mafecha este na notisia ni para u mapublika gi Rehistran I Commonwealth.

Masetifika as:


Fermin M. Atalig
Sekretarion I Finance
Dipattamenton I Finance

Fecha:

9/20/05

Pinelo' as: Bernadita B. Dela Cruz
Bernadita B. Dela Cruz
Rehistradoran I Commonwealth

Fecha: 9/22/05

Marisibe' as: Thomas A. Tebuteb
Thomas A. Tebuteb
SAA, Ofisinan I Gubietno

Fecha: 9/22/05

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Publiku 10-50, I regulasion siha ni man che'che'ton man ma'ina yan ma'aprueba ni Abugâdu Henerât I CNMI.

Mafecha gi este mina _____ na ha'âne gi Septiembre, 2005.

Pamela Brown
Abugâdu Henerât

DIPÀTTAMENTON I FINANCE
MAN MAPROPONE NA AMENDASION SIHA PARA I
AREKLAMENTO YAN REGULASION SIHA PARA I OPERASION I
COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANAS
(CNMI) LOTTERY

Annok I Aturidât I Lai: I Man mapropone na amendasion siha para I areklamento yan regulasion siha para I operasion I CNMI Lottery man ma'establesi sigun, lao u taiche' para I, lai I CMC Seksiona 9305, I CMC Sekiona 9306, I Commonwealth Administrative Procedures Act, I CMC Seksiona 9101 et.seq., yan Executive Order 94-3.

Mensâhen Finiho yan Diniseha:

Para u amenda I Areklamento yan Regulasion siha para I Operasion I CNMI Lottery, anai mapublika gi Rehistran I Commonwealth, Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Kada'da' Na Mensâhe Pot I Areklamento Siha:

I areklamento yan regulasion siha a probeniyi I otden yan manera para u ma'enfuetsa yan ma'otden yan mancha I operasion I CNMI Lottery. Este na areklamento siempre lokkue a omentâyi nuebu na huegun lottery mâs matungoña I Marianas Sports Lottery. Este na areklamento yan regulasion siha siña ma'amenda, matulaika osino madiroga pot para u propiu ni I Dipàttamenton I Finance I CNMI.

Para Mâs Infotmasion Âgang:

Si Fermin M. Atalig, I Sekretârion I Finance, gi Numirun Tilifon 664-1100 yan numirun I facsimile 664-1115.

Annok I Man Achule' Yan/pat Inafekta na Lai, Regulasion yan Otden siha:

I CMC Seksiona 9301, et. seq; Rehistran I Commonwealth Baluma 22, Numiru 06, gi Junio 20, 2000, Rehistran I Commonwealth Baluma 24, Numiru 08, gi Agostu 21, 2002, Rehistran I Commonwealth Baluma 25, Numiru 08, gi Septembre 18, 2003 yan Rehistran I Commonwealth Baluma 26, Numiru 04, gi Abrit 23, 2004.

Ninahalom as: *Fermin M. Atajig*
Fermin M. Atajig
Sekritarion I Finance

9/21/05
Fecha

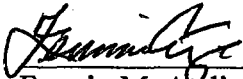
**ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGH ME
AMMWELIL MWÓGHÚTÚGHÚTÚL LOTTERY MELLÓL
COMMONWEALTH TÉEL FALÚWASCH MARIANAS**

Samwoolul Finance ekki arongaar toulap bwe Depattamentool Finance ekki pomwoli bwe ebwe liweli Allégh kka e ssiweló reel Mwóghútúl CNMI Lottery, iye raa fasúl atéew llól Commonwealth Register, Volume 22, Numero. 6, Alimaté 20, 2000, Commonwealth Register, Volume 24, Numero. 8, Eluwel 21, 2002 me Commonwealth Register, Volume 24, Numero. 8, Maan 18, 2003, me a ssiwel mereel Allégh kkaal reel Mwóghútúl Lottery mellól Commonwealth Téel falúwasch Marianas iye aa filló mellól Commonwealth Register, Volume 26, Numero 4, Sééta 23, 2004. Lliwel yeel nge e fféer sáangi Bwángil Depattamento me afalafal iye aléghéléghéló mellól Commonwealth Code ebwal toolong, me ese bwal aighúgh ngáli, 1 CMC Tálil 9303, 1 CMC 9306, Ammwelil Commonwealth Administrative Procedure Act, 1 CMC 9101 et seq., me Akkúleyal Samwool 94-3.


Bwulúl lliwel kkaal ikka re alléghúwuló igha rebwe ayoora, sów aweewe, ischil me affata allégh kkaal me mwóghútúghút ye ebwe mweiti ngáli atotoolongol, alúghúlúgh me amweri fischiy mwóghútúl CNMI Lottery. Allégh me Ammwel kkaal nge rebwe ghítipwotchuw me mwóghut sáangi allégh.

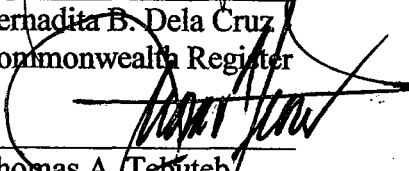
Pomwol allegh kkaal nge emmwel rebwe amweri fischiy mereel, me emmwel rebwe bwughil kkopial mereel Bwulasiyool Sekkretóriyo, EDP Bldg., Capitol Hill, Seipel, MP. 96950. Pomwol allégh kkaal ikka raa atéew llól Commonwealth Register.

Samwoolul Finance ekki tittingór mángemáng reel pomwol lliwel yeel ngáli Allégh kka e ssiwel reel Mwóghútúl CNMI Lottery mereer toulapeer aramas. Schóókka eyoor mángemángiir reel pomwol lliwel yeel nge emmwel rebwe ischilong, mángemáng nge emmwel rebwe afanga ngáli Samwoolul Finance, Depattamentool Finance, P.O. Box 5234 CHRB, Seipél, MP. 96950. Alongal mángemáng nge rebwe bwughil llól eliigh (30) raalil mwiril schagh yaal arong yeel akkaté mellól Commonwealth Register.

Alúghúlúgh sáangi: 
Fermin M. Alalig
Samwoolul Finance
Depattamentool Finance

9/22/05
Rál

Ammwel sáangi: 
Bernadita B. Dela Cruz
Commonwealth Register

Mwir sáangi: 
Thomas A. Tebuteb
SAA, Bwulasiyool Sów Lemelem

9/22/05
Rál

9/22/05
Rál

Sáangi allégh ye 1 CMC, iye aa lliwel mereel P.L. 10-50, allégh kka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Sów Bwungúl Allégh Lapalap.

Rállil ye _____ Ilól Maan 2005.

Pamela Brown
Sów Bwungúl Allégh Lapalap

DEPARTAMENTOOL FINANCE
POMWOL LLIWEL NGÁLI AMMWEL ME ALLÉGHÚL REEL MWÓGHÚTÚL
LOTTERY MELLÓL COMMONWEALTH TÉÉL FALÚWASCH MARIANAS

Akkatéél bwángil: Pomwol liwel ngáli Allégh me Ammwelil reel Mwóghútúl CNMI Lottery ikka raa atééw bwelle, me ese aighúgh ngáli, 1 CMC Tálil 9305, 1 CMC Tálil 9306, Commonwealth Administrative Procedure Act, 1 CMC Tálil 9101 et seq., me Akkúleyal Sów Lemelem 94-3.

Aweweel pomwol liwel: Rebwe lliweli Allégh kkaal reel Mwóghútúl CNMI Lottery, iye a akkatééwow mellól Commonwealth Register, Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register, Vol. 26, No. 4, Seeta 23, 2004.

Aweweel pomwol allégh: Allégh me Ammwel kkaal e ayoora mwóghutul atotoolong me alléghúw me amweri fischiy mwóghútúl CNMI Lottery. Allégh kkaal nge ebwal ayoora eew urul lottery ye e ffe iye re ghal ira bwe Marianas Sports Lottery. Allegh kkaal nge emmwel rebwe siweli, mwóghútúl me ngáre fféer sefál bwelle e alléghewow mereel CNMI Depattamentool Finance.

Reel ammataf faingi: Fermin M. Atalig, Samwoolul Finance, Numorol tilifoon 664-1100 me facsimile numoro 664-1115.

Akkatéél bwángil akkááw allégh: 1 CMC Tálil 9301 et seq; Commonwealth Register Vol. 22, No. 6, Alimaté 20, 2000, Commonwealth Register Vol. 24, No. 8, Eluwel 21, 2002, Commonwealth Register Vol. 25, No. 8, Maan 18, 2003 me Commonwealth Register Vol. 26, No. 4, Séetá 23, 2004.

Isaliyallong:

Fermin M. Atalig
Samwoolul Finance

Rál

Marianas Lottery - SPORTS LOTTERY

Section 1 Purpose and Disclaimer

- (1) Purpose: These rules establish the procedures and requirements for playing Marianas Sports Lottery, a lottery game operated by the Marianas Lottery.
- (2) Disclaimer: Marianas Sports Lottery is not associated with, sponsored, or authorized by any sports league or agency.

Section 1.1 Definitions

For the purposes of Section 1, the following definitions apply unless the context requires otherwise:

- (1) **"Entry Form"** means a play program used by a player to choose the dollar amount to be wagered, the number of events selected, and the player's chosen option for each event selected.
- (2) **"Event"** means a game or a special play that a player may select.
- (3) **"Favorite"** means the likely winning team of a game as indicated on the official program.
- (4) **"Game"** means a game between two teams.
- (5) **"Game ticket"** or **"ticket"** means a computer-generated, printed paper issued by the Marianas Lottery as a receipt for the events selected and the options chosen by a player and includes, but is not limited to, the following data: The name "Marianas Sports Lottery", the purchase date, events selected, the option chosen for each selected event, the cost of the ticket, the identifying number for the specific play program, and a serial number.
- (6) **"Official program"** means the Lottery's list of games with point spreads and special plays, including the options for each event a player may select for a particular play program.
- (7) **"Official Marianas Sports Lottery results"** means the Lottery's list of the final outcomes of the events scheduled for a given play program, showing the results for each event.
- (8) **"Play Program"** means the form listing the games for which there is an option to play. Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.
- (9) **"Playoff Special"** means a Marianas Sports Lottery game based on the outcomes of games played during the "playoffs" of a particular sport to determine its champion for a particular year.
- (10) **"Point spread"** means the number of points used to balance the possible outcome of an event, giving equal chance for each event's success.
- (11) **"Prize category"** means a division of the prize pool identified by a specific number of events selected by a player.
- (12) **"Quick Pick"** means the random selection by a Marianas Lottery on-line terminal of events played on a ticket and an option for each event selected.
- (13) **"Special play"** means an activity that occurs within a game, including, but not limited to, fumbles, interceptions, sacks, three-pointers, and home runs.

(14) "Total points" means the total number of the points scored by both teams.

(15) "Underdog" means the likely losing team of a game as indicated on the official program.

Section 1.2 Marianas Sports Lottery Description

(1) **General:** Marianas Sports Lottery is a Lottery game based on the outcome of a game or special play. During the Sports Lottery season, the Lottery will make available an official program, which lists the events for that play program. For each game listed, the official program will indicate the favorite and the underdog and include a point spread. The point spread is added to the underdog score which is then compared to the favorite's score to determine the outcome of a game. The team with the highest score is the winner. The Lottery's point spread appearing on the official program is the only point spread applicable to Marianas Sports Lottery. A game may have no winner should the sum of the point spread plus the underdog score is equal to the favorite's score. The Marianas Lottery may also include for certain games an Over/Under event. The player selects either the Over option or the Under option. The Over selection is correct should the total points scored exceed the number listed in the program, The Under selection is correct should the total points scored be less than the number listed in the program. There is no winner should the total points match the number listed in the program.

(2) **Player Selections:** A player is required to select at least three events on the official program but may select 4, 5, 6, 7, 8, 10, 12, or a maximum of 14 events.

(3) **Lottery Selections:** The Lottery will list a minimum of three events up to a maximum of fifty events each week. The Director reserves the right to determine which events will be listed in the official program and whether to apply a point spread.

Section 1.3 Play Dates and Times

Each play program shall include the date and time tickets may be purchased and the date and time tickets may no longer be purchased.

Section 1.4 Cost of a Ticket

The cost of a ticket is determined by the amount of money a player chooses to wager. The minimum wager is \$1 per ticket. The Marianas Lottery reserves the right to not accept any wager for any particular event.

Section 1.5 Ticket Purchase, Characteristics, and Restrictions

(1) **General:** A Marianas Sports Lottery ticket may only be purchased from a Lottery retailer during the Marianas Sports Lottery season.

(2) **Age of Player:** A player must be at least 18 years of age to purchase a Marianas Sports Lottery ticket.

(3) **Ticket Characteristics:** A game ticket is the only proof of Marianas Sports Lottery game play, including the selections made by a player. The submission of a winning ticket to the Lottery is the sole method for claiming a prize. An entry form or a copy of a game ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase, the selections made by a player, or otherwise represent an opportunity to win a prize.

Section 1.6 Cancellation of Tickets

(1) **General:** A player may cancel a Marianas Sports Lottery game ticket by returning the ticket to the Lottery on the day of purchase prior to the time wagers are disabled before the first event listed on the ticket. After this time, the ticket cannot be canceled.

(2) **Refund:** In the event that Section 1.6, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket.

Section 1.7 Payment Of Prizes; Ticket Validation Requirements; time

Same as Marianas Lottery

Section 1.8 Odd of Winning and Prize Payout

1) Prizes for each Play Program shall be determined and awarded on the following basis:

Match	Odds	Payout	Prize per \$1 Played
3 of 3	8	4	0.500
4 of 4	16	8	0.500
5 of 5	32	15	0.469
6 of 6	64	25	0.391
7 of 7	128	50	0.391
8 of 8	256	100	0.391
10 of 10	1024	200	0.195
12 of 12	4096	400	0.098
14 of 14	16384	1000	0.061

Amount per play program will be subject to a maximum payout of \$50,000.00 per play program. Should the total prizes paid exceed the maximum payout, the prize payout will be prorated based on the total payout for each ticket divided by the total payout determined without regard to the maximum payout.

Section 1.9 Determination of Winners

(1) **Favorite:** To be a winning selection, the favorite must defeat the underdog by more points than the point spread.

(2) **Underdog:** To be a winning selection, the underdog must win the game or lose by fewer points than the point spread.

(3) **General:** To win, all of a player's event selections must match the final outcomes in the Lottery's official Sports Action results. For example, no prize shall be awarded to players who match 3 of 4 event selections, 5 of 7 event selections, or 11 of 14 event selections.

(4) **Official Event Results:** The scores and results for an event become official and final for the purpose of playing Marianas Sports Lottery when the Lottery enters the results in the Lottery's central computer

system for purposes of validating winning tickets. Once the results are entered, the Lottery shall not recognize any changes, including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the professional sports league or organization overseeing the game that changes the outcome of a special play.

Section 1.10 Game Cancellation, Postponement, or Termination

Game Cancellation, Postponement, or Termination

- (1) **Game Cancellation:** If a game is officially canceled prior to the start, or during the course of play, the Director will authorize a refund equal to the cost shown on the player's ticket.
- (2) **Game Postponed:** If a game is officially postponed prior to the start, or during the course of play, play on a Marianas Sports Lottery ticket, which includes that game, may continue until the rescheduled starting time for the game.
- (3) **Game Terminated after Play Has Started:** If a game is officially terminated after play has started and the results of that game are declared as official and final by the sports ruling body, the Lottery will adopt those results. Results include the final score of the game and any special plays within that game.

Section 1.11 Playoff Specials

Playoff Specials

- (1) The Marianas Lottery shall provide to the Director of Finance the rules and prize payout structure of any Playoff Special games prior to offering the game to the public. The Director of Finance must approve the game prior to its sale to the public.

Section 1.12 Fees

Fees

- (1) The annual fee shall be prorated based on the ratio of the number of days the Sports Lottery is available for sales to the number of days in the year.
- (2) The Marianas Lottery shall provide to the Director of Finance a listing of the number of days the Sports Lottery will be available for sale.

Section 1.13 Maximum Jackpot

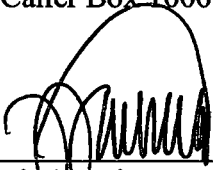
The maximum amount paid out for any one play program shall be limited to \$50,000


PUBLIC NOTICE

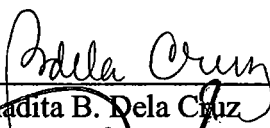
**PROPOSED AMENDMENT TO THE RULES AND REGULATIONS
GOVERNING THE ADMINISTRATIVE PROCEDURE OF THE
COMMONWEALTH FIRE SAFETY CODE**

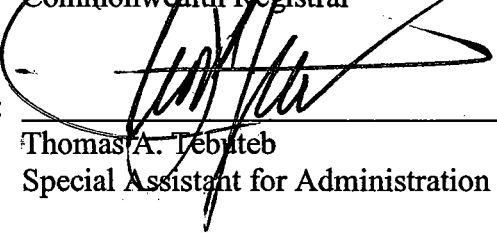
The Department of Public Safety, Fire Division's Fire Prevention Section, hereby proposes to amend the rules and regulations that will govern the administration, implementation, and enforcement of the Fire Safety Code of the Commonwealth of the Northern Mariana Islands. Public Law No. 11-56, to include all sections in the Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association. The rules and regulations to be promulgated are authorized pursuant to section 7304 of Public Law No. 11-56, "Commonwealth Fire Safety Code Act of 1998".

All written comments and/or recommendation regarding the amended rules and regulations are to be submitted within thirty (30) days after the date of this publication in the Commonwealth Register to Department of Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan's Building, Caller Box 10007, Saipan, and MP 96950.

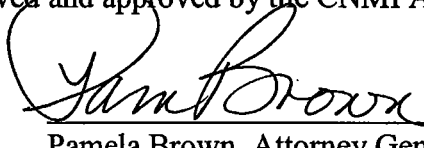
Certified By:  _____
Francis S. Taimanao
Acting Director of Fire
Date: 9/21/05

Approved By:  _____
Santiago F. Tudela
Commissioner of Public Safety
Date: 9/21/05

Filed By:  _____
Bernadita B. Dela Cruz
Commonwealth Registrar
Date: 9/21/05

Received By:  _____
Thomas A. Tebitob
Special Assistant for Administration
Date: 9/21/05

Pursuant to 1CMC§2153 as amended by PL 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

 _____
Pamela Brown, Attorney General
Date: 9/21/05


PUBLIC NOTICE

**AMENDMENT TO THE RULES AND REGULATIONS GOVERNING THE
ADMINISTRATIVE PROCEDURE OF THE COMMONWEALTH FIRE
SAFETY CODE**

Citation of Statutory Authority:	To amend the rules and regulations pursuant to the Commonwealth Fire Safety Code, Public Law No. 11-56.
Short Statement of Goals and Objectives:	To amend the rules and regulations to provide uniform standards as mandated by the Commonwealth Fire Safety Code, Public Law No. 11-56.
Brief Summary of the Proposed Regulations:	To safeguard to a reasonable degree life and property from the hazards of fire and explosions arising from storage, handling and use of hazardous substances, materials and devices, and from any conditions hazardous to life and property in the use or occupancy of any buildings and premises.
Citation of Related and/or Affected Statutes, Rules, and Regulations:	Public Law No. 11-56, Uniform Fire Code and Standards published by the International Conference of Building Officials and the Western Fire Chief's Association.
For Further Information Contact:	Acting Director of Fire Francis S. Taimanao, Fire Division. Telephone numbers 664-9003/9004 or facsimile number 664-9009. Mailing Address: Caller Box 10007, Saipan, MP, 96950

Dated this 20th day of September ~~August~~ 2005.

Submitted by:

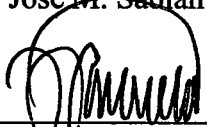

Santiago F. Tudela
Commissioner of Public Safety


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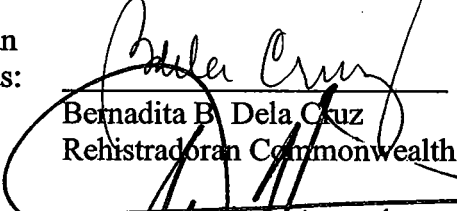
**MAN MA' AMENDA NA ARECKAMENTO YAN REGULASION I PARA U
GOBIETNA I KONDISION YAN MANERAN COMMONWEALTH FIRE
SAFETY CODE**

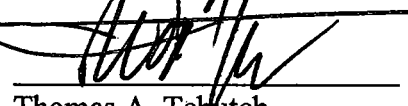
I Dipatamenton Public Safety, Fire Division Fire Prevention na seksiona, ginen este na propopne para u ma' amenda I areklamento yan regulasion I para u gubientna administrasion, implementasion, yan maenfuetsan I Fire Safety Code Commonwealth I Sankattan siha no Islan Marianas, Lai Publiku No. 11-56, para u enklusu todú I seksiona siha put Uniform Fire Code yan Areklamento ni pinepblikan International Conference of Building Official yan I San Lagu na Fire Chief's Association. I areklamento yan regulasion ni para u jama cho'gue ginen inaturisan Seksiona 7304 gi Lai Publiku No. 11-56 "Commonwealth Fire Safety Code Act of 1998".

Todu I manmatuge' siha na komentu / rekomendasion put I manmapropopne siha na arekamento yan regulasion u fanma satmiti halom trenta (30) dias despues di mapublika este na nutisia ge Rehistran Commonwealth para guatu gi Dipatamenton Public Safety, Fire Division, Fire Prevention Section, Jose M. Sablan Building, Caller Box 10007, Saipan, MP 96950.

Sinettfikka as:  9/21/05
Francis S. Taimanao Fecha
Dirktot, DPS Fire Division

Mabreba as:  9/21/05
Santiago F. Tudela Fecha
Commissioner of Public Safety

Ma file yan Rinekod as:  9/21/05
Bernadita B. Dela Cruz Fecha
Rehistradoran Commonwealth

Rinisibi as:  9/21/05
Thomas A. Tebuteb Fecha
Special Assistant for Administration

Sigun 1 CMC papa seksiona 2153 ni inamenda ni Lai Publiku 10-50, I areklamento yan regulasion ni chechetton guine esta manmarisibi yan apreba ginen Ofisinan Attorney General giya CNMI.


Pamela Brown Fecha
Attorney General

**MAN MAPRÓPONE NA AMENDASION PARA I AREKLAMENTO
YAN REGULASION SIHA NI GINIBEBIETNA I AREKLAMENTON
ADMINISTRASION POT I COMMONWEALTH FIRE SAFETY
CODE**

Annok I Aturidát I Lai:	Para u ma'amenda I areklamento yan regulasion siha sigun I Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhen Finiho yan Diniseha:	Para u ma'amenda I areklamento yan regulasion siha para u maprobeniyi <u>uniform standards</u> ni ma'otden ni Commonwealth <u>Fire Safety Code</u> , Lai Publiku No. 11-56.
Kada'da' na Mensáhe pot I Man Mapropone na Regulasion siha:	Para u protehi I resonáple siha na piniligrun lina'la' yan propiedát ginen kimason pat pákpak bâm ginen soku yan I mapachan I man piligro siha na matiriát yan kosas, yan maseha háfa ni man na'ma'ñao na kondision kontra lina'la' yan propiedát kumo ma'usa yan guaha gi hálom maseha amino na fasilidát yan uriya.
Annok I Man Achule' yan/pat Inafekta na Lai, Areklamento , yan Regulasion siha:	Lai Publiku Numiru 11-56, <u>Uniform Fire Code</u> yan <u>Standards</u> ni mapublika ginen <u>International Conference</u> pot <u>Building Official</u> yan I <u>Association Western Fire Chiefs'</u>
Para Mâs Infotmasion Ágang si:	I Acting Director gi Fire as Frances S. Taimanao, gi Dibision Fire. Numirun Tilifon 664-9003/9004 osino facsimile 664-9009. Na hánao gi mailing address: Caller Box 10007, Saipan, MP 96950.

Mafecha gi este mina _____ na ha'áne gi Agostu 2005.

Ninaháлом as:


Santiago F. Tudela
Commissioner gi Sináfun Publiku

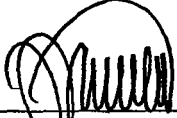
ARONGORONGOL TOULAP

**POMWOL LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM
ADMINISTRATIVE PROCEDURE MELLÓL COMMONWEALTH FIRE
SAFETY CODE**

Depattamentool Public Safety, Fire Division's Fire Prevention Section, ekke pomwoli bwe ebwe fillóoy allégh kkaal igha ebwe lemelem administrative, atotoolongol, me mwóghut ágheli Fire Safety Code mellól Commonwealth Téél Falúwasch Marianas. Alléghúl Toulap ye No. 11-56, igha ebwe atolongow alongal táilil kka llól mille Uniform Fire Code me Allegh kka e akkaté sáangi International Conference llo Building Officials me Western Fire Chief's Association. Allégh kkaal nge ebwe akkatééwow me re mweiti sáangi talil ye 7304 llól Alléghúl Toulap ye. 11-56, "Commonwealth Fire Safety Code Act sáangi 1998".


Alongal ischil mángemáng me/ aghiyegh bwelle reel ssiwelil allegh kkaal nge ebwe atotoolong llól eliigh (30) ráalil ngáre schagh aa allégheló mellól Commonwealth Register ngáli Depattamentool Public Safety, Fire Division, Fire Prevention Section, Jose Sablan's Building, Caller Box 10007, Seipel, me MP 96950.

Alúghúlúgh sáangi:


Francis S. Taimanao
Acting ngali Samwoolul Fire Division


9/21/05
Rál

Allégh sáangi:


Santiago F. Tudela
Samwoolul Public Safety

9/21/05
Rál

Ammwel sáangi:


Bernadita B. Dela Cruz
Commonwealth Registrar

9/22/05
Rál

Mwir sáangi:

Thomas A. Tebuteb
Sów Alillisil Sów Lemelem

9/22/05
Rál

Sáangi allégh ye 1CMC táilil 2153 iye aa ssiweló mereel Alléghúl Toulap 10-50, allégh kkaal ikka e appasch nge raa takkal amweri fischiy me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Pamela Brown, Sow Bwungul Allegh Lapalap

Rál

ARONGORONGOL TOULAP

**LLIWEL NGÁLI ALLÉGH KKA EBWE LEMELEM ADMINISTRATIVE
PROCEDURE MELLÓL COMMONWEALTH FIRE SAFETY CODE**

Akkatéél bwángil: Rebwe fillóoy allégh kkaal bwelle reel Commonwealth Fire Safety Code, Alléghúl Toulap ye 11-56.

Aweweel pomwol lliwel: Rebwe fillóoy allégh kkaal igha rebwe ayoora Uniform Standards iye e towoow mereel Commonwealth Fire Safety Code, Alléghúl Toulap ye. 11-56.

Aweweel pomwol allégh: Rebwe ammwela fischiy reel mwóghútúl melaw me bwuley mereel kkapasal angat me meeta kka e ghal llesch mellól leliyel isiis, akkamwaschul me yáyáál meeta kka e ammesagh, matiriyód me peirágh kkaal, me sáangi weires kka emmwel ebwe toori malawal aramas me falúw ye re yááli me yááyá ngáli iimw me bwuley kkaal.

Akkatéél bwángil akkááw allégh: Alléghúl Toulap ye. 11-56, Uniform Fire Code me Allégh kka e toowow mereel International Conference mellol Building Officials me Western Fire Chief's Association.

Reel ammataf faingi: Acting ngali Samwool reel Fire Francis S. Taimanao, Fire Division. Numerool tilifoon 664-9009. Mailing Addres: Caller Box 10007, Siepel, MP, 96950

Rállil ye _____ llól Agosto 2005.

Isaliyallong:



Santiago F. Tudela
Samwoolul Public Safety

Section 1000. Authority:

The Department of Public Safety Fire Division, Fire Prevention Section shall have the legal authority to enforce laws and regulations promulgated pursuant to the authority of Public Law 11-56, "Commonwealth Fire Safety Code" and all other adopted codes and standards.

Section 1001. Purpose:

The purpose of these rules and regulations is to govern the administration, implementation of governing Public Law 11-56, "Commonwealth Fire Safety Code."

Section 1002. Cooperation with other agencies;

- A. Other government agencies involved in reviewing plans for a new building and/or renovation of an existing building, or construction of underground and above ground storage tanks for flammable liquid and combustible liquid shall inform the applicant/business owner to obtain clearance from Fire Prevention Section in writing of such plans which pertain to Fire Safety in nature.
- B. Officials of other government agencies involved in permitting and/or Licensing of the following activities mentioned in section 1010, shall ensure clearance from the Fire Prevention Section is obtained prior to issuing permits and/or license.

Section 1003. Existing Buildings:

- A. The Fire Chief or his representative from the Fire Prevention Section shall have the authority to inspect existing building if he/she believes an imminent danger exist or has reason to believe that it is an unsafe building.
- B. At anytime a complaint is received by the Fire Division, Fire Prevention Section regarding a building having hazardous or unsafe conditions, The Fire Director or his designee may request to the owner to inspect the premises.

Section 1004. Unsafe Structures:

- A. Any building, dwelling, or structures found unsafe will be given notice of abatement. This notice will serve as a temporary closure of building and or operation until such time deficiencies rendering it unsafe is rectified.

Section 1005. Certificate of Fire:

- A. Any person whose house, property, or business establishment is damaged by fire will be given 3 working days prior to picking up Certificate of Fire report from the Fire Prevention office. This document will be sufficient for justification in requesting assistance from any organization.

- B. The office of Fire Prevention Section will not issue investigation report to any person without written permission from the Commissioner of Public Safety and/or Director of Fire. It will be the responsibility of the client to obtain approval from the Commissioner of Public Safety and/or Director of Fire before any report, other than certificate of Fire report, to be released.

Section 1006. Fireworks:

- A. It shall be unlawful for any person or business to distribute, store, or sell Class "C" Fireworks without a valid permit from the Fire Prevention Office.
- B. It shall be unlawful for any person or business to store, use, or sell Class "B" fireworks without approval from the Governor's office. After approval from the governor, office of Fire Prevention Section must be advised regarding such activities.

Section 1007. Fire Hydrant:

- A. It shall be unlawful for any person to use or draw water from any fire hydrants without proper written permission from the Director of Fire. Any person found will be cited for tampering with fire appurtenances.
- B. Any person who wish to use or draw water from a fire hydrant must obtain permit from the Fire Division. They will also be required to obtain clearance from the Commonwealth Utilities Corporation prior to obtaining permit from Fire Division.
- C. It shall be the responsibility of Fire Division to perform periodic maintenance on fire hydrants to determine serviceability, water pressure during peak and regular hours, landmark hydrants so that locating it would not be a problem during night or inclement weather. Any hydrants found with major damage shall be reported to proper agency for repair or removal.
- D. Any person or motorist responsible for damaging any hydrants will be liable for the cost of repairing the hydrant or for a new replacement.

Section 1008. Inspections For New Permits

I. First Inspection

- A. The Inspector shall conduct the inspection, if code compliance has been obtained, the permit will be processed. There is no charge for this First Inspection, it is included in the permit fee which payment must be received by the Commonwealth of the Northern Marianas Island (CNMI) Treasury, before permit is issued (see Issuance of permit schedule).
- B. If code compliance has not been obtained, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code, and, providing adequate time between inspection, dependent on the hazard and danger created by the

violations and the complexity of the work to be done, but generally, within 15 to 30 days or as felt adequate by the business owner, a schedule for "First Reinspection" date and time, to verify code compliance. Note: First Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).

- C. In all cases, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit and First Reinspection fees shall be payable to the CNMI Treasury, before the permit is issued (see Inspection Fee and Fees for Issuance of Permits schedules).
- B. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger create by the violation and the complexity of work to be done, but generally, within 15-30 days or as felt appropriate by the business owner, schedule a Second Reinspection date and time, to verify code compliance. Note Second Reinspection fee shall be payable to the CNMI Treasury, when code compliance is obtained and before permit is issued (see Inspection Fee Schedule).
- C. In all case, inspection report(s) shall be filled out by the inspector, signed by all parties indicated on the report from(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit, First and Second Reinspection fee must be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of permits Schedules).
- B. If code compliance has not been obtained on the Third Inspection or the Second Reinspection, the inspector shall, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to done, but generally, within 1-15 days or as felt appropriate by the business owner, schedule a Third Reinspection date and time, to verify code compliance. Note: Third Reinspection will be at a fee double the Second Reinspection fee and payable to the CNMI Treasury, when code compliance is obtained and before permit is issued. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).

- C. In all case, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the process proceeds with the issuance of permit. Payment of permit. First, Second, and Third Reinspection fees must be shall be payable to the CNMI Treasury, before permit is issued (see Inspection Fee and Fees for Issuance of Permit Schedules). Note: Third Reinspection shall be at a fee double the Second Reinspection fee. Reinspections thereafter will likewise be double the proceeding reinspection fee (see Inspection Fee Schedule).
- B. If code compliance has not been obtained by the Fourth Inspection or Third Reinspection, the reinspection will continue in the fashion as previous inspection until compliance with the fire code has been obtained.
- C. In all cases, inspection report(s) shall be filled out the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

Section 1009. Unannounced Inspections for Existing Permit Holders

Unannounced inspections may conducted by any designated official of the Department of Public Safety Fire Division Fire Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The Fire Division's intention is to protect the integrity of its fire prevention program; to take reasonable measures to ensure that fire code compliance is continually maintained and not just occasionally on or about permit renewal date or on notice of inspection possibility; and to address citizen concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violations found if necessary; obtain all signatures indicated on the report form(s); and issue a copy of the report(s) to the person responsible for the premises and, fines. No inspection fee shall be imposed in this case.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a first inspection fee; and identify for the person responsible for the premises, specific violations of the applicable code and, dependent of the hazard and danger created by the violations and the complexity of the work to

be done, but generally, it is shall be the discretion of the inspector to impose the time frame for next inspection.

- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued upon the second inspection or first reinspection. If violations are encountered.
- D. Payments of fines must be paid to the CNMI Treasury 30 days of the first reinspection. If permit renewal date should fall within the 30 days, fines, and the regular permit fee shall all be due upon request for permit renewal.

II. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on the violations found; impose first reinspection fee; and inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.
- B. If code compliance has not been obtained by the second inspection or the first reinspection, the inspector shall issue a citation, fines depending on the violation(s) of the applicable code; impose a first reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally to be determined by the inspector, schedule a second reinspection date and time to verify compliance.
- C. Payment of fines, First Inspection and First Reinspection fees must be paid to the CNMI Treasury within 30 days of First Reinspection. If permit renewal date should fall within the 30 days, fines, first Inspection and First Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- D. In all cases, an inspection report shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a second reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines.
- B. If code compliance has not been obtained by the third inspection or the second reinspection, the inspector shall impose a second fee; providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done to be determined by the inspector,

schedule a third reinspection date and time to verify compliance; and issue a citation, a fine based on the fine fee schedule.

- C. The inspector should mention the possibility of permit being revoked and cessation of business operations. The fines issued at this point will be added to those already issued.
- D. Payment of fines, First Inspection, First and Second Reinspection fees must be paid to the CNMI Treasury within 30 days of Second Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First and Second Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a third reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and cessation of business operations.
- B. Payment of fines, First Inspection, First, Second Third Reinspection fees must be paid to the CNMI Treasury within 30 days of Third Reinspection. If permit renewal date should fall within the 30 days, Fines, First Inspection, First, Second and Third Reinspection fees and the regular permit fee shall all be due upon request for permit renewal.
- C. If code compliance has not been obtained by the fourth inspection or the third reinspection, the inspector shall impose a third reinspection fee; issue the person responsible for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operations due to a revoked permit; and place a sign at the entry points of the establishments stating, in effect, closure by order of the Department of Public Safety Fire Division Fire Prevention Section, and the reason(s) for closure.
- D. The business owner shall not resume business operations until hazards have been abated; a fourth reinspection is conducted and applicable code compliance has been obtained, it shall be the business owner's responsibility to call the Fire Prevention Section to coordinate the date and time of fourth reinspection; all fines, first inspection, first, second, third and fourth reinspection fees are paid, submitting receipts of payment as proof of payment; and an authority from the Fire Prevention Section has removed all posted signs and tags from the establishment.
- E. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the form(s); and a copy given to the person responsible for the

premises. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1010. Unannounced Inspections For Others Regulated by the UFC.

Unannounced inspections may be conducted by any designated official of the Department of Public Safety Fire Division, Prevention Section on any building and premises, business, activity, engagement, or function regulated by the applicable code at all reasonable times. The D.P.S Fire Division, Prevention Section's intention is to protect the integrity of its Fire Prevention Program; to take reasonable measures to ensure that all fire code compliance is continually maintained and not just occasionally on or about Business License clearance date or on notice of inspection possibility; and to address concerns or complaints.

I. First Inspection

- A. The inspector shall conduct the inspection. If code compliance is being maintained or code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating the owner, operator, occupant, and premises or other person responsible for that which is regulated by the applicable code, are in compliance with code. No inspection fee will be required.
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall impose a First Reinspection fee; and identify for the owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, specific violation of the code and, dependent on the hazard and danger created by the violations and complexity of the work to be done, but generally within 15-30 days, schedule a First Inspection date and time to verify code compliance. NOTE: First Reinspection will be at a fee in accordance with Section 1013 under "First Reinspection."
- C. Citations normally will not be issued on the first inspection. When routine violations of the applicable fire code are encountered, citations will generally be issued after the second reinspection or depending on the violation involved.
- D. In all cases, proof of fee payment or receipt shall be presented to the Fire Prevention Office before the Second Inspection or First Reinspection is conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

II. Second Inspection or First Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, and premises or other responsible for that which

is regulated by the applicable code, are in compliance with the code. Fee in accordance with Section 1013 under "First reinspection" shall be imposed.

- B. Payment of fines and First Reinspection fees must be received by the CNMI Treasury, within 30 days after the First Reinspection was conducted. If involved is a business, and Business License clearance date should fall within the 30 days, fines and First Reinspection fees shall all be due upon request for Business License clearance.
- C. If code compliance has not been obtained on the Second Inspection or the First Reinspection, the inspector shall issue a "Warning of Violation", depending on violation of the applicable code; imposed a Second Reinspection or Third Inspection fee and, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and complexity of the work to be done, but generally, within 10-15 days, schedule a Third Reinspection date and time to verify code compliance.
- D. In all cases, Inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for that premises which is regulated by the code.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant, or person responsible for the premises or other person responsible for that which is regulated by the applicable code, are in compliance with the applicable fire code;
- B. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; schedule a Third Reinspection date and time to verify compliance, providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days; and issued a citation, a fine based on the Fine Fee Schedule.
- D. If involved is a business, the inspector should mention the possibility of business license being revoked and cessation of business operation. (See Section 1013 for fines for each violations of the applicable code).

IV. Fourth Inspection or Third Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating owner, operator, occupant or person responsible for the premises or other person responsible for that which is regulated by the applicable code, is/are in compliance with the code.
- B. If involved is a business, and code compliance has not been obtained by the Fourth Inspection or the Third Reinspection, the inspector shall issue the person responsible

for the premises a "NOTICE OF CLOSURE"; and order him/her to cease business operation due to hazards; and place a sign of establishment stating, in effect, closure by order of the DPS Fire Division Prevention Section and the reason(s) for closure.

- D The business owner shall not receive Business License clearance from the DPS Fire Division Prevention Section nor resume business operation until hazards have been abated; a Fourth Reinspection is conducted and applicable code compliance has been obtained (business owners are responsible to contact DPS Fire Division Prevention Section to coordinate the date and time); all fine payable to CNMI Treasury have been recieved, and an authorized DPS Fire Division Prevention Section Official has removed all posted signs and tags from the establishment.
- E. In all cases, proof of payment or receipts must be presented to the Fire Prevention Section before any inspection could be conducted; inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and copy given to the person responsible for that which is regulated by the code. Inspector should inform the business owner or person responsible for the premises that repeat violations encountered in future inspections may result in fines.

Section 1011. Inspections For Permit Renewal

I. First Inspection

- A. The Inspector shall conduct the inspection. If applicable code compliance is being maintained or if code compliance is obtained during this inspection, the inspector shall fill out an inspection report(s) indicating business owner and premises are in compliance with the applicable code; issue a citation, fines depending on the violation if necessary; obtain all signatures indicated on the report form(s); and issue a copy of report(s) to the person responsible for the premises and, if applicable, inform the same that repeat violations that encountered in future inspection may result in fines. There is no charge for this First Inspection, it is included in the permit fee which must be received, along with fines, by the Commonwealth Northern Mariana Island (CNMI), Treasury, before permit is renewed (see issuance of Permit Schedule).
- B. If code compliance is not being maintained and cannot be obtained during this inspection, the inspector shall identify for the person responsible for the premises, specific violation of the applicable code; issued a citation, fines depending on violation if necessary; and, providing adequate time between inspection, dependent on the hazard and danger created by the violation and the complexity of the work to be done, but generally, within 15-30 days, schedule a First Reinspection date and time, to verify code compliance.

First Reinspection fee and fines shall be payable to the CNMI, Treasury when code compliance is obtained and before permit is issued (see Inspection Fee Schedule)

- C. Citations normally will not be issued on the First Inspection. When routine violation of the applicable fire code are encountered, citations will generally be issued upon the Second Inspection or First Reinspection, if violations are encountered.

Exception: Citation issued for violations which present imminent life hazards such as trespassing in a closed area, smoking in closed or restricted areas, failure to obey the lawful orders of a fire inspector, faulty equipment or procedures, repeated violations of a similar nature will not required prior notice.

- D. In all cases, inspection report(s) shall be filled out by the inspector; signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

IV. Second Inspection or First Reinspection.

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; issue a citation, fines depending on violations if necessary; impose a First Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspection may result in fines.

- B. Payment of fines, First Reinspection fee and regular permit fee must payable to the the CNMI, Treasury before permit is renewed (see Inspection Fee and Fees for the Issuance of permit schedule.

- C. If code compliance has not been obtained by the Second Inspection or the First Reinspection, the inspector shall issue a citation, a fine depending on the violation of the applicable code; impose a First Reinspection fee; and providing adequate time for compliance between inspections, dependent on the hazard and danger created by the violation and the complexity of work to be done, but generally, within 1-15 days, schedule a Second Reinspection date and time, to verify compliance. Note Second Reinspection fees will the double First Reinspection fee (see Inspection Fee Schedule). Continued violations encountered upon Second Reinspection may result in citation, fines based on violation(s).

- D. In all case, inspection report shall be filled out by the inspector, signed by all parties indicated on the report form(s); and a copy given to the person responsible for the premises.

III. Third Inspection or Second Reinspection

- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Second Reinspection fee; inform the person responsible for the premises that repeat violations encountered in the future inspection may result in fines.

- B. Payment of fines, First Reinspection and Second Reinspection fees, and regular permit fee must be received by the CNMI Treasury, before permit is renewed (see Inspection Fee Schedule and Fine Schedule).

- C. If code compliance has not been obtained by the Third Inspection or the Second Reinspection, the inspector shall impose a Second Reinspection fee; providing adequate time for compliance between inspections dependent on the hazard and danger created by the violation, but generally, within days, schedule a Third Reinspection date and time to verify compliance; and issue a citation, a fine based on the violation.
 - D. The inspector should mention the possibility of permit being revoked and cessation of business operation. The fine(s) issued at this point will be added to those already issued. Note Third Reinspection fee shall be double the Second Reinspection Fee (see inspection Fee schedule).
 - E. In all cases, the inspection report(s) shall be filled out by the inspector, signed by all parties indicating on the report form(s); and a copy given to the person responsible for the premises.
- IV. Fourth Inspection or Third Reinspection.**
- A. If code compliance has been obtained, the inspector shall fill out an inspection report indicating business owner and premises are in compliance with the applicable fire code; impose a Third Reinspection fee; inform the person responsible for the premises that repeat violations encountered in future inspections may result in further fines, permit being revoked and/or cessation of business operations.
 - C. Payment of fines, First, Second and Third Reinspection fees, and regular permit fee must be received by the CNMI, Treasury before permit is renewed.

Section 1012. Permits;

General; Any person, firm, or corporation who plans to engage in any of the following activities listed below, shall obtain permit from the Fire Division Fire Prevention Section. Prior to issuance of any permit, an application for permits and other necessary documents required by the Fire Prevention section must be submitted for review and scheduling of inspection if deemed necessary. Fees for each activity shall be payable to the

TYPE OF PERMIT	FEE	DURATION	CODE SECTION
Aerosol Products To store or handle an aggregate quantity of level 2 or level 3 aerosol products in excess of 500 lbs. net wt	\$20.00	Annually	UFC ARTICLE 88
Aircraft Refueling Vehicles To operate aircraft refueling Vehicles.	\$20.00	Annually	UFC ARTICLE 24
Aircraft Repair Hangar	\$20.00	Annually	UFC

To use any structure as an aircraft Hangar for Servicing or repair aircraft.			ARTICLE 24
Asbestos Removal To conduct asbestos-removal operations.	\$20.00	Annually	UFC ARTICLE 87
Automobile Wrecking Yark To operate an automobile wrecking yard.	\$20.00	Annually	UFC ARTICLE 34
Bowling Pin or Alley Refinishing To conduct a bowling pin refinishing or bowling alley resurfacing operation involving use and application of flammable liquids or materials.	\$10.00	Each Occurance	UFC ARTICLE 26
Candles and Open Flame Devices in Assembly areas To use open flame or candles in connection with Assembly areas, dining areas of restautants or Drinking establishments.	\$20.00	Annually	UFC ARTICLE 25
Carnivals and Fairs To conduct a carnival or fair (plans of grounds Required) To conduct a concession booth.	\$10.00 \$10.00	Each Occurance Each Occurance	UFC ARTICLE 25
Cellulose Nitrate Film To store, handle, use or display	\$20.00	Annually	UFC ARTICLE 33
Cellulose Nitrate Storage or Handling To store or handle more than 25 lbs.	\$20.00	Annually	UFC ARTICLE 27
Christmas Trees To use natural or resin-bearing cut trees in Public Areas.	\$10.00	Each Occurance	UFC APPENDIX IV-B
Combustible Fiber To store or handle more than 100 cu. Ft (exception: exterior storage of hay, straw, and similar agricultural materials).	\$20.00	Until Revoked	UFC ARTICLE 28
Combustible Materials To store more than 2500 cu. Ft. gross volume of Cumbustible empty packing cases, boxes, barrels or Similar containers, or rubber or cork. or other Similarly combustibile material.	\$20.00	Annually	UFC ARTICLE 11
Commercial Rubbish-Handling Operation To operate a commercial handling operation	\$20.00	Annually	UFC ARTICLE 11
Compressed Gases If compressed gases is in excess of amounts listed in UFC Table 105-A. Note: Additional requirements and exceptions in UFC Articles 74, 80, and 82. To store, transport on site, dispense, use or handle To install, repair, abandon, remove, place temporarily out of service, close or substantially modify a compress gas system.			UFC ARTICLE 74, 80, and 82.
Corrosive-Any amount	\$20.00	Annually	
Flammable-More than 200 cu. Ft. (except cryogenic fluids and liquified petroleum gas.			
Highly Toxic-any amount	\$20.00	Annually	
Inert- More than 6,000 cu. Ft.	\$20.00	Annually	
Oxidizing (including oxygen)-More than 500 cu. Ft.	\$20.00	Annually	
Pyrophoric- Any amount	\$20.00	Annually	
Radioactive- Any amount	\$20.00	Annually	
Toxic- Any amount	\$20.00	Annually	
Unstable (reactive)- Any amount	\$20.00	Annually	

Cryogenics To produce, store, or handle cryogenics in excess of the Amounts listed in Table 105-B. Exceptions: where federal or local regulations apply, and for fuel systems for vehicle.			UFC ARTICLE 75
Corrosive Over 1 gallon inside building Over 1 gallon outside building	\$20.00	Annually	
Flammable Over 1 gallon inside building Over 60 gallon outside building	\$20.00	Annually	
Highly Toxic Over 1 gallon inside building Over 1 gallon outside building	\$20.00	Annually	
Non-Flammable Over 60 gallon inside building Over 5000 gallon outside building	\$20.00	Annually	
Oxidizer (include oxygen) Over 50 gallons inside building Over 50 gallons outside building	\$20.00	Annually	
Dry Cleaning Plants To engage in business or to change to a more Hazardous substance.	\$20.00	Annually or Each Occurance	UFC ARTICLE 36
Dust Producing Operations To operate a grain elevator, flour starch mill, feed mill or plant pulverizing aluminum, coal, cocoa, magnesium, spices, sugar, or other material producing combustible dust as define in article 2.	\$20.00	Annually	UFC ARTICLE 30 and 76
Explosives or Blasting Agents Note: Additional requirements and exceptions in UFC Article 80. Permit shall be obtained: To manufacture, posses, store, sell, display or Otherwise dipose of explosive materials at any Location. To transport explosive materials To use or handle explosive materials To operate a terminal for handling explosive material.	\$20.00 \$20.00 \$20.00 \$20.00	Each Occurance Each Occurance Each Occurance Annually	UCF ARTICLE 77 and 80
Fire Hydrants and Water-Control Valves To use a fire hydrant or operate a water control valve Intended for fire-suppression purposes. (joint Approval with authority having jurisdiction)	\$10.00	Each Occurance	Public Law 11-56 Section 7311 UFC ARTICLE 9
Fireworks To conduct Fireworks display.(Fireworks 1.3G) Note: For Fireworks 1.3G Class "B", an approval Must be obtained from the governor prior to issuance	\$100.00	Each Occurance	Public Law 11-98 Section 7312 UFC ARTICLE 78.

Of permit. To use, store, handle fireworks 1.4G. (permit shall be Required by wholesalers and/or distributors of Fireworks 1.4G, commonly known as Class "C" Fireworks).	\$20.00	Annually	
Flammable and Combustible Liquids Exceptions: 1. As otherwise provided in other laws or regulations. 2. Alcoholic beverages in retail sales or storage uses, provided the liquids are packaged in an individual containers not exceeding 4 liters. 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable in retail sales or storage uses when packaged in individual containers not exceeding 4 liters. 4. Storage and use of fuel-oil tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and the Mechanical code. For abandonment of tanks, article 79 shall apply. 5. Refrigerant liquids and refrigerant oils within an approved closed-cycle refrigeration system complying with the Mechanical code. See Article 63. 6. Storage and display of aerosol products. See Article 88 7. Materials which are solid at 100 degrees F. or above. 8. Storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons. Permits shall be obtained: To use or operate, install, repair or modify a pipeline for the transportation of flammable or combustible liquids. To store, handle or use Class I liquids More than 5 gallons in a building. More than 10 gallons outside of a building. Exceptions: (I) Storage or use of class I liquids in the Fuel tank of a motor vehicle, aircraft, motorboat, Mobile power plant or mobile heating plant unless Such storage, in the opinion of the chief, would cause An unsafe condition. (II) The storage or use of paints, Oils, varnishes or similar flammable mixtures when Such liquids are stored for maintenance, painting or Similar purposes for a period of not more than 30 Days. To store, handle or use class II or class III-A liquids More than 25 gallons in a building Exceptions: (I) Fuel oil used in connection with oil-burning Equipment. More than 60 gallons outside a building. Exception: Fuel oil used in connection with oil -burning equipment. To remove class I or class II liquids from an	\$20.00 \$20.00 \$20.00 \$20.00 \$20.00 \$20.00	Annually Annually Annually Annually Each Occurance Each Occurance	UFC ARTICLE 79

<p>Underground storage tank used for fueling motor Vehicles by any means other than the approved, Stationary on-site pumps normally used for Dispensing purposes.</p> <p>To install, construct, alter or operate tank vehicles, Equipment, tanks, plants, terminals, wells, fuel -dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed, or used.</p> <p>To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 gal. \$20.00 Each Occurance Over 10,000 gal. \$20.00 Each Occurance</p> <p>To change the type of contents stored in a flammable or combustible liquid tank to a material other than that for which the tank was designed and constructed.</p> <p>0-5,000 gal. \$20.00 Each Occurance 5,001-10,000 \$20.00 Each Occurance Over 10,000 \$20.00 Each Occurance</p>	\$20.00	Annually	
<p>Fruit Ripening Processes In heated rooms and ripening processes where Ethylene gas is introduced into the room to assist the Ripening process.</p> <p>To operate a fruit ripening process.</p>	\$20.00	Annually	UFC ARTICLE 46
<p>Fumigation or Thermal Insecticidal Fogging Note: see article 80 for additional requirements and Exceptions.</p> <p>To Operate a business of fumigation or thermal Insecticidal fogging or to maintain a fumigation room, vault or chamber in which a toxic or flammable fumigant is used.</p>	\$20.00	Annually	UFC ARTICLE 47
<p>Hazardous Materials To store, transport on site, dispense, use or handle Hazardous materials or to install, repair, abandon, Remove, place temporarily out of service, close or Substantially modify a storage facility or other area Regulated by UFC Article 80 when the hazardous Materials in use or storage exceed amounts listed in UFC Table 105-C. Note: The hazardous materials that exceeds the permit amount shall be used in determining the hazard classification. If more than one hazardous material involved, the material that fit within the highest hazard classification described herein shall be used. The measurement method used in the UFC for the respective Hazardous materials shall be applicable.</p> <p>Minor Hazard Solids: not to exceed 500# of permit amount. Liquid: not to exceed 55 gals. of permit amount.</p>	\$20.00 \$20.00	Annually Annually	UFC ARTICLE 80

Gases: not to exceed 200-cu. Ft. of permit amount.	\$20.00	Annually	
Moderate Hazard Solid: 501-5000 lbs. (excess of permit amount)	\$30.00	Annually	
Liquid: 56-550 gals. (excess of permit amount)	\$30.00	Annually	
Gases: 201-2000 cu. Ft. (excess of permit amount)	\$30.00	Annually	
Major Hazard Solid: 5001-25000 lbs. (excess of permit amount)	\$40.00	Annually	
Liquid: 551- 2750 gals. (excess of permit amount)	\$40.00	Annually	
Gases: 2001-10000 cu. Ft. (excess of permit amount)	\$40.00	Annually	
Extreme Hazard Solid: 25001 lbs. and over (excess of permit amount)	\$50.00	Annually	
Liquid: 2751 gals. and over (excess of permit amount)	\$50.00	Annually	
Gases: 10001 cu.ft. and over (excess of permit amount)	\$50.00	Annually	
Special Hazard Based on type of occupancy, size, location, quantity and degree of hazard.	\$100.00	Annually	
Hazardous Production Materials To store, handle or use in group H, Div. 6 occupancy	\$20.00	Annually	UFC ARTICLE 51
High-Piled Combustible Storage To use any building or portion there of exceeding 2,500 sq.ft. for high-piled combustible storage (floor plan required)	\$20.00	Annually	UFC ARTICLE 81
Hot-Work Operations Permits are required for hot work including, but not limited to:			UFC ARTICLE 49
Public exhibitions and demonstrations where hot work is conducted.	\$20.00	Annually	
Use of portable hot-work equipment inside a Structure. Exception: Work that is conducted under a construction permit issued by the building official.	\$20.00	Annually	
Fixed-site hot-work equipment such as welding Booths.	\$20.00	Annually	
Hot-work conducted within a Hazardous fire area.	\$20.00	Annually	
Liquified Petroleum Gas To store, use, handle or dispense LP-gas Portable containers equal to or more than 125-gal. Aggregate water capacity but not more than 4,000 -gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.	\$20.00	Annually	UFC ARTICLE 82
Containers over 4,000 gals. aggregate water capacity or a container more than 2,000 gal. Water capacity.	\$20.00	Annually	
To Install or maintain LP-gas Portable containers equal to or more than 125-gals. Aggregate water capacity but not more than 4,000	\$20.00	Annually	

-gals. aggregate water capacity nor a container more than 2,000-gals. water capacity.			
Containers over 4,000-gals. aggregate water capacity or a container more than 2,000-gals. water capacity. (Plans Required). Note: Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the Fire Chief or his authorized representative. Note: Installers shall maintain a record of installations for which a permit is not required by Section 105 and have such record available for inspection by the Fire Inspectors. Exception: Installation of a gas-burning appliance and replacement of portable cylinders.	\$20.00	Annually	
Liquid-or Gas-Fueled Vehicles or Equipment in Assembly Buildings. To display, compete or demonstrate liquid-or gas -fueled vehicles or equipment in assembly buildings.	\$20.00	Each Occurance	UFC ARTICLE 25
Lumber Yards To store lumber in excess of 100, 000 board feet.	\$20.00	Annually	UFC ARTICLE 30
Magnesium Working To melt, cast, heat treat, or grind more than 10 lbs. of Magnesium per working day.	\$20.00	Annually	UFC ARTICLE 48
Mall, Covered Permits shall be obtained to use a covered mall in the Following manner: To place or construct temporary kiosks, display Booths, equipment or the like in a mall. To use a mall as a place of Assembly To use open-flame or flame-producing devices To display any liquid or gas-fueled powered Equipment.	\$20.00 \$20.00 \$20.00 \$20.00	Each Occurance Each Occurance Each Occurance Each Occurance	UFC ARTICLE 35
Marinas To use open-flame devices for maintenance or repair of vessels, floats, piers or wharves To use portable barbecues, braziers or cooking Devices on vessels, floats, piers or wharves.	\$20.00 \$20.00	Annually Annually	UFC ARTICLE APPENDIX II-C
Motor Vehicle Fuel-Dispensing Stations To dispense flammable or combustible liquids, Liquefied petroleum gases or compressed natural gas at motor vehicle fuel-dispensing stations. (plans and specifications required) Note: Such operations shall include both public and private Accessible operations, automotive, marine fuel-dispensing stations.	\$20.00	Annually	UFC ARTICLE 52
Open Burning (not including barbecue) To conduct open burning	\$5.00	Annually or	UFC ARTICLE 11

(Joint approval with Division of Environmental Quality). Note: Open burnig is the burning of a bonfire, rubbish fire or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.		Each Occurance	
Organic Coatings To manufacture more than one gallon of organic Coating in a working day. Exception: Processes manufacturing nonflammable or water-Thinned coating and operations applying coating materials.	\$20.00	Annually	UFC ARTICLE 50
Ovens, Industrial Baking or Drying To operate an industrial baking or drying oven. Note: Industrial baking and drying which are heated with oil or gas fuel or which during operation contain flammable vaports from the products being baked or dried. (Plans of details and calculations required)	\$20.00	Annually	UFC ARTICLE 62
Parade Floats To use a parade float for public performance, Presentation, spectacle, entertainment, or parade each float.	\$10.00	Each Occurance	UFC ARTICLE 11
Repair Garages To use a structure as a place of business for servicing or repairing motor vehicles.	\$20.00	Annually	UFC ARTICLE 29
Rifle Ranges To establish, maintain or operate a rifle range. Note: Application must be referred to Police Division for approval	\$20.00	Annually	UFC APPENDIX II-D
Spraying or Dipping To conduct a spraying or dipping operation utilizing Flammable or combustible liquids or combustible Powders	\$20.00	Annually	UFC ARTICLE 45
Tire Storage (outdoor) To use an open area or portion thereof to store tires in excess of 1,000 cu.ft. (plans required)	\$20.00	Annually	UFC ARTICLE 11
Refrigeration Equipment A permit is required for regrideration unit or system installations having a refrigerant circuit containing more than 220 lbs. of group A1 or 30 lbs. of any other group refrigerant.(plans and specification Required) To install or operate a mechanical refrigeration unit or system.	\$20.00	Annually	UFC ARTICLE 63
Tent, Canopies, and Temporary Membrane Structures To erect or operate a tent or air-supported temporary Membrane structure or a canopy.(except for camping) Tent or air-supported membrane more than 200 sq.ft. Canopy over 400 sq.ft. Note: Permit not to exceed 180 days within a 12 month period.	\$20.00 \$20.00	Each Occurance Each Occurance	UFC ARTICLE 32

Section 1012. Fines for Violations of the Code.

UFC SECTION	OFFENSE
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103.4.3.1	Noncompliance with Orders or Notices.	\$500.00
103.4.3.2	Noncompliance with Tags.	\$500.00
103.4.3.3	Removal and Destruction of Tags and Signs.	\$500.00

Where work for which a permit is required is started or proceeded prior to obtaining said permit, the following fines shall apply.

Facility Value	Fine
\$1 - \$500	\$10.00
\$501 - \$2,000	\$25.00
\$2,001 - \$25,000	\$100.00
\$25,001 - \$50,000	\$200.00
\$50,001 - \$100,000	\$500.00
\$100,001 - \$500,000	\$1,000.00
\$500,001 - \$1,000,000	\$5,000.00
\$1,000,001 - UP	\$10,000.00

All other violations are \$75.00 and court costs. Fines are forfeitable on first offense and mandatory appearance is required on second offense.

UFC SECTION	VIOLATIONS	FINE
Section 101	Failure to comply with nationally recognized standards.	\$50.00
Section 101.2	Violation of provisions for the administration of any and all laws relating to firesafety.	\$75.00
Section 103.2.1.1	Violation of provisions for the prevention of fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the suppression or extinguishment of dangerous or hazardous fires.	\$50.00
Section 103.2.1.1	Violation of provisions for the storage, use and handling of hazardous materials,	\$50.00
Section 103.2.1.1	Violation of provisions for the installation and maintenance and regulation of fire escapes.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under constructions.	\$50.00
Section 103.2.1.1	Violation of the provisions for the maintenance of exits.	\$50.00
Section 103.2.1.1	Violation of the provisions for the investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.	\$50.00
Section 105	Violation of provisions for permits.	\$50.00
Section 105.8	Failure to have a required permit	\$50.00
Section 901.1	Violation of provisions for fire department access and water supply.	\$50.00
Section 1001.1	Violation of provisions for fire protection systems and equipment.	\$50.00
Section 1101	Violation of provisions for general safety precautions	\$50.00
Section 1201.1	Violation of provisions for the maintenance of exits and emergency escapes.	\$50.00
Section 1301.1	Violation of provisions for reporting of emergencies, emergency plans and emergency procedures.	\$50.00
Section 2401.1	Violation of provisions for airports, heliports, helistops, and aircraft hangers (Authority having Jurisdiction).	
Section 2501.1	Violation of provisions for places of assembly.	\$50.00
Section 2601	Violation of provisions for the storage, uses and handling of flammable and combustible liquids and woodworking operations within bowling alleys and	\$50.00

	pin-refinishing rooms.	
Section 2701	Violation of provisions for cellulose nitrate plastics (pyroxylin) storage and handling.	\$50.00
Section 2801	Violation of provisions for the storage and handling of combustible fibers.	\$50.00
Section 2901	Violation of provisions for garages used for service or repair of motor vehicles.	\$75.00
Section 3001	Violation of provisions for woodworking plants and exterior lumber storage.	\$75.00
Section 3201	Violation of provisions for tents and temporary membrane structures having an area in excess of 200 sq. ft., and canopies in excess of 400 sq. ft..	\$75.00
Section 3301	Violation of provisions for the storage and handling of cellulose nitrate motion picture film (nitrate film).	\$75.00
Section 3401	Violation of provisions for automobile wrecking yards.	\$50.00
Section 3501	Violation of provisions for the temporary use of the common pedestrian area within a covered mall building for promotional, educational, assembly, sales or similar activities.	\$75.00
Section 3601.1	Violation of provisions for dry-cleaning plants and systems.	\$75.00
Section 4501.1	Violation of provisions for: 1. The application of flammable or combustible paint, varnish, lacquer, stain or other flammable or combustible liquid applied as spray by compressed air, airless, or hydraulic atomization, steam, electrostatic or other methods or means in continuous or intermittent process, 2. Dip tank operations in which articles or materials are passed through contents of tanks, vats or containers of flammable or combustible liquids, including coating, finishing, treatment and similar processes, and 3. The application of combustible powders by powder spray guns, electrostatic powder spray guns, fluidized beds or electrostatic fluidized beds.	\$75.00
Section 4601	Violation of provisions for fruit-ripening processes in heated rooms and ripening processes where ethylene gas is introduced into a room to assist the ripening process.	\$75.00
Section 4701	Violation of provisions for fumigation and thermal insecticidal fogging operations.	\$75.00
Section 4801	Violation of provisions for the storage, handling and processing of magnesium, including the pure metal and alloys of which the major part is magnesium.	\$75.00
Section 4901	Violation of provisions for welding and cutting operations.	\$75.00
Section 5001	Violation of provisions for processes manufacturing protective and decorative finishes or coating for industrial, automotive, marine, transportation, institutional, household or other purposes, including the handling of flammable or combustible liquids, combustible solids and dust. Exception: Processes manufacturing nonflammable or water-thinned coating and operations applying coating materials.	\$75.00
Section 5101	Violation of provisions for semiconductor fabrication facilities and comparable research and development areas classified as Group H, Division 6 Occupancies.	\$75.00
Section 5201	Violation of provisions for automotive, marine, and aircraft motor vehicle fuel-dispensing, including both public accessible and private operations. (UFC Standard 52-1)	\$75.00
Section 6101	Violation of provisions for oil-burning equipment other than internal combustion engines, oil lamps and portable devices such as blow torches, melting pots and weed burners.	\$75.00
Section 6201	Violation of provisions for the location, construction and operation of industrial baking and drying ovens which are heated with oil or gas fuel or	\$75.00

	which during operation contain flammable vapors from the products being baked or dried. (UFC Standard 62-1)	
Section 6301	Violation of provisions for refrigeration unit and system installation having a refrigerant circuit containing more than 220 pounds of Group A1 or 30 pounds of any other group refrigerant. Exception: The chief is authorized to exempt temporary or portable installation.	\$75.00
Section 6401	Violation of provisions for stationary lead-acid battery systems having a liquid capacity of more than 100 gallons used for facility standby power, emergency power or uninterrupted power supplies.	\$75.00
Section 7401.1	Violation of provision for storage, use and handling of compressed gases containers, cylinder, tanks, and systems. Including those gases regulated in UFC. Partially full compressed gas containers, cylinders and tanks containing residual gases shall be considered as full for the purposes of the controls required.	\$75.00
Section 7501	Violation of provisions storage, use and handling of cryogenic fluids. Partially full containers, having residual cryogenic fluids shall be considered as full for the purposes of the controls required. Exception: Fluids within an approved closed-cycle refrigeration system complying with the mechanical code are not regulated by Article 75.	\$75.00
Section 7601.1	Violation of provisions for prevention of dust explosions.	\$75.00
Section 7701.1	Violation of provisions for manufacture, possession, storage, sale, transportation and use of explosive materials. Exception: 1. The armed forces of the United States, Coast Guard or National Guard; 2. Explosive in forms prescribed by the official United States Pharmacopoeia; 3. The sale, possession or use of fireworks 1.4G (Class C common fireworks); 4. The possession, transportation, storage, and use of small arms ammunition when packaged in accordance with DOT packaging requirements; 5. The possession, storage, transportation and use of not more than 5 pounds of commercially manufactured sporting black powder, 20 pounds of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption; 6. The transportation and use of explosive materials by the United States Bureau of Mines and federal, state and local law enforcement and fire agencies acting their official capacities; 7. Special industrial explosive devices which in the aggregate contain less than 50 pounds of explosive materials; 8. The possession, transportation, storage and use of blank industrial power load cartridges when packaged in accordance with DOT packaging requirement; 9. When preempted by federal regulation; 10. The use and handling of fireworks 1.3G (Class B Fireworks) as set forth in Article 78.	\$75.00
Section 7801	Violation of provisions for fireworks and temporary storage, use and handling of pyrotechnic special effects materials use in motion pictures, television, and theatrical and group entertainment productions.	\$75.00
Section 7901.1	Violation of provisions for storage, use, dispensing, mixing and handling of flammable and combustible liquids. Exception: 1. As otherwise provided in other laws or regulation; 2. Alcoholic Beverages in retail sales or storage uses, provided the liquids are packaged in individual containers not exceeding 4 liters; 3. Medicines, foodstuffs and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales or storage uses when packaged in individual containers not exceeding 4 liters; 4. Storage and use of fuel tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Article 61 and Mechanical Code. For abandonment of tanks, article 79 Shall apply; 5. Refrigerant liquids and refrigerant oils within an approved Closed-cycle refrigeration system complying with the mechanical code. See Article 63; 6. Storage and display of aerosol products, see article 88; 7. Materials which are solid at 100 °F or above; 8- storage of liquids that have no fire point when tested in accordance with nationally recognized standards. See section 9003, standard a.4.5; 9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.	\$75.00

Section 8001	Violation of provisions for the prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials and information needed by emergency response personnel. Exception: 1. The quantities of alcoholic beverages, medicines, foodstuffs and cosmetics, containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solution not being flammable, in retail sales occupancies are unlimited when packaged individual containers not exceeding 4 liters; 2. Application and release of pesticide products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacture's instructions and label directions.	\$75.00
Section 8101	Violation of provisions for building containing high-piled combustible storage. In addition to the requirements of Article 81, aerosol shall be in accordance with article 88, flammable and combustible liquids shall be in accordance with Article 79, and hazardous materials shall be in accordance with Article 80.	\$75.00
Section 8201	Violation of provisions for storage, handling, transportation of LP-gas and the installation of equipment pertinent to system for such uses.	\$75.00
Section 8401	Violation of provisions for the use of ribbon-type cellulose acetate and other safety film in conjunction with electric arc, xenon or other light source projection equipment which develops hazardous gases, dust or radiation and the projection of ribbon-type cellulose nitrate film, regardless of the light source used in projection.	\$75.00
Section 8501	Violation of provisions for permanent and temporary use of electrical appliances, fixtures, motors and wiring. Exception: Low-voltage wiring, such as communications and signal wiring.	\$75.00
Section 8701	Violation of provisions for buildings undergoing construction, alteration or demolition.	\$75.00
Section 8801.1	Violation of provisions for storage and retail display of aerosol products. Exception: Level 1 aerosols in cartons which are clearly marked to identify their classification level are not regulated by Article 88.	\$75.00
Section 9001.1	Violation of provisions for the <u>Uniform Fire Code Standards</u> referred to in various parts of this code, which are also listed in Section 9002 and published in volume 2 of this code, are hereby declared to be part of this code and are referred to in this code as a "UFC standard."	\$75.00
Section 9001.2	Violation of provisions of Standard of Duty established for the recognized standards listed in section 9003 is that the design, construction and quality of materials of building, structure, equipment, processes, and methodologies be reasonably safe for life, limb, health, property, and public welfare.	\$75.00
Section 9001.3	Violation of provisions of the recognized standards listed in section 9003 are recognized standards. Compliance with these recognized standards shall be prima facie evidence of compliance with the standard of duty set forth in section 9001.2.	\$75.00
U.F.C Appendix I-A	Violation of provisions for life-safety requirements for existing buildings, other than high-rise, which do not conform with the minimum requirements of the Uniform Building Code. Exception: Group U occupancies and occupancies regulated by Appendix I-B, and Group R Division 3 occupancies, except that Group R Division 3 occupancies shall comply with section 6.	\$75.00
U.F.C Appendix I-B	Violation of Provisions for life-safety requirements for existing high-rise buildings constructed prior to the adoption of appendix I-B and which house Group B Office or Group R, Division 1 occupancies, each having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access.	\$75.00
U.F.C Appendix I-C	Violation of provisions for signs to provide information to the occupants and fire department personnel to minimize confusion during emergencies. Standardized signs shall be provided in new and existing buildings that are	\$75.00

	four or more stories in height. Such signs shall be installed in stairways to identify each stair landing and indicate the upper and lower termination of the stairway.	
U.F.C Appendix II-A	Violation of provisions for safeguards to prevent the occurrence of fire and to provide adequate fire-protection facilities to control the spread of fire which might be caused by recreational, residential, commercial, industrial, or other activities conducted in hazardous fire areas.	\$75.00
U.F.C Appendix II-B	Violation of provisions for protection of flammable and combustible liquid tanks in locations subject to flooding.	\$75.00
U.F.C Appendix II-C	Violation of provisions for marina facilities.	\$75.00
U.F.C Appendix II-D	Violation of provisions for rifle ranges.	\$75.00
U.F.C Appendix II-E	Violation of provisions for Hazardous Materials Inventory Statement (HMIS) and Hazardous Materials Management Plans (HMMP) which are required by the chief pursuant to Article 80 shall be provided for hazardous materials. Exception: 1. Materials which have been satisfactorily demonstrated not to present a potential danger to public health, safety or welfare, base upon the quantity or condition of storage, when approved. 2. Chromium copper, lead, nickel and silver need not be considered hazardous materials for the purposes of Appendix II-E unless they are stored in friable, powder or finely divided state.	\$75.00
U.F.C Appendix II-F	Violation of provisions for the storage and dispensing of motor fuels into the fuel tanks of motor vehicles from protected aboveground tanks located outside buildings.	\$75.00
U.F.C Appendix II-G	Violation of provisions for secondary containment for underground tank system containing flammable or combustible liquids. Also see C.F.R. Title 40, part 280, and UFC section 8001.4.5.1 for additional requirements related to secondary containment tanks containing hazardous materials other than flammable and combustible liquids.	\$75.00
U.F.C Appendix II-H	Violation of provisions for site assessment for determining the potential fire or explosion risk from a leak, spill or discharge from an underground flammable or combustible liquid storage tank. Also, see UFC section 7901.7.4.	\$75.00
U.F.C Appendix II-I	Violation of provisions for equipment having maximum ozone-generating capacity of 1/2 pound or more over a 24 hour period. Exception: Ozone-generating equipment used in Group R, Division 3 occupancies.	\$75.00
U.F.C Appendix II-J	Violation of provisions for storage of flammable or combustible liquids in tanks located within below-grade vaults.	\$75.00
U.F.C Appendix III-A	Violation of provisions for the procedure determining fire-flow requirements for building or portions of building hereafter constructed.	\$75.00
U.F.C Appendix III-B	Violation of provisions for fire hydrant location and distribution.	\$75.00
U.F.C Appendix III-C	Violation of provisions for inspection, testing and maintenance of water-based fire-protection systems.	\$75.00
U.F.C Appendix III-D	Violation of provisions for basement pipe inlets. Also, see UFC section 1005.	\$75.00
U.F.C Appendix IV-A	Violation of provisions for exposed floor surfaces of buildings, including coverings which are applied over a previously finished floor. Exception: Interior floor finish materials of a traditional type, such as wood, vinyl, linoleum, terrazzo, and other resilient floor covering materials.	\$75.00
U.F.C Appendix IV-B	Violation of provisions for the use of natural or resin-bearing cut trees in public buildings.	\$75.00
U.F.C Appendix V-A	Violation of provisions of Nationally recognized standards of good practice.	\$75.00
U.F.C Appendix	Violation of provisions for hazardous materials classifications. To provide	\$75.00

VI-A	information, explanations and examples to illustrate and clarify the hazard categories contained in Article 80. The hazard categories are base upon the code of Federal Regulations, Title 29. Where the numerical classifications are included.	
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Section 1014. Citation Process

A. SCOPE

The following regulations were done to prevent creating conflicting regulations with the U.F.C and at the same time, present for public awareness, review and use, a document that is useful in explaining pertinent department rules, regulations and procedures relative to inspections and citations.

The U.F.C., Uniform Building Code and other codes adopted under Public Law 11-56 were developed, and shall continually updated, with concern for consistency amongst these codes. The Fire Prevention Section intends to continue this practice, and thus, has developed these editions, and consequently, in conjunction with the editions of other codes, the department will make amendments to this document as new editions of the U.F.C. are automatically adopted; or, whenever amendments are necessary to address departmental administrative and operational needs, consistent with the U.F.C. 1997 and supplemental editions, and as determined by the chief.

This code prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazard of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

The provisions of this regulation shall supplement any and all laws relating to firesafety and shall apply to all persons without restriction unless specifically exempted. (U.F.C. section 101.2 scope.)

B. PURPOSE

1. To gain compliance with federal and local codes and regulations, when all reasonable efforts have been unsuccessful.
2. A course of action to be taken when a condition exists that causes a threat to life or property from fire and explosion.
3. It is the intent of the department to achieve compliance by traditional means of inspection, notification, granting of reasonable time to comply and reinspection. A citation shall be used only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the fire chief. Only those members of the fire division specifically designated by the fire chief may issue citation.

C. ADMINISTRATION AND ENFORCEMENT

The chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to:

1. The prevention of fires,
2. The suppression or extinguishment of dangerous or hazardous fires,
3. The storage, use and handling of hazardous materials,
4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipment,
5. The maintenance and regulation of fire escapes,
6. The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under construction,
7. The maintenance of exits, and
8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

For authority related to control and investigation of emergency scenes, see section 104. (U.F.C. section 103.2.1.1 General.)

D. CORRECTIVE ORDERS AND NOTICES

When the chief finds in any building or any premises combustibles, hazardous or explosive materials or dangerous accumulations of rubbish; or finds unnecessary accumulations of wastepaper, boxes, shaving or any highly flammable materials which are so situated as to endanger life or property; or finds obstruction to or on fire escapes, stairs, passageways, doors, or windows that reasonably tend to interfere with the operations of the fire department or the egress of the occupants of such building or premises; finds that the effectiveness of any exit door, attic separation or any fire separation wall is reduced; or finds that this code is being violated, the chief is authorized to issue orders as necessary for the enforcement of the fire prevention laws and ordinances governing the same and for the safeguarding of life and property from fire. (U.F.C. section 103.4.1 Authorization to issue corrective orders and notices. U.F.C. section 103.4.1.1 General.)

E. UNSAFE HEATING OR ELECTRICAL EQUIPMENT AND STRUCTURAL HAZARDS

When the chief deems any chimney, smokestack, stove, oven, incinerator furnace or other heating device, electric fixture or any appurtenance thereto, or anything regulated under a nationally recognized standard in or upon any building, structure or premises not specifically mentioned in this code, to be defective or unsafe so as to create a hazard, the chief is authorized to serve upon the owner or the person having control of the property a written notice to repair or alter as necessary and shall notify any other authority enforcing codes regulating such equipment. The chief is authorized to affix a condemnation tag prohibiting the use thereof until such repairs or alterations are made. When affixed, such tag shall only be removed by the order of the chief when the hazard to which the order pertains has been eliminated in an approved manner. Until removed, that item or device which has caused the hazard shall not be used or be permitted to be used.

When an apparent structural hazard is caused by the faulty installation, operation or malfunction at any of the items or devices listed in this subsection, the chief shall immediately notify the building official to investigate such hazard and cause such

hazard to be abated as required by the BuildingCode. (U.F.C. section 103.4.1.2 unsafe heating or electrical equipment and structural hazards.)

F. COMPLIANCE WITH ORDERS AND NOTICES

Orders and notices issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains, In cases of extreme danger to persons or property, immediate compliance is required.

If the building or other premises is not owner occupied, under lease or otherwise, and the order or notice requires additions or changes in the building or premises which would immediately become real estate and be the property of the owner of the building premises, such orders or notices shall be complied with by the owner. (U.F.C. section 103.4.3.1 Compliance with orders and notices.)

EXCEPTION: *When the owner and the occupant have agreed otherwise between themselves, in which event the occupant shall comply.*

G. COMPLIANCE WITH TAGS

A building, premises or thing shall not be used when in violation of this code as noted on a tag affixed in accordance with Section 103.4.1. (U.F.C. Section 103.4.3.2. Compliance with tags.)

Permit applicants and the applicants' agents and employees shall carry out the proposed activity in compliance with this code and other laws or regulations applicable thereto, whether specified or not, and in complete accordance with approved plans and specifications. Permits which purport to sanction a violation of this code or any applicable law or regulation shall be void and approvals of plans and specifications in the issuance of such permits shall likewise be void. (U.F.C. Section 105.2.3. Compliance.)

H. POLICE POWERS

The fire chief and members of the fire prevention shall have the powers of a police officer in performing their duties under this code.

When requested to do so by the chief, the chief of police is authorized to assign such available police officers as necessary to assist the fire department in enforcing the provisions of this code.

I. AUTHORITY TO INSPECT

The fire prevention section shall inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the

purpose or provisions of this code and of any other law or standard affecting firesafety. (U.F.C. Section 103.3.1.1. Authority to inspect.)

J. RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the chief has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the chief is authorized to enter such building or premises at all reasonable times to inspect the same or to perform any duty authorized by this code, provided that if such building or premises is occupied, the chief shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the chief shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the chief shall have recourse to every remedy provided by law to secure entry.

If the owner or occupant denies entry, the chief is authorized to obtain a proper inspection warrant or other remedy provided by law to secure entry. Owners, occupants or any other persons having charge, care or control of any building or premises shall, after proper request is made as herein provided, promptly permit entry therein by the chief for the purpose of inspection and examination pursuant to this code.

For the purpose of Section 103.3.1.2. [Tight of Entry], the term "Chief" shall include the chief officer of the fire department serving the jurisdiction and the officers named in Section 103.2.1.2. And 103.2.2.22 (U.F.C. Section 103.3.1.2 Right of Entry.)

K. SERVICE OF ORDERS AND NOTICES

Orders and notices authorized or require by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by verbal notification, personal service, or delivering the same to and leaving it with a person of suitable age and discretion upon the premises: or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to the person's last known address.

Orders or notices that are given verbally shall be confirmed by service in writing as herein provided. (U.F.C. Section 103.4.2 Service of orders and notices.)



Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF FINAL ADOPTION OF THE PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT DEPARTMENT OF PUBLIC HEALTH FACILITIES

The Secretary of the Department of Public Health (DPH), Commonwealth of the Northern Mariana Islands (CNMI), which has promulgated Proposed Rules and Regulations Governing Medical Malpractice Coverage for Physicians Practicing at Department of Public Health Facilities, originally published in the Commonwealth Register, volume 27, number 5, page 024600, June 20, 2005, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been finally adopted with modification. I further request and direct this Notice, Certification, and attached final rule to be published in the CNMI Commonwealth Register. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 14 day of September 2005, at Saipan, in the Commonwealth of the Northern Mariana Islands.

[Signature]

Pedro Untalan, MHA
Designee for the Secretary of Public Health
Department of Public Health

Date 9-14-05

Received by: [Signature]

THOMAS TEBUTEB
Special Assistant for Administration

Date 9-19-05

Filed by: [Signature]

BERNADITA B. DELA CRUZ
Commonwealth Registrar

Date 9-19-05

Medical Malpractice Liability Coverage¹

A. Malpractice liability coverage is a mandatory requirement for Medical Staff membership at the Commonwealth Health Center.

B. Each physician shall provide proof to the Secretary of Public Health (“the Secretary”) that he/she has met this requirement by any one of the following means:

1. Indemnification by the CNMI for its government employee staff;
2. Proof of private medical malpractice liability insurance (occurrence type) coverage of at least \$100,000; or,
3. Proof of other security acceptable to the Secretary and the Attorney General, in favor of the CNMI Dept. of Public Health (for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services), of not less than \$100,000. Possible alternative security vehicles may include:
 - a. surety bond;
 - b. letter of credit from an FDIC insured banking institution;
 - c. pledge of collateral;
 - d. escrow account with an FDIC insured banking institution.

C. No physician shall be granted privileges at the Commonwealth Health Center until these requirements have been completed.

D. The Secretary shall, on an ongoing basis, review compliance. Those practitioners with privileges at CHC who do not have proof in their CHC physician files of current medical malpractice coverage as defined above will have 30 days to come into compliance with this requirement. Any practitioner who fails to comply with this requirement within the 30 day time period will have his or her hospital privileges immediately suspended, and then the case shall be referred to the Medical Executive Committee for further action, including permanent termination of privileges.

E. All physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative

¹ 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC section 2603 (f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities.

financial products described above shall not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

F. These regulations shall not supplant or affect any separate, additional requirements imposed on physicians by the Medical Professional Licensing Board.

DISCUSSION OF PUBLIC COMMENTS RECEIVED IN RESPONSE TO
PROPOSED RULES AND REGULATIONS GOVERNING MEDICAL
MALPRACTICE COVERAGE FOR PHYSICIANS PRACTICING AT
DEPARTMENT OF PUBLIC HEALTH FACILITIES

At the time the proposed rules were published, the public was asked to provide comments and make suggestions for the modification or improvement of the Rules and Regulations. A hearing was held on August 10, 2005 at the Multi-Purpose Center in Saipan, and a number of comments, both oral and written, were received and considered by the Dept. of Health administration. Copies of the written comments received in response to the prior public notice are available for inspection at the Department of Public Health during regular business hours. As a result of this review of the public comments, various changes were made to the Rules and Regulations as originally proposed. A review of the comments and the response by the Department of Public Health follows.

Proposed Rule:

Prior to the proposed rules and regulations, the Commonwealth Health Center Bylaws required any private physician who wanted hospital privileges to prove malpractice insurance coverage of at least \$100,000. No other forms of proof of financial responsibility were authorized.

The rules and regulations, as proposed, required: 1) proof of malpractice insurance in the amount of \$100,000; or, 2) other security acceptable to the Secretary and the Attorney General for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services, of not less than \$150,000. The proposed rule attempted to expand the types of financial products that would be acceptable proof of financial responsibility and a source of indemnification to the Dept. of Public Health in lieu of malpractice insurance. It would have increased the required amount of these alternative types of coverage to \$150,000 to cover litigation and other costs over and above the capped liability amount under the Public Employee Legal Defense and Indemnification Act of 1986, 7 CMC 2301 et seq. of \$100,000.

Comments:

In general, the physician commenters and their clinic representatives opposed the proposed rule or any requirement related to malpractice coverage, in any form. These commenters indicated that malpractice insurance was extremely difficult to obtain, and that it was unaffordable to them. They indicated that the alternative forms of financial products anticipated by the proposed rules and regulations were not acceptable to them as they would tie up their assets and be financially burdensome. They stated that enforcement of the rule as proposed would result in private physicians losing hospital privileges and subsequent loss of the medical services provided by them.

A couple of private physicians argued that the CNMI government should cover and indemnify them as it does government employed physicians and that the liability cap of \$100,000 should be extended to private doctors. They argued that the government should pass legislation that limits expert witnesses who testify to those residing in Guam and Saipan, who know the standard of care in the CNMI community. They stated the government should establish a malpractice company that would provide malpractice insurance for the \$100,000 capped amount for the private physicians at minimal cost.

One physician argued that private practitioners spent less time at DPH facilities and so posed a lower risk to patients there so that the amount of financial responsibility required should be lowered, rather than increased. The commenter feared that hospital staff could commit a wrong and that it would be unfair to make doctors undertake that risk. The commenter stated that a doctor might have to seek legal recourse against the hospital to get his funds back. The commenter was concerned that this requirement would be added to any amounts required by the medical licensing board. The commenter indicated that the cost of coverage would make it less likely that off island specialists would come to the CNMI. This commenter too suggested that the government of the CNMI should indemnify all private physicians as they do government doctors.

Another physician pointed to the high cost of medical malpractice insurance, the small market for such insurance, and the unacceptability to the Attorney General's Office of a bond previously in use by one bonding company. The commenter indicated the financial alternatives posed too great a barrier to the private practice of medicine and were unreasonable, particularly in light of low and slow insurance and Medicare payments. The commenter said the proposed \$150,000 requirement would tie up too much capital that could be used for other purposes. The commenter stated that the financial requirement would make private doctors unwilling to see indigent patients at the hospital. The commenter suggested a commission be established to explore a self-insurance program, with mandatory arbitration of medical malpractice claims.

One Guam malpractice carrier indicated an interest in providing insurance to CNMI physicians. One CNMI bonding company indicated it would not be willing to adapt its bonds to CNMI government requirements.

Other commenters who claimed to represent the views of patients, and in some cases their lawyers, took the position that only malpractice insurance should be allowed for financial responsibility purposes and opposed the use of bonds. They argued that malpractice insurance requirements provided a social benefit. They submitted what they claimed to be surveys of several hundred persons who advocated requiring medical malpractice coverage in amounts from \$300,000 to \$1,000,000. They argued that requiring medical malpractice insurance causes a private financially interested company to oversee and regulate the risk of each doctor and nurse who they provide insurance to. They argued that either the hospital may not have the time, resources, or even the desire to investigate a doctor, but that an insurance company that is insuring a doctor's risk does have a financial incentive to research the individual's past. They alleged there was evidence to show that medical malpractice reforms cause an increase in infant mortality, and presumably in some other health indicators. They submitted a paper entitled, "Does Medical Malpractice Reform Help States Retain Physicians and Does It Matter," by

Jonathan Klick (American Enterprise Institute) and Thomas Stratmann (Professor of Economics at George Mason University) (2003). The abstract of the paper summarizes its findings as that some medical malpractice reforms may help states retain physicians but some may also diminish incentives to provide a high level of health care and worsen health outcomes.

Response:

The proposed rules and regulations were intended to protect the CNMI Dept. of Public Health and the public at large from the undue expense that might be caused by alleged physician malpractice occurring at government facilities. Use of government property, and activities carried on by private entities on government property, ordinarily carries with them an insurance requirement. When private physicians use the government hospital facilities as part of their business, they are not ordinarily subject to government control, and so some protection of the government and public interest is required so that taxpayers don't suffer losses caused by the private business of another.

If malpractice insurance were reasonably available, it would protect both the patient and the government hospital. However, the idea of other financial products was proposed as an alternative to given broader choice to physicians.

All of these comments and the interests they represent, as well as the needs of the community to be protected from losses due to the risk of physician malpractice, have been considered and carefully weighed. The rules and regulations as adopted strike a fair and reasonable balance between the need for coverage of losses, while taking into account the fact that costly malpractice insurance premiums could pose a significant barrier to the private practice of medicine in the CNMI.

The types of financial products to meet the fiscal responsibility concerns of the public have been expanded, while the amount required has been kept at the minimum amount necessary to protect the public, i.e. \$100,000.

Further, the rule has been clarified to provide that all physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative financial products may not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

Adoption of some of the particular alternatives to the proposed rule would require legislative action. The Dept. of Health will refer the various comments to the CNMI legislative committees with health care facility oversight.

MEDICAL PHYSICIAN'S INDEMNITY BOND
(Specimen)

Bond No. _____
Premium: _____
Issue Date: _____

KNOW ALL MEN BY THESE PRESENTS:

That we, (name of medical company), as Principal, both for itself and its member(s) _____ (insert names of members of the LLC) _____, and (name of bonding company), a corporation organized under the laws of the Commonwealth of the Northern Marianas Islands and authorized to execute bonds and undertakings, as Surety, are held firmly bound unto the COMMONWEALTH HEALTH CENTER, the DEPARTMENT OF PUBLIC HEALTH, GOVERNMENT of the COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, and their officers, employees and agents, hereinafter collectively called the Obligee, in an amount not to exceed the principal sum of \$(state amount here)) for the payment whereof well and truly to be made, said Principal and Surety bond them, themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Obligee has agreed to authorize and provide Medical Staff Membership and Privileges of the Commonwealth Health Center or its associate facilities to Principal;

WHEREAS, a condition of such agreement addendum thereto is that the Principal shall provide Medical Malpractice Liability Insurance and in lieu of such insurance coverage, Principal has agreed to provide a good sufficient indemnity bond in the amount stated above to indemnify the Obligee against any financial loss, costs, expenses, or damages, including, but not limited to malpractice claims, or any and all damage or loss occasioned to Obligee as a result or related to Principal's provision of services, medical or otherwise, at Commonwealth Health Center or its associate facilities;

NOW THEREFORE, the conditions of this obligation are that the Surety shall indemnify the Obligee against failure of the Principal to faithfully defend and pay all sums of money for any and all claims, losses, costs, or injury arising out of or in relation to the provision of any services, medical or otherwise, performed at or in connection with the Commonwealth Health Center and related facilities, including but not limited to malpractice claims or damage of loss of its property;

First: That at the earliest practical moment, and in any event not later than ninety (90) days after the failure of the Principal to pay to the Obligee any sums owed pursuant to a separate indemnification agreement between Principal and Obligee for any act or acts that would cause a claim to be made under the terms of this Bond, the Obligee shall give the Surety written notice thereof, which notice shall be made to the following address:

(list address of bonding company)

And within 90 days after such failure of the Principal, the Obligee shall file with the Surety affirmative proof of loss and shall upon request of the Surety render every assistance, not pecuniary, to facilitate the investigation and adjustment of any loss.

Second: Any suit or action to recover against the Surety on account of loss hereunder shall be brought before the expiration of 24 months from demand of Obligee against the Principal for payment of such loss but shall not be instituted before the expiration of three (3) months from the filing of proof as aforesaid.

Third: This Bond may be cancelled either by the Surety or this Obligee by written notice served upon the other, or sent by registered mail specifying therein the effective date of such cancellation, provided, however, that this notice is served or sent by the Surety, such effective date shall not be less than sixty (60) days after such service or after the date born by the sender's registry receipt. Notwithstanding a termination by either party, this Bond shall remain effective for any claim, loss or liability which may arise out of or be related to the Principal's actions during the time period in which the Bond was effective plus an additional twenty-four (24) months.

Fourth: The terms of this Bond shall be from _____ day of _____, 20__ to and including the _____ day of _____ 20__.

PRINCIPAL:

SURETY:

By: _____

By: _____

ACKNOWLEDGEMENTS

COMMONWEALTH OF THE)
NORTHERN MARIANA ISLANDS) SS.
MUNICIPALITY OF SAIPAN)

On this _____ day of _____, 20__, before me, a Notary Public in and for the Commonwealth of the Northern Mariana Islands, Municipality of Saipan personally appeared _____ known to me to be persons whose names are subscribed as the authorized representative of _____ and _____ and acknowledged to me that they executed the foregoing instrument on behalf of said corporation for the purposes and consideration contained therein.

Notary Public

IRREVOCABLE LETTER OF CREDIT
(Specimen)

To: Commonwealth of the Northern Mariana Islands
Department of Public Health (DPH)
Commonwealth Health Center and related facilities
And their respective employees, assigns, and agents

REFERENCE: Name of Company or Person authorized by DPH:
Company ID # as assigned by the DPH:
Irrevocable Letter of Credit Number:
Effective Date:
Expiration Date:

Sir/Madam:

You have requested of [**Name of Lending Institution**] (the "Lender") that we establish an irrevocable letter of credit which will remain available on behalf of [**Applicant**] (the "Company") who has applied to the Department of Public Health (the "DPH") for authority to provide medical and related services at the Commonwealth Health Center and its related facilities. The purpose of this letter of credit is to secure payment of any monetary sanction, cost, liability, or expense which may be imposed against the Company, its representatives, successors or assigns, for any loss, cost, expense, damage, or liability arising out of the Company's activities or services, medical or otherwise, at or in connection with the grant of permission by DPH to the Company to provide services at the Commonwealth Health Center or any of its related facilities.

We hereby establish and issue, in favor of the DPH, an irrevocable letter of credit in the amount of _____ thousand dollars (\$ _____) lawful money of the United States of America. The DPH may draw upon this letter of credit, at any time and from time to time, by delivering a Letter of Credit Notice, substantially in the form set forth below (a "Notice"), which Notice shall specify the amount (the "Draw Amount") to be drawn and the bank account (the "Bank Account") to which the Draw Amount should be delivered and shall be signed by an official designated and duly authorized by the DPH, to Lender at the address listed below, or to such other address as the Lender shall notify the DPH in writing by certified mail. Promptly after the delivery of each Notice, the Lender hereby covenants and agrees to deliver, by wire transfer of immediately available funds, the Draw Amount to the Bank Account.

This letter of credit shall be deemed automatically renewed without amendment for successive one-year periods and may be canceled by the Lender by giving thirty (30) days advanced written notice by certified mail of such cancellation to the DPH and the Company, it being understood that the Lender shall not be relieved of liability that may have accrued under this letter of credit prior to the date of cancellation.

The Lender hereby represents and warrants that it is qualified and authorized to issue this letter of credit and is a bank regulated by the Federal Deposit Corporation of the United States.

Except as otherwise expressly stated, this letter of credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision) International Chamber of Commerce Publication No. 500, or any revisions thereto.

Yours Very Truly,
[Name of Lending Institution]
Name:
Title:
Address of Lender:

APPROVAL AND INDORSEMENT

This is to certify that I have examined the foregoing letter of credit and found the same to be sufficient and in conformity to law and that the same has been filed with the Department of Public Health, Commonwealth of the Northern Mariana Islands, this day of _____, 20____.

Name:
Title:

**FORM OF
LETTER OF CREDIT NOTICE**

[Name of Lender]
[Address]

Re: Irrevocable Letter of Credit No. []

Dear Sir or Madam:

You are hereby notified, and the undersigned hereby certifies, that the undersigned is an official designated and duly authorized by the DPH to deliver this notice and that a monetary sanction in the amount of \$ (the "Draw Amount") has been imposed against **[Applicant]** its representatives, successors or assigns, arising out of or related to **[Applicant]** 's services or activities at the Commonwealth Health Center or its related facilities. Pursuant to that certain Irrevocable Letter of Credit referenced above, we hereby request that you deliver payment of the Draw Amount to the bank account listed below by wire transfer of immediately available funds:

Name of Bank Account:
Account Number:

ABA Routing Number:
Reference:
Name of Contact:
Telephone Number:
Facsimile Number:

Please confirm receipt of this Notice and the Federal Reserve wire confirmation number of the delivery of the Draw Amount by sending a facsimile to the person at the number listed above.

Sincerely,

DEPARTMENT OF PUBLIC HEALTH, CNMI

Name:
Title:


PUBLIC NOTICE


NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED AMENDMENTS TO BOARD OF EDUCATION REGULATIONS REGARDING PRAXIS AND TEACHER CERTIFICATION

I, Roman C. Benavente, the Chairman of the Ninth Board of Education for the Commonwealth of the Northern Mariana Islands ("Board") pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10 hereby adopt as permanent the proposed amendments to Public School System Regulations for Certified Personnel, Chapter 2 Sections (b)(10), (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(iv), and (f)(3)(A)(iv) and Chapter 1 Part F Sections 1601 through 1603, as published in Volume 27, Number 06 of the Commonwealth Register dated July 20, 2005 (pages 024670 - 024678). I hereby certify that these amendments have been adopted after the appropriate time for public comment without modification or amendment.

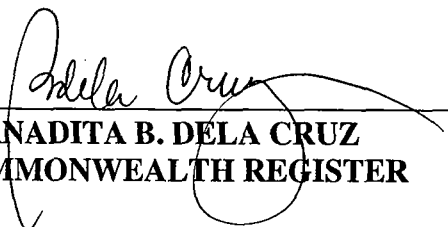
Accordingly, I request that this Notice and Certification of Adoption be published in the Commonwealth Register. Pursuant to 1 CMC sec. 9105(b), these amended regulations are effective 10 days after publication.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 22nd day of September, 2005, on Saipan, CNMI.

By: 
ROMAN C. BENAVENTE
BOARD OF EDUCATION CHAIRMAN

Approved By: 
PAMELA BROWN
ATTORNEY GENERAL, CNMI

Date: 9/22/05

Filed By: 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTER

Date: 9/22/05



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ATTORNEY GENERAL OPINION No. 05 -13

**To: Hon. Manuel P. Villagomez, Acting Chair
Marianas Public Lands Authority**

From: Alan J. Barak, Asst. AG, Civil Division
Through: Pam Brown, Attorney General
Date: 8/26/05

**Re: MPLA transfer to CUC emergency fuel fund during state of
emergency**
Within fiduciary duties and allowable

ISSUE AND SHORT ANSWER

Question

May the MPLA Board, consistent with its fiduciary duties, transfer \$1 million of unused CIP funds to the Emergency Fuel Contingency Fund in order to help avoid the disaster of losing power, water and sewage treatment due to the lack of CUC fuel oil?

Short Answer

Yes.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

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Summary

This Opinion examines whether the MPLA Board has acted within the scope of its fiduciary responsibilities in acceding to the Governor's request to transfer \$1 million of idle savings account funds to the CUC's Emergency Fuel Contingency Fund in order to help stave off the loss of power, water and sewage treatment in the CNMI.

By letter of August 24, 2005, the Acting Chairman of the MPLA, Manuel P. Villagomez, wrote the Attorney General, expressing his Board's interest in assisting Governor Juan N. Babauta in meeting the continued state of emergency caused by the high cost of fuel and the inability of CUC to provide power to the people¹. He asked the Attorney General to address the matter as a "top priority".²

This Opinion presents the background, history and authority for, the conclusion that the transfer is well within the scope of the Board's fiduciary responsibilities. The first section provides the background to the Acting Chair's request, including the Governor's Declaration of Disaster Emergency. The legal analysis appears in the second section.

Discussion

The first section of this memo, "Background", provides a description of the events and agencies related to this matter. The second section applies the tools of legal analysis, including review of relevant case law and principles of statutory construction.

1. Background

a. Description of MPLA Board and its duties

MPLA traces its beginnings to a Constitutional agency, the Marianas Public Lands Corporation ("MPLC"). MPLA is the product of the Governor's reorganization and three legislative enactments.³ Most recently, the Legislature renamed the agency "a public corporation to be known as the Marianas Public Lands Authority", headed by a "Commissioner" with a "Board of Directors." PL 12-71 (codified at 1 CMC, Division 2, Chapter 14, §§ 2801-08).⁴

Pursuant to the Constitution the Governor, by Executive Order "dissolved" MPLA, then the Legislature re-established the agency through a series of related enactments. See Law Revision Commission Comments to 1 CMC §§ 2001, 2801, as discussed in endnote 3. The Legislature sought to give MPLA broad powers. It stated its purpose in the most recent amendment to the agency's enabling act:

The Legislature finds that questions have arisen to the extent of the powers and duties of the Board of Public Lands. It is the intent of the Legislature that the Board of Public Lands be given broad powers over its operations, and the leasing of public lands.

PL 12-33, § 1. Findings. In re-enacting the agency, the Legislature repeated the language of the Constitution.

The Framers created two agencies to manage the Commonwealth's public lands and the funds relating to those lands. Article XI of the NMI Constitution, and the Legislature's reenactment, gave the MPLA broad powers within its mission. The following sections are excerpted from article XI:

Section 1: Public Lands. The lands . . . are **public lands belonging collectively to the people of the Commonwealth who are of Northern Marianas descent.**

Section 2: Submerged Lands. . . .

Section 3: Surface Lands. **The management and disposition of public lands except those provided for by N.M.I. Const. art. XI, § 2 shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

....

c) **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

....

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies in the performance of its responsibilities.**

....

b) **The corporation may not transfer a freehold interest in public lands for twenty years after the effective date of this Constitution, except for homesteads as provided under section 5(a), or for use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.**

....

e) **The corporation may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

....

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses**

reasonably necessary for the accomplishment of its functions. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added). The entirety of article XI is set out in the endnote.⁵ The Framers created a companion agency to manage the funds related to the MPLC/MPLA's activities, the Marianas Public Land Trust:

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

....

b) **The trustees shall make reasonable, careful and prudent investments.** For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

....
NMI Const. art. XI, § 6. (Emphasis added)

The statute re-enacting MPLC/MPLA differed in some respects from article XI:

There is established within the Executive Branch an independent public corporation of the Commonwealth. . . to be known as the Marianas Public Lands Authority.

1 CMC § 2801.

§ 2802. Board Powers and Duties.

(a) The Board of Public Lands shall have the following powers and duties:

....

(2) To be responsible for the management, use, and disposition of surface lands of the Commonwealth.

....

(c) The Board of Directors may select, employ, promote and terminate employees, employ contractors and consultants, employ legal counsels, sue and be sued in its own name, provide liability insurance as it considers necessary, make contracts, borrow money within the limitations contained in Article X of the Constitution [on public debt] . . . , **and take any other action necessary for the management or disposition of surface and submerged public lands.**

1 CMC § 2802. (Emphasis added)

§ 2803. Board Members.

(a) The Board of Public Lands shall be composed of five directors, appointed by the Governor with the advice and consent of the Senate, **who shall set policy with respect to public lands for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**No interest in public land shall be transferred except upon approval by the board of the particular

interest to be transferred . . . provided, that any provisions imposed as a condition of legislative approval pursuant to Section 2804 shall not require further approval by the board.

....

(d) . . . The directors shall be held to strict standards of fiduciary care. The governor may remove a director only for cause.

(e) The Board shall act only by the affirmative vote of the majority of the five directors.

....

1 CMC § 2803.

§ 2804. Public Lands: Fundamental Policies.

....

(c) The Board may not transfer a freehold interest in public lands for 20 years after the effective date of the Constitution, except for . . . use for a public purpose by another agency of government, or for land exchanges to accomplish a public purpose as authorized by law.

....

(f) The Board may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Board may authorize construction of facilities for public purposes.

....

(h) The Board of Directors shall receive all moneys from public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 2804 (c), and shall transfer these moneys after the end of the fiscal year to the Marianas Public Land Trust except that the Board of Directors shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and nay [sic] other expenses reasonably necessary for the accomplishment of its functions. It shall prepare and submit a budget as a government corporation pursuant to 1 CMC § 7206.

1 CMC § 2804.

There are some limits to the MPLA's duties and powers. For instance, the CNMI Executive Branch, but not the MPLA, has the power, through its normal processes, to acquire and dispose of private land for the public good. *Romisher v. MPLC*, 1 CR 841, 860 (Tr. Ct. 1983) (preliminary injunction), 1 CR 873, 883 at n 3 (1983) (permanent injunction).⁶

This Opinion does **not** address the relationship between MPLA and MPLT, particularly the agencies' respective duties regarding the handling of funds relating to public lands and public land activities. This Opinion does **not** resolve the extent to which the "dissolution" and re-enactment of the MPLC/MPLA **continued** the agency and/or its functions or created a new agency with the same or similar functions. Rather, the Constitutional provisions are set out to present the context of the fiduciary analysis.

b. Description of the CIP funds at issue, including the two related appropriations acts

The Governor asked MPLA to transfer CIP matching funds that were previously obligated for MPLA-related purposes, but remained unused, to the CUC's Emergency Fuel Contingency Fund.⁷ The MPLA Board approved the request.⁸ The Governor restated his request on August 23, 2005, pursuant to the authority granted by the declared State of Emergency, as renewed.⁹

MPLA states that its funds are derived from public land revenues and are restricted for the benefit of NMI descent. (Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1) The amounts at issue are held in a savings account at Bank of Guam¹⁰, recorded on MPLA's books in General Ledger Account 102, "Operations Account"¹¹.

The Legislature was aware that MPLA had accrued these funds, identifying them as "public land lease payments", entrusting them to the Secretary of DPW and CUC's Director as the expenditure authority, and identifying projects for their use. PL 11-78 § 3; PL 11-79 §§ 4, 6, 7.

The two related FY 1999 appropriations acts must be read together. PL 11-79 repealed § 4 of PL 11-78 (Sources of Funds) and addressed certain line item vetoes. The acts permitted the use of the funds "as otherwise provided by law":

Use of public land lease payments for the purposes of the Act shall have priority over Public Law 11-41, and the amount identified herein shall be excluded from the resources available for expenditure pursuant to Public Law 11-41. Section 10 of Public Law 10-29 is not affected by this act, except that notwithstanding such section, the Secretary of Finance shall be required to maintain in the special trust fund only such amounts of the moneys received from public lands as the Marianas Public Land Trust (MPLT) determines will provide MPLT with adequate security for loans made pursuant to Public Law 10-029, as amended, and **the remainder shall be available as resources for the purposes of this Act and as otherwise provided by law.**

PL 11-78 § 3. (Emphasis added)

Another relevant part of the acts shows a nexus to the activities of the CUC:

Expenditure authority shall be as specified by Public Law 11-78, except expenditure authority for specific projects listed below shall be as indicated below . . . (b) Koblerville Homestead - New Power, Water and Wastewater Systems (Phase I) and Tanapag Homestead - New Power, Water and Wastewater Systems (Phase I): Expenditure Authority shall be the Secretary of the Department of Public Works with concurrence of the Executive Director of the Commonwealth Utilities Corporation.

PL: 11-79 § 7. The acts also recognized the general principal that retained MPLC/MPLA funds were to be used for the accomplishment of the agency's functions:

. . . the use of public land revenues is restricted by Article XI, Section 5(g) of the Commonwealth Constitution. Consistent with the Constitution, the public land lease revenues identified by this Act shall be used [sic] solely for the projects specifically related to homestead development.

PL 11-79 § 4. Section 5(g) addressed the uses of MPLC funds not turned over to the MPLT, which included "any other expenses reasonably necessary for the accomplishment of its functions."¹²

However, the projects were not constructed, and MPLA held onto the funds in a savings account.

c. Description of the CUC and the Office of the Governor.

Both the CUC and the Office of the Governor, the transferees of the CIP funds, are agencies of the Commonwealth Government.

CUC is a public power utility, owned by the CNMI Government. It is similar to municipal utilities and public power agencies found throughout the United States. See description in AG Opinion 05-11 (8/9/2005) The CUC is a public corporation of the Executive Branch of the CNMI government. 1 CMC § 8111 et seq. The CUC is part of the CNMI government. CUC is a "public corporation". AG Op 01-03-30, p 4. It has "corporation powers", is allowed to prepare and adopt its own budget, is granted specific exemptions from the CNMI Civil Service System for the hiring, retaining and compensation of its employees, and is permitted to conduct its own procurement, hire within certain limits, secure its own legal counsel, and is exempted from the payment of certain corporate duties and taxes. *Id.*, citing 4 CMC §§ 8121(a), 8123, 8133, 8151.

Presently CUC uses only one fuel, No. 2 diesel oil. The base rates recover 5.493 cents/kwh for it. CUC informational materials indicate that CUC fuel costs presently exceed the revenues recoverable by this base rate number by about 4.5 cents, due to fluctuating oil prices. (CUC Fuel Surcharge Presentation, Nov. 8, 2004, Tinian, pp 7-8 [on file]) Recently, CUC increased its rates through a fuel surcharge, by 3.5 cents/kWh.

CUC is an \$80 million/year company with a \$60 million/year fuel bill.¹³ CUC is on the edge of bankruptcy because, while its fuel costs have doubled over the past year, its base rates have remained static.¹⁴ Thus, while fuel has increased to roughly \$0.12/kWh, the base rate for fuel has remained at the 1993 level of \$0.05493.¹⁵ The under-recovery of fuel costs in CUC rates has ranged from \$3.7 million in 2002 to roughly \$16.6 million in 2004.¹⁶

The prices for CUC's fuel are increasing. As of this writing, crude oil has risen this week to a record \$68 per barrel.¹⁷

The Office of the Governor is an Executive Branch instrumentality of the CNMI government. N.M.I. Const. art. III, §§ 1, 14, 15;¹⁸ 1 CMC §§ 2051-53;¹⁹ 1 CMC § 2001.²⁰

d. The State of Disaster Emergency

The Governor declared a disaster emergency on May 19, 2005, based on the imminent failure of CUC to provide electricity to its customers. Declaration of State of Emergency: Commonwealth Utilities Corporation Lack of Power, May 2005 (Dated May 19, 2005), Com. Reg. Vol. 27, No. 5, p 24533 (6/20/2005) ("Governor's Emergency Declaration") (1 p).²¹

In particular, the Governor found that CUC would be "unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail." *Id.* He determined that "[t]hese conditions present an extreme,

immediate and imminent emergency.” *Id.* The emergency thus threatened the health and physical safety of the populations of Saipan, Rota and Tinian, as well as the economic life of the Commonwealth.

The Governor announced that he would take “all necessary measures”, including “[r]eprogram all necessary money to provide CUC the funds to address the conditions”. Emergency Declaration.

The Legislature subsequently affirmed the declaration in a joint resolution. H.J.R. 14-36 (transmitted June 21, 2005). The joint resolution “supported” the Governor’s declaration of state of disaster emergency and authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems”. *Id.*²²

The emergency declaration power is rooted in the Constitution:

Section 10: Emergency Powers. The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster, or other calamity as provided by law, and may mobilize available resources to respond to that emergency.

N.M.I. Const. art. III, § 10. The Local Disaster Relief Act of 1979, 3 CMC § 5101 et seq., PL 1-40 § 1 et seq., as amended, includes “man-made” disasters in its definition of “disaster” and “local disaster emergency”. 3 CMC § 5114.²³ The purpose of the Act include preparing for and avoiding disasters. 3 CMC § 5112.

The Act explicitly makes the Governor “responsible for meeting the dangers to the Commonwealth and the people affected by disasters.” 3 CMC § 5121(a). The Governor enjoys broad powers to prevent and respond to disasters under the Disaster Relief Act. Once he declares a “disaster emergency”, if the “threat” is “imminent”, these powers include: he may issue executive orders and regulations, provide for the use and distribution of supplies, equipment, and facilities, take control of and transfer forces, suspend regulations, and “[u]tilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth”.²⁴ See also, 1 CMC § 7403 (P.L. 3-68 § 403, as amended) (Governor may declare a “state of emergency” under his constitutional emergency powers).²⁵

In 1981 the Attorney General advised that the Administration could declare an emergency in order to stave off a threatened power shutdown. AG Op. 81-31 (7/23/81), “Declaration of Emergency in Threatened Power Shutdown”.²⁶ In addition to the authority relied on (see just preceding endnote), he noted that CNMI Const. art. III, § 1 implied emergency powers, *citing* Sterling v. Constantin, 287 U.S. 378 (1932) (Governor’s determination of exigency is conclusively correct, but court will determine that action taken is lawfully connected to the exigency).

The Framers of the CNMI Constitution, in their Analysis, commented on the broad powers given the Governor to address a disaster:

Section 10: Emergency Powers of the Governor. **This section authorizes the governor to declare a state of emergency in the event of attack on the commonwealth, civil disturbance, natural disaster or other calamity, such as a serious crisis caused by the unavailability of public utilities, transportation or communications.** It is intended that the governor have all the discretionary authority customarily possessed by the chief executive of a state or city in the United States. For example, the governor may reassign government employees from their normal tasks during an emergency if that is necessary to keep order or protect the public welfare. The governor may deputize citizens on a temporary basis for law enforcement purposes or use the militia if one has been established. **The governor may use contingency funds for disaster aid and divert**

from regular programs during the state of emergency with legislative approval. The governor may institute a curfew or other temporary emergency regulations, which regulations expire when the state of emergency ends.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, Pp 77- 78.^{1,27} (Emphasis added)²⁸

2. Legal Analysis

The Opinion examines the identified funds, their planned use to address the State of Emergency, and the duties of the MPLA Directors.

This Attorney General's legal analysis is binding on CNMI agencies and instrumentalities unless and until overturned by the courts. AG Opinion No. 86-16 (Castro). See, e.g., *People v. Penn*, 302 N.W.2d 298 (Mich. App. 1981). The Constitution and the Commonwealth Code provide that the Attorney General is the attorney for the Commonwealth government:

....The Attorney General shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law.

N.M.I. const., art III, § 11. The CNMI Code provides that the Attorney General is counsel to government agencies.²⁹ The Attorney General must review, and approve as to form and legal capacity, all contracts of the CNMI and its instrumentalities.³⁰ The Attorney General has a statutory and ethical responsibility to advise government clients to refrain from violating the law. The Attorney General can also bring statutory proceedings and common-law-writ-based proceedings to foreclose the pursuit of illegal activities.

The Courts are not bound by Attorney General Opinions, but tend to regard them as "highly persuasive". *United States v. Borja (Mayor of Tinian)*, 2003 MP 8 (2003), citing *Cedar Shake and Shingle Bureau v. City of Los Angeles*, 997 F.2d 620, 625 (9th Cir. 1993). An opinion of the Attorney General should be treated as persuasive authority for the judiciary so far as it is properly and thoroughly researched. *Borja (Mayor of Tinian)* 2003 MP at ¶¶ 20-21.³¹ See, generally, *State Attorneys General: Powers and Responsibilities*, Lynne M. Ross, editor (NAAG 1998).

Both statutory language and court decisions govern this analysis. The CNMI Supreme Court enunciates the governing common law. The Legislature has required the adoption of the common law as presented in the Restatements of the Law.³²

This interpretation adheres to the rules of Constitutional/statutory construction. Ordinarily, Constitutional language must be given its plain meaning. *In re Tenth Legislature Bills*, 5 N.M.I. 155 (1998). Also, *Camacho v. Northern Marianas Retirement Fund*, 1 N.M.I. 362 (CNMI 1990). See also, *Northern Marianas Housing Corp. v. Northern Marianas Land Trust*, 5 N.M.I. 150, 1998 MP 1, 1998 WL 34073630 (CNMI 1998) (The basic principle of statutory construction is that language must be given its plain meaning).

¹The Analysis must be cited with care. It is clarification, approved by the Constitutional Convention, not authority. See endnote 27 for the LRC's discussion.

In particular, for purposes of constitutional interpretation, the express mention of one thing implies the exclusion of another which might logically have been considered at the same time. *Aldan-Pierce v. Mañas*, 2 N.M.I. 122 (1991), *rev'd on other grounds*, 31 F.3d 756 (9th Cir. 1994), *cert. den*, 513 U.S. 1116, 115 S. Ct. 913, 130 L. Ed. 2d 794 (1995). See *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB").³³

- a. A fiduciary duty is the duty to act for another's benefit.

"Fiduciary Duty" is defined in Blacks Law Dictionary as a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person. It is the highest standard of duty implied by law. *Black's Law Dictionary*, Sixth Edition 625 (1990). *Govendo v. Marianas Public Land Corp.*, 2 N.M.I. 482, 491 n.5, 1992 WL 62888, p. 3 n.5 (CNMI Supreme Ct. 1992).

Beneficiaries of a fiduciary relationship require the "undivided loyalty" of a trustee, and, as such, the trustee must act "honestly [and] faithfully." *Govendo*, 2 NMI at 491, 1992 WL 62888 at 3, citing *Romisher v. MPLC*, 1 CR 843 (1983).

Generally, the provisions of the Restatement of Trusts 2d would govern the nature of the MPLA Board's trusteeship of public lands. "In the Commonwealth, the rules of the common law as expressed in the Restatements of the Law as approved by the American Law Institute serve as the applicable rules of decision, in the absence of written or local customary law to the contrary." 7 CMC § 3401. *Ito v Macro Energy, Inc.*, 4 N.M.I. 46 (1993). In determining the terms of the trust by which MPLA's Board is bound, "[a]mong the circumstances which may be of importance in determining the terms of the trust are the following: . . . (2) the value and character of the trust property; (3) the purposes for which the trust is created; . . . (5) the circumstances under which the trust is to be administered; (6) the formality of informality . . . with which any instrument containing the manifestation is drawn. Restatement of Trust 2d, § 164, comment "c".

Thus, as a fiduciary, the MPLA is responsible for public lands and the proceeds therefrom (until proceeds are turned over to the MPLT). As the statute (and Constitution) state, the beneficiaries are people of Northern Marianas descent. The circumstances of the administration are those of a public agency, of the Commonwealth government.

The documents establishing the fiduciary relationship are formal – the laws of the CNMI. The CNMI courts have addressed government fiduciary duty within the context of the US Government toward the people of the Northern Marianas:

In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965).

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).³⁴ In the instant case there is no issue of ethical or moral conduct; if anything, the moral position of the Board in helping to stave off the health and economic disaster of the failure of the CUC is a high one.

Thus, the typical controversy of a corporate board's fiduciary responsibilities may not apply here. There is a rule of "strict fiduciary responsibility" to a corporation. A breach of fiduciary duty occurs when an injury or loss to the corporation results from a director's: (1) negligence; (2) fraudulent misappropriation of corporate property to benefit the director or a third party; (3) acquisition of any undue personal advantage, benefit, or profit; or (4) other similar conduct sustaining injury or loss to the corporation. *South Seas Corp.*

v. Sablan, 525 F.Supp. 1033 (D.N. Mariana Islands 1981). The “injury or loss” is relative – the depletion of a bank account versus the termination of power, water and sewage treatment for the beneficiaries.

As a general rule, a corporate director should acquire at least a rudimentary understanding of the business of a corporation. The “business judgment rule” will ordinarily protect a director’s decision, unless s/he is grossly negligent and completely abdicates responsibility, and fails to exercise judgment as director. *F.D.I.C. v. Benson*, 867 F.Supp. 512 (S.D.Tex. 1994).³⁵ There is no question that the Board members understand the MPLA’s management of the public lands or of the proceeds therefrom. Further, they had at their disposal more than two weeks between the Governor’s first letter for assistance, on July 29, 2005, and their action, August 16, 2005. They were further informed by the Governor’s Declaration almost three months’ before, and the intervening public debate.³⁶

A board’s decision on an artificial crisis, taken without proper information, will be reversed. *Smith v. Van Gorkom*, 488 A.2d 858 (Del.Supr. 1985) (Board of directors did not reach “informed business judgment” in voting to sell company for low price, but rather, were grossly negligent in approving sale of company upon two hours’ consideration.) By contrast, the instant crisis is real, has been ongoing, and has been confirmed in the Governor’s Declaration and the Legislature’s subsequent Joint Resolution.

It has been held that specific statutory or constitutional provisions control over the general. *McDonald v. Schnipke*, 155 N.W.2d 169, 172 (Mich. 1968). Thus, where a State constitution’s general provision empowered the governor to remove executive branch officials for, *inter alia*, gross neglect, but a more specific constitutional provision on the militia had not yet been executed by statute, the governor’s removal of the commandant of the state’s national guard under the more general constitutional provision was void. *Id.* In the instant case specific statutory provisions regarding the declaration of a disaster emergency and the reprogramming of unused funds would control over the general duties to the MPLA Board to the beneficiaries. Further, the specifics of the MPLA enabling act control over the general responsibility to the beneficiaries. See part 2.b, just *infra*.

It would seem, therefore, that the decision of the MPLA Board, whether to provide the unused savings account funds to the CUC Emergency Fund in order to keep power on for MPLA’s beneficiaries, should be examined in light of the circumstances, the extent to which the Board members understood the relationship of the requested action to MPLA’s “business” and the related statutes.

- b. The MPLA Board owes a fiduciary duty to its beneficiaries, persons of Northern Marianas descent to “benefit” them.

By its terms the Constitution charged the MPLA’s Directors with “direct[ing] the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.” NMI Const. art. XI, § 4(a). The directors shall be held to strict standards of fiduciary care. NMI Const. art. XI, § 4(c).

The question presented for this Opinion is whether the Board’s use of funds in its care, as requested to help avert a disaster involving the elimination of electric power, water pumping, and sewage conveyance and treatment is a “benefit” within the scope of the fiduciary’s activities.

- c. The Board acted within its fiduciary duty when it used MPLA idle resources to maintain essential electricity services to stave off the failure of CUC services to the CNMI’s people.

For four independent reasons, the MPLA Board acted well within its fiduciary duties and responsibilities in approving the transfer of funds: (1) the language of the appropriations acts for the utility-related use of the

CIP funds anticipates the emergency use; (2) MPLA may transfer property to government agencies for public purposes; (3) MPLA may flexibly use proceeds for the accomplishment of its functions; and (4) the Governor has reprogrammed the funds to the CUC emergency fund. The MPLA action supports the continued flow of power, water and sewage treatment to the very people the agency is to benefit. The transfer is allowable and within the Board Members' fiduciary duties and responsibilities.

At the time the MPLA considered transferring the requested savings account funds, the validity of the public purpose in doing so was well settled. There was in place a lawful declaration of a state of emergency. Indeed, the Legislature had affirmed the Governor's Declaration and provided him with 100% fiscal reprogramming authority in order to address it. The only issue for the Board was whether their action comported with their fiduciary responsibilities.

i. The transfer is "as provided by law".

First, the appropriations acts, PL 11-78 and PL 11-79, addressed directly funding CUC-related facilities and indirectly defaulted to the Governor's Emergency Declaration to assist CUC. The acts looked to funding power, water and sewer for Koblerville. They included CUC as a concurring expenditure authority. Then, the language boldfaced *supra*, page 7, as a default, allowed the available public land funds to be allocated as "otherwise provided by law". The Governor's Emergency Declaration is "law" in this sense. Therefore, the Board's use of the idle funds is not only acceptable; it may be viewed as contemplated in the appropriations act.

ii. The Board may transfer property to another government agency for a "public purpose".

Second, MPLA can transfer funds to CUC, another Government agency. MPLA has a special relationship to the CNMI's Government and to the public purposes of the Government. The MPLA enabling act specifically empowers the Board to transfer property and authorize works for "public purposes". 1 CMC § 2804(c) and (f). Further, the restrictions on transfer of freeholds are waived for transfers to another government agency. 1 CMC § 2804(c). This relationship is embodied not only in the statute, but was evidenced in the Constitution.

An emergency will support strong measures. A recent well-publicized Pennsylvania decision supports the use of extraordinary measures by trustees in the midst of a financial crisis seeking to preserve the essence of the trust. *In re Barnes Foundation*, 871 A.2d 792 (Pa. Apr. 27, 2005) (Appeal of non-full-party student will be quashed, allowing for immediate implementation of trial court's restructuring and relocation of internationally-recognized nonprofit art gallery). A review of the history of the Barnes Foundation controversy shows that the late trustor had firmly required that his internationally-acclaimed art collection stay in his suburban Philadelphia house. The trustees successfully petitioned the trial court to revise the terms of the trust, because the building was deteriorating, the location made it impossible to accommodate enough of the public to continue the gallery's operations or care for its paintings, and potential funders would not contribute to the trust unless the facility was moved and its governance restructured.

In the instant case, no revision of the MPLA or its mission was sought. The Board members, as fiduciaries, were simply asked to contribute unused funds during an emergency to protect their beneficiaries.

Thus, for instance, if the Board had transferred a \$1 million piece of real estate to the Government, so that the Government could sell or lease the land to generate cash for a "public purpose"³⁷ – e.g., to pay for the imported oil required to keep the power on – the Board could have done that. And the Board could have done that without reference to the interests of the people of Northern Marianas descent.

In this instance it has been asked to transfer funds, not land. Therefore, a fortiori, it may transfer funds deriving from the land to use for a public purpose by the CUC, another agency of the Government. See also, Attorney General letter 02-443, Re: PL 13-16 (\$2.6 million appropriation to MVA) (Aug. 16, 2002) (Legislature's direction to MPLA to transfer to MVA landing fees held in trust account shall be presumed lawful).

iii. The Board may transfer its discretionary funds.

Third, while the Board must transfer land proceeds to the MPLT each year, it is permitted to retain funds for "any other expenses reasonably necessary for the accomplishment of its functions". 1 CMC § 2804(h). The Legislature recognized this in PL 11-78 § 3's citing to article XI, § 5(g), which contains this language. Its functions include benefitting people of Northern Marianas descent. Those people were the same people who rely on the continued flow of power, water and sewage treatment to maintain their homes, families and businesses. The Board acted responsibly in seeking to keep these services available to them in the emergency.

iv. The Board was required to transfer lawfully reprogrammed funds.

Fourth, the Governor had the legal power and authority to reprogram the unused funds. The appropriations acts provided for reprogramming by an appropriation bill or pursuant to 1 CMC § 7302. PL 11-79 § 8.³⁸ The statute allows for such reprogramming, of 25% of the appropriation. 1 CMC § 7402(b). The Legislature's subsequent joint resolution 14-34 authorized the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems.

Thus, the Board was presented with a valid order for reprogramming funds to a public purpose concurred in by both the Legislative and Executive branches of government.

This subsection alone might support the agency's providing the savings funds during an emergency in order to keep power, water and sewage treatment flowing to its beneficiaries. In light of the three other provisions, just discussed, the MPLA Board is well within its fiduciary responsibilities in making the requested transfer.

d. The MPLA Board acted within its fiduciary duties because it could not deny the lawful request to use the identified funds to help stave off the power-related disaster emergency.

The MPLA Board's acceding to the Governor's request was not only within its fiduciary responsibilities, it was not optional. The Governor had lawfully declared a State of Disaster Emergency, affirmed by the Legislature. His emergency powers included employing such resources as the MPLA savings account containing the unused CIP funds to stave off the power emergency. It was not for the Board to determine independently whether the emergency powers should be exercised with respect to the idle funds. Thus, there was no violation of a fiduciary duty.

- e. The *Analysis* to the Constitution indicates the Framers' intent that MPLA's Board have the flexibility to manage its revenues for proper purposes.

To the extent that the purposes for the MPLA Board's activities are traceable to the Constitution, the expressions of the Framers are relevant. The Framers addressed the MPLC/MPLA in their comments to the Constitution, explaining that the Constitution had given the corporation broad powers to address funds from the public lands and broad discretion in handling those funds:

Section 4: Marianas Public Land Corporation.No further action is needed on the part of the corporation or any branch of government to constitute the corporation as a legal entity. . . .The provisions of sections 4 and 5 of this article constitute the basic rules of organization and governance that would ordinarily be found in the charter, articles of incorporation or bylaws of a corporation. **Organizational and policy matters not specified by the Constitution are left to the discretion of the corporation.** . . .

....

Section 4(d). This provision specifies that the directors may take action by a majority vote of the total number of directors. Action by any smaller number does not bind the corporation.

This provision specifies that **the corporation shall have all of the powers available to a corporation under Commonwealth law. This means that the corporation can exercise any power or privilege given to corporations that is not inconsistent with the limitations imposed on the corporation by the Constitution.**

Section 3 gives a broad grant of powers to the corporation to manage and dispose of the public lands. This provision in section 4(d) that gives the public land corporation all of the power available to a corporation under Commonwealth law is intended only to add to or clarify the powers of the public land corporation. It does not permit the legislature to enact any limitations on the powers of corporations and then require that such a limitation be applied to the public land corporation at the expense of the powers granted by the Constitution.

....

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 146, 150-51. (Emphasis added)

Section 5: Fundamental Policies. **This section sets out the fundamental policies** that must be followed by the corporation in carrying out its responsibilities. **All matters not specifically mandated by the Constitution or delegated to the legislature are left to the discretion of the corporation.** The corporation is not subject to any of the limitations imposed by article X [regarding public debt and indebtedness].

....

Section 5(g). This section provides for the disposition of funds derived from the public lands. These funds include the payments made by the United States for property leased under article VIII of the Covenant. The funds from the public lands are placed in a

trust fund that is an entity separate from the corporation. This separates the functions of land management and money management. This provision requires that the corporation turn over the proceeds from the public lands to the trust fund but does not include any time requirement that the moneys be turned over promptly.

The corporation is permitted to retain a portion of the funds for administration purposes with two restrictions: the funds must be necessary for administration and the expenses of administration must be reasonable.

Administration includes administration of the management of the public lands and administration of the disposition of public lands. **The determinations with respect to what is necessary and reasonable are made by the corporation.**

It is intended that the Marianas Public Land Corporation be financially independent of the legislature and that it meet its expenses with the retained funds. There is no limitation on the percentage of the total revenues received that the corporation may retain except the limitation of reasonableness and necessity set out in the last clause. The corporation also has the power to borrow to meet expenses.

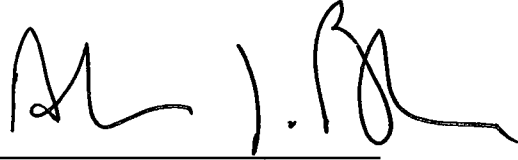
This provision does not prohibit the legislature from appropriating funds for expenditures by the public land corporation for management or disposition of the public lands or other responsibilities assigned to the corporation by the legislature.

. . . . All revenues from the public lands received on and after the effective date of the Constitution go to the public land corporation. This includes payments for the transfer of freehold, leasehold, and other interests made before the effective date of the Constitution by the government of the Northern Mariana Islands or nay [sic] predecessor entity and transfers made by the corporation. Any payment made to any agency or entity other than the corporation is of no effect and the corporation may hold the payee in default.

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands (Dec. 6, 1976), p 152, 158-59. Thus, the Framers expressed the intention for the Board to address flexibly the care and disposition of public lands and the proceeds therefrom. The instant emergency and the Board's response, by transferring idle funds to a sister agency in order to stave off the disaster of no power, no water and no sewage treatment, is just such flexibility.

Conclusion

A careful analysis of the MPLA, the MPLA Board and the Board's duties, and the present disaster emergency demonstrates that the Board of the MPLA has operated well within its fiduciary duties and responsibilities in agreeing to transfer its idle savings account funds to the use of the CUC's Emergency Fuel Contingency Fund. Such a transfer is within the Board's fiduciary duties and responsibilities.



Date: August 26, 2005

Alan J. Barak, Asst. AG, Civil Division



Date: August 26, 2005

Concurred by: Pam Brown, Attorney General

ENDNOTES

1. Governor Babauta reasserted his request for emergency assistance in an August 22, 2005, memo to the Chairwoman of the MPLA:

To: Ana Demapan-Castro, Chairwoman, Marianas Public Lands Authority Board of Directors
Cc: Attorney General; Secretary of Finance; Members, [MPLA] Board of Directors; Commissioner, [MPLA]; Special Assistant for Management & Budget; Special Assistant for Administration
From: Governor
Subj: TRANSFER OF FUNDS

On July 29, 2005 I wrote to Marianas Public Lands Authority (MPLA) regarding the continued State of Emergency in the Commonwealth that exists as a result of the high cost of fuel and the inability of the Commonwealth Utilities Corporation (CUC) to provide power to our people. I requested MPLA to assist the Executive Branch and CUC to address this emergency situation by identifying and transferring funds for reprogramming to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated July 29, 2005 . (Attached).

On August 9, 2005, the Office of the Governor was informed by MPLA that it had identified CIP matching funds that were previously obligated, but remained unused. I subsequently requested that MPLA approve the transfer of these unused CIP matching funds to the CUC Emergency Fuel Contingency Fund. See Letter to MPLA dated August 11, 2005 (Attached).

As such, pursuant to the approval of the MPLA Board of Directors and the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution, 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, as invoked in the Declaration of State of Disaster Emergency on May 19, 2005, the renewal/continuation of such Declaration of State of Disaster Emergency issued on June 19, 2005, July 18, 2005 and August 17, 2005, respectively; and, pursuant to the authority granted by the adoption of House Joint Resolution No. 14-36, I hereby request you to transfer One Million dollars (\$1,000,000.00) from the account of the Marianas Public lands Authority (General Saving Account No. 0203-429012) located at the Bank of Guam, Garapan Branch to the CUC Emergency Fuel Contingency Fund (Business Unit #1608).

To effectuate this transfer, I respectfully request the MPLA Commissioner to authorize the funds to be remitted to:

.....

This action is necessary to address critical fuel, generator rehabilitation and maintenance issues facing CUC and the people of the Commonwealth. Furthermore, the Special Assistant for Management and Budget and the Secretary of Finance are directed, by copy of this memorandum, to transfer the entire amount remitted by MPLA to the CUC Emergency Fuel Contingency Fund (Business Unit #1608.47210).

If you have any question related [sic] matter or require any additional information, please do not hesitate to contact my office.

/s

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

Juan N. Babauta

2. Letter of Aug. 24, 2005, fr Acting Chairman MPLA, M.P. Villagomez to Attorney General P. Brown:

VIA HAND DELIVERY

Re: Legal Opinion

Dear Attorney General Brown:

As you may be aware, Governor Juan N. Babauta is requesting that MPLA transfer \$1,000,000.00 from its Bank of Guam account to the CUC Emergency Fuel Contingency Fund, to be used to assist the Commonwealth in the continued State of Emergency. Enclosed is a copy of the Governor's most recent Memorandum.

Although the MPLA Board of Directors approved the Governor's request at a special public meeting held in Rota, lengthy discussion over the legality of the transfer took place in executive session prior to the Board action. As a result of those and subsequent discussions on the subject, the MPLA Board continues to be troubled by application of the cited authority for using NMI descent funds for such purposes.

As you know, MPLA funds derived from public land revenues are restricted for the benefit of NMI descent, and the MPLA Board is held to a strict fiduciary responsibility over the disposition of such funds.

In order to satisfy the Governor's request, the MPLA Board requests that you provide an official Attorney General Opinion, limited to this specific request by the Governor. MPLA stands ready and willing to accommodate the Governor immediately upon receipt of your opinion if you find that the request is allowable and will not be a violation of the Board Members' fiduciary responsibilities.

We ask that you give this request your top priority, as the Governor and CUC require prompt action on our part.

Thank you for your assistance,

Sincerely,

/s

Manuel P. Villagomez
Acting Chairman

Enclosure

cc: Governor
Board Members
Commissioner
Comptroller
Legal Counsels

3. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The Comment set out E.O. 94-3 in its entirety, including the section dissolving the MPLC and moving it to the Department of Land and Natural Resources:

Section 306. Department of Lands and Natural Resources. [Section 306 VACATED by PL 10-57, § 4]

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

Executive Order 94-3. The Legislature repealed the change. PL 10-57. The Legislature then repealed PL 10-57 and substituted a new Board of Public Lands, Office of Public Lands, and Administrator of Public Lands, as an independent agency. PL 12-33 (effective Dec. 5, 2000) (ordered codified as 1 CMC, Division 2, Chapter 14). The Legislature again amended the statutory scheme with PL 12-71.

4. According to the Law Revision Commission Comment to § 2801 there were technical deficiencies in the repeal and reenactments of PL 12-33 and PL 12-71, some of which the Commission corrected:

The Commission assigned a different number sequence to the reenacted sections than that provided in PL 12-33.

PL 12-71 became effective November 13, 2001 and contained some technical deficiencies. The first deficiency is the amendment of subsection (a) above without conforming amendments to subsection (b) and the remainder of the act; a global amendment provision was not included in PL 12-71. Additionally, the reference in subsection (a) above to the term of the Board of Directors is unclear and also in conflict with 1 CMC § 2803(d). Furthermore, it appears that in the last sentence of subsection (a) above, the reference to "effected" should have been "affected." Finally, the reference in PL 12-67 to "H.B. 12-257" should instead be to "PL 12-33."

1 CMC § 2801, Comment.

5. Article XI of the NMI Constitution gave the MPLA and MPLT broad powers within their missions:

Section 1: Public Lands. The lands to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under Covenant Article VIII, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are **public lands belonging collectively to the**

people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands. The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Surface Lands. **The management and disposition of public lands** except those provided for by N.M.I. Const. art. XI, § 2 **shall be the responsibility of the Marianas Public Land Corporation.**

Section 4: Marianas Public Land Corporation. There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate, who **shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent.**

b) One director shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, and three shall be residents of the third senatorial district; provided that of the five directors, at least one shall be a woman and at least one shall be a person of Carolinian descent. Each director shall be a citizen or national of the United States, a resident of the Commonwealth for at least five years immediately preceding the date on which the director takes office, a person with at least two years management experience, a person who has not been convicted of a crime carrying a maximum sentence of imprisonment of more than six months, a person who is able to speak Chamorro or Carolinian and a person of Northern Marianas descent.

c) The directors shall serve a term of four years except that two of the first five directors appointed shall serve a term of two years and three shall serve a term of four years. A director may not hold a paid position in the corporation. **The directors shall be held to strict standards of fiduciary care.**

d) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the five directors.

e) The directors shall make an annual written report to the people of the Commonwealth describing the management of public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in Commonwealth land.

f) After this Constitution has been in effect for at least twelve years, the Corporation shall be dissolved and its functions shall be transferred to the executive branch of government.

Section 5: Fundamental Policies. **The Marianas Public Land Corporation shall follow certain fundamental policies** in the performance of its responsibilities.

a) The corporation shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and one village homestead. A person may not receive a freehold interest in a homestead for three

years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least fifteen years as of the effective date of this Constitution. At any time after receiving the freehold interest, the grantee may mortgage the land provided that all funds received from the mortgagee be devoted to the improvement of the land. Other requirements relating to the homestead program shall be provided by law.

b) **The corporation may not transfer a freehold interest** in public lands for twenty years after the effective date of this Constitution, **except** for homesteads as provided under section 5(a), or **for use for a public purpose by another agency of government**, or for land exchanges to accomplish a public purpose as authorized by law.

c) The corporation may not transfer a leasehold interest in public lands that exceeds twenty-five years including renewal rights. An extension of not more than fifteen years may be given upon approval by three-fourths of the members of the legislature.

d) The corporation may not transfer an interest in more than five hectares of public land for use for commercial purposes without the approval of the legislature in a joint session.

e) **The corporation may not transfer an interest**, and may prohibit the erection of any permanent structure, **in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.**

f) The corporation shall adopt a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate.

g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary** to meet reasonable expenses of administration and management, land surveying, homestead development, and **any other expenses reasonably necessary for the accomplishment of its functions**. The annual budget of the corporation shall be submitted to the legislature for information purposes only.

NMI Const. art. XI, §§ 1-5. (Emphasis added)

Section 6: Marianas Public Land Trust. There is hereby established the Marianas Public Land Trust.

a) The trust shall have three trustees appointed by the governor with the advice and consent of the senate. After this Constitution has been in effect for ten years, the number of trustees appointed by the governor with the advice and consent of the senate shall be increased to five. Three shall be from Saipan, one from Rota, and one from Tinian. At least one trustee shall be a woman and at least one trustee shall be of Carolinian descent. The trustees shall serve for a term of six years except that the term of office shall be staggered, accomplished as follows: three trustees shall serve for four years and two trustees shall serve for six years as determined by drawing of lots.

b) **The trustees shall make reasonable, careful and prudent investments.**
For ten years after the effective date of this Constitution investments may not be made except in obligations of the United States government and as provided by section 6(c).

c) If the legislature authorizes a Marianas development bank and provides that all United States economic assistance for economic development loans provided under Covenant § 702(c), shall be deposited as capital in that bank, the trust shall use up to fifty-five percent of its receipts in a year to increase the total capital available to the bank to the sum of ten million dollars. After the bank has more than ten million dollars in total capital, the bank shall pay the excess above ten million dollars to the trust until the trust has been fully repaid for its contribution to the bank.

NMI Const. art. XI, § 6. (Emphasis added)

6. The Court in *Romisher* held that the MPLC lacked the Constitutional authority to receive funds for, and negotiate a deal regarding, **private** interests in the US military's acquisition of Tinian real estate. *Romisher v. MPLC*, 1 CR at 860 (Tr. Ct. 1983) (preliminary injunction), upheld in 1 CR 873, 883 n 3 (1983) (permanent injunction). MPLC's power went to the disposition of public lands, held the Court. The Executive was to negotiate the value of the private interests, disburse the funds and acquire title in the sale.

7. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors from Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

8. Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

9. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

10. The \$1 million is held in Bank of Guam General Savings Account No. 0203-429012. Memorandum to Ana Demapan-Castro, Chairwoman, MPLA, Board of Directors fr Governor of Aug. 23, 2005, attached to Letter of Aug. 24, 2005, fr MPLA Acting Chair M. Villagomez to Attorney General P Brown, p 1.

11. Source, phone conversations with MPLA counsel of 8/25/05 and 8/26/05.

12. The Constitution's article XI, § 5(g) says:

(g) The corporation shall receive all moneys from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and **shall transfer these moneys** after the end of the fiscal year **to the Marianas Public Land Trust except that the corporation shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses reasonably necessary for the accomplishment of its functions.** The annual budget of the corporation shall be submitted to the legislature for information purposes only.

13. See, e.g., CUC's most recent annual financial report, most recent cash flow statement (6/27/05) and its sole fuel oil contract with Mobil Oil Co., #CUC-PG-05-0013. [all on file]

14. CUC's Comptroller describes a "financial crisis" and has projected negative cash flow by the beginning of Year 2005 into the indefinite future, **without** increasing the rates for the fuel surcharge. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 1.

CUC's oil price per gallon never rose above 88 cents/gal for the years 2001-02, then increased for 4 months in 2003 to almost \$1.00/gal, to drop to 78 cents/gal in June, then finish 2003 at about 92 cents/gal, then climb in 2004 to a high of \$1.17 in September, dropping to about \$1.12 in December. Source: Chart I, Production Fuel, Average Monthly Purchase Price Per Gallon, January 2001 to December 2004 (author, Ed Williams, CUC Comptroller's Office).

15. Memo Fr CUC Comptroller, Thru: Executive Director, CUC, to CUC Board of Directors, re: Financial Crisis Situation at CUC, dated Tuesday Jan 25, 2005. (2 pp):

I am writing you this letter to inform you of the serious financial situation that is facing CUC today. We face a situation that, if it is not addressed immediately, could lead to power shedding and ultimately to island wide black outs in Saipan, Tinian and Rota within the next few months.

With these black outs will also come the disruption of our water and sewer services. The ripple effect of our power shut down will cause wide spread negative economic impact on all aspects of our lives; it will be felt by our businesses, health care systems, education systems, tourism industry, etc.

By the end of this week we will have to deal with the fact that CUC can not meet the \$2 Million advance payment requested by Mobil on January 28 to stay within our credit limit of \$10 Million. This may jeopardize the fuel delivery in February.

Three weeks from today our Cash Flow projection shows that we will have a shortfall of \$1.1 Million. This is the day on which we are to pay Mobil for December's fuel. Failure to make this payment could possibly delay further deliveries until a credible payment plan can be established.

Our projections for cash flow without a fuel surcharge show CUC going further into debt. (See Attached) We must also realize that forecasting revenue may be unrealistic if we are forced into load shedding. If we are not supplying 24-hour power, our revenues will drop dramatically.

One suggestion to address our crisis has been to float a bond. However, while we may wish to pursue this in addition to a fuel surcharge, we must realize that it will take a minimum of 4 to 6 months at best to float a bond and we may have to seek the assistance of the Legislature and Governor if the bond underwriters will require a Full Faith and Credit from CNMI Government, which could even further lengthen the time until any funds became available.

At the present moment, because of the cost of fuel, the cost of production of Electricity exceeds the revenues generated by its sale. This cannot be allowed to continue. The actual costs of fuel must be recovered and the fuel surcharge is the most direct and rational approach to this problem.

I urge the Board to adopt the proposed emergency regulations today so that we may begin to address our revenue shortage immediately.

Thank you for your attention and assistance.

/s

Sohale Samari
CUC Comptroller

16. Source: Memo fr Exec. Director and Comptroller, CUC, to Bd of Directors, of Aug. 17, 2004, "Request to Board of Directors for Fuel Surcharge Fee", p. 2.

17. "Oil Leaps to Record \$68 on Storm, U.S. Gasoline Draw", NY Times (www.nytimes.com) (Reuters) (Aug 25, 2005). The run-up in oil prices is likely to continue for a long time, given the multiple factors affecting prices – weather, production capacity, political events and worldwide demand:

August 25, 2005
Oil Hits Record \$68 on Storm, Gas Draw
By REUTERS

Filed at 6:10 a.m. ET

LONDON (Reuters) - Oil surged to a record \$68 a barrel on Thursday, hounded by supply concerns due to a growing threat to oil facilities from an Atlantic storm and a large fall in U.S. gasoline stocks.

U.S. light crude was up three cents at \$67.35 a barrel by 0958 GMT, pausing after hitting \$68 in early trade, the highest since U.S. crude futures started trade in 1983. London Brent crude was up 12 cents to \$66.13.

Dealers are concerned about a thin stock cushion after a rash of disruptions and tensions in oil-producing countries cut crude output and propelled prices to a series of record peaks.

Gasoline stockpiles in the United States, the world's top oil consumer, beat forecasts to register a slide of 3.2 million barrels in the week to August 19, widening the supply gap from a year ago, the government Energy Administration Agency said.

Stocks of the auto fuel have contracted for eight straight weeks, led by higher demand as the peak driving season has almost two weeks to run its course.

Compounding the fears, a tropical storm is swirling toward Florida, threatening U.S. oil and gas production facilities in the Gulf of Mexico.

"The market is really starting to get unhinged," said John Brady at ABN AMRO in New York. "The majority can be attributed to the storm, and some geopolitical concerns as well."

Tropical storm Katrina, which formed in the Bahamas on Wednesday, was moving on a path that would likely cut across southern Florida and into the Gulf of Mexico later this week, the U.S. National Hurricane Center said.

The storm was expected to hit the Miami area by Friday as a weak hurricane moving slowly across the state into the Gulf.

Market participants fear the storm may threaten oil and gas producing areas in the central and eastern Gulf of Mexico, where the United States derives between 20 and 25 percent of domestic crude and natural gas production.

gas production.

The unusually active Atlantic hurricane season has produced 11 named storms and could culminate in as many as 21 tropical storms and 11 hurricanes, forecasters have said.

SUPPLY WOES LINGER

Refinery snags have also skewed risks to the upside as the oil industry struggles to keep pace with demand growth, which has thus far proven remarkably resilient amid soaring costs.

"There is very strong demand and we don't see that demand receding," the International Monetary Fund's chief Rodrigo Rato, said in a teleconference on Thursday. "Prices are not going back to the levels seen at the beginning of 2004."

Adding to the list was Shell Oil Co.'s 153,000 barrel-per-day (bpd) refinery in Martinez, California, which suffered a malfunction in a production unit on Tuesday.

Tesoro Corp. said a 70,000-bpd gasoline-producing unit at its 168,000-bpd Golden Eagle refinery in Martinez, California, was shut on Wednesday following a fire.

And Huntsman Corp. declared a force majeure on Wednesday on a large part of its production of methyl tertiary butyl ether (MTBE), a gasoline octane-booster, from its refinery in Port Neches, Texas. Trade sources said the force majeure would last for 45 days.

Output in Ecuador, which mostly supplies crude to California, is still down to around 80 percent of its 530,000-bpd level after attacks on oil infrastructure last week.

Protesters, who have choked off oil exports, are threatening a hunger strike to pressure the government on their demands, dealing a blow to settlement talks.

The market also watched for disruption in Nigeria, where some fuel stations shut down ahead of an expected 60 percent hike in fuel prices. Previous government attempts to raise prices have led to crippling general strikes in the world's 8th largest oil exporter.

18. Sections 1 and 14 of the Constitution make the Governor the head of the Executive Branch, and Section 15 empowers him to reorganize the Executive:

Section 1: Executive Power. The executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws.

....

Section 14: Heads of Executive Departments. Each principal department shall be under the supervision of the governor and, unless otherwise provided by law, shall be headed by a single executive. The governor shall appoint the heads of executive departments with the advice and consent of the senate. The governor may remove the heads of executive departments. The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth.

Section 15: Executive Branch Departments. Executive branch offices, agencies and

instrumentalities of the Commonwealth government and their respective functions and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them so far as practicable according to major purposes. . . Regulatory, quasi-judicial and temporary agencies need not be a part of a principal department. The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law. The legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions and duties. **The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders** which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

N.M.I. Const. art. III, §§ 1, 14, 15.

19. The Office of the Governor was created by PL 1-8:

§ 2051. Office of the Governor.

There is in the Commonwealth government the office of the Governor, composed of the Governor, the Governor's Council and persons appointed by the Governor to the following positions:

- (a) A Special Assistant for Administration;
- (b) A Special Assistant for Planning and Budgeting;
- (c) A Special Assistant for Programs and Legislative Review;
- (d) An Executive Assistant for Carolinian Affairs;
- (e) A Public Information and Protocol Officer; and
- (f) A private secretary.

§ 2052. Office of the Governor: Staff.

The Governor may employ other staff as required to assist the office of the Governor in performing its functions, subject to budgetary appropriation. The staff shall be within the civil service.

§ 2053. Office of the Governor: Duties.

The Governor has the powers and duties as provided in the Commonwealth Constitution or as provided by law. In addition, the Governor shall receive official visitors and conduct official ceremonies of the Commonwealth. These duties and responsibilities may be delegated to the Lieutenant Governor or to elected or appointed officials of the Commonwealth.

1 CMC §§ 2051-53. E.O. 94-3 and PL 11-47 added staff to the Office and converted staff to the Excepted Service. See next endnote.

20. The Comment to 1 CMC § 2001, addresses the Governor's reorganization of his office, in Executive Order 94-3:

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor's reorganization authority derives from N.M.I. Const. art. III, § 15. . . .

1 CMC § 2001, Comment. The "Office of the Governor" is, for the most part assumed, rather than designated in the reorganization. However, it is mentioned as an agency in which all employees are subject to the Excepted Service. E.O. 94-3 § 509(b)(1). See also PL 11-47 (return of certain positions to Office of the Governor).

21. The text of the Governor's State of Emergency Declaration was as follows:

Declaration of State of Emergency:
Commonwealth Utilities Corporation
Lack of power May 2005

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

I find that CUC will be unable to pay for its fuel oil supplies within days; its generation levels are already reduced to almost zero reserves. Without electricity the CUC water and wastewater pumping systems will fail. These conditions present an extreme, immediate and imminent emergency.

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

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

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

/s

Juan N. Babauta,
Governor

Dated this __19th__ day of May, 2005

22. The resolution stated as follows:

House Joint Resolution No. 14-36

Supporting the Governor's declaration of state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation and authorizing the Governor 100 percent reprogramming authority of available CNMI funds to remedy the power generation problems.

Whereas, on May 19, 2005, Governor Juan N. Babauta declared a state of disaster emergency for the Commonwealth of the Northern Mariana Islands with respect to the Commonwealth Utilities Corporation (CUC) for CUC's inability to provide service; and

Whereas, CUC will be unable to pay for its fuel oil supplies in the immediate future; and

Whereas, CUC's power generation levels are currently reduced to almost zero reserves; and

Whereas, without electricity the CUC water and wastewater pumping systems will also fail; and

Whereas, the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation; and

Whereas, it is the intent of the Legislature to authorize the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Whereas, the Commonwealth Constitution, Article 10 Section 3, provides that "public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature"; and

Whereas, the Commonwealth Constitution, Article 10 section 4, also provides in pertinent part the "public indebtedness may not be authorized for operating expenses of the Commonwealth government or its political subdivisions."

Now, therefore, be it resolved by the House of Representatives, Fourteenth Northern Marianas Commonwealth Legislature, the Senate concurring, that the Legislature supports the Governor's declaration of state of disaster emergency with respect to the Commonwealth Utilities Corporation and authorizes the Governor 100% reprogramming authority from available Commonwealth funds to remedy the power generation problems; and

Be it further resolved that the Speaker of the House of Representatives and the President of the Senate shall certify, and the House Clerk and the Senate Legislature [sic] Secretary shall attest to the adoption of this joint resolution and thereafter the House Clerk shall transmit a certified copy to the Honorable Juan N. Babauta, Governor of the Commonwealth of the Northern Mariana Islands.

Adopted by the House of Representatives on May 25, 2005 and by the Senate on June 15, 2005

Certified by:

Benigno R. Fitial
Speaker of the House

Joaquin G. Adriano
President of the Senate

Attested to by:

Evelyn C. Fleming
House Clerk

Joseph M. Mendiola
Senate Legislative Secretary

23. The man-made disaster appears as part of the definition of "disaster" and "local disaster emergency":

(a) **"Disaster" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, fires, oil spills, or other water contamination **requiring emergency action to avert** danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in any part of the Commonwealth **which, in the determination of the Governor is of sufficient severity and magnitude to warrant assistance by the Commonwealth to supplement the efforts and available resources of the political subdivisions thereof and relief organizations** in alleviating the damage, loss, hardship or suffering caused thereby.

(b) "Emergency" means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, drought, fire, explosion, or other catastrophe in any part of the Commonwealth which requires federal emergency assistance to supplement the Commonwealth and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(c) "Major disaster" means any typhoon, tornado, storm, floods, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, fire or other catastrophe in any part of the Commonwealth which, in the determination of the President of the United States, causes damage of sufficient severity and magnitude to warrant major disaster assistance under U.S. Disaster Relief Act (42 U.S.C. § 5121 et seq.), above and beyond emergency services by the federal government to supplement the efforts and available resources of the Commonwealth and its political subdivisions.

(d) **"Local disaster emergency" means occurrence or imminent threat** of a widespread or severe damage, injury, or loss of life or property **resulting from any natural or man-made cause**, including, but not limited to, typhoons, tornadoes, storms, floods, highwater, wind-driven waters, tidal waves, earthquakes, fires, oil spills, water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in one particular political subdivision.

(e) "Political subdivision" means any district, village, community or other unit of local government recognized as such by laws or customs of the Commonwealth.

3 CMC § 5114 (Emphasis added).

24. The Governor has very broad powers to prevent and respond to disasters:

§ 5121. The Governor and disaster emergencies.

(a) The Governor is responsible for meeting the dangers to the Commonwealth and the people affected by disasters.

(b) Under this chapter, the Governor may issue executive orders and regulations and may amend or rescind them. Executive orders shall have the force and effect of law when promulgated in accordance with the procedures set forth in this chapter. The Governor shall issue regulations as provided by law, for the administration and enforcement of this chapter, and such regulations shall have the force and effect of law if they are not in conflict with the expressed provisions of this chapter or other laws of the Commonwealth.

(c) A disaster emergency shall be declared by executive order of the Governor if the Governor finds a disaster has occurred or that occurrence or the threat thereof is imminent. The state of disaster emergency will remain in effect until the Governor finds that the threat or danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order, but no state of disaster emergency may continue for longer than 30 days unless renewed by the Governor. The Governor shall issue an executive order which may terminate a state of disaster emergency at any time. An executive order issued under this subsection shall be filed promptly with the Commonwealth Disaster Control Office and the Attorney General's office, and shall immediately be disseminated to the general public.

(d) An executive order declaring a state of disaster emergency shall serve to activate the disaster response and recovery aspects of the Commonwealth, local, and inter-jurisdictional disaster emergency plans applicable to the political subdivisions or area in question, and the authority for the deployment and use of any forces to which the plan or plans apply, and for use or distribution of any supplies, equipment and materials and facilities assembled, stockpiled or arranged, to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

(e) During the continuance of any state of disaster emergency, the Governor shall be in charge of all forces and personnel, and the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate regulations, but nothing herein restricts the Governor's authority to do so by executive orders issued at the time of the disaster emergency.

(f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary-action in coping with the emergency;

(2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;

(3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Subject to any applicable requirements for compensation under 3 CMC § 5132, utilize any private property if the Governor finds this necessary to cope with the disaster emergency; provided, however, that any such property that is not destroyed or totally damaged shall be returned to the owner immediately following the termination of the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Commonwealth if the Governor deems this action is necessary for the preservation of life or public health or safety; provided, however, that any person so evacuated shall be permitted to return to the place from which he or she

was evacuated immediately following the termination of the disaster emergency;

(6) Prescribe routes, modes of transportation, and destination in connection with evacuation, and requisition and take possession and control of any government vehicle for any reasonable period of time in order to assist with evacuation or with other necessary emergency functions or duties;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(9) Make provisions for the availability and use of temporary emergency housing.

3 CMC § 5121.

25. The general emergency powers provision is as follows:

(a) Whenever the Governor uses his authority pursuant to N.M.I. Const. art. III, § 10, the Governor shall as soon as practicable transmit to the legislature a report describing in detail the emergency which required exercise of such authority, the measures being taken to deal with the emergency, and a financial plan for meeting the cost of these measures. This plan shall indicate any function, program, or project which will have to be curtailed or deferred during the emergency due to the emergency itself or due to fiscal constraints, any additional revenues which may be needed to ensure sufficient funds, and any additional information which the Governor deems appropriate. This plan shall also include, if a determination can be made at that time, the recommendations of the Governor for any necessary reprogramming, appropriations, or any other statutory changes which the Governor deems advisable to deal with the emergency or to adjust the fiscal position of the government subsequent to the emergency. If this determination cannot be made at that time, the recommendation shall be transmitted to the legislature as soon as practical. A state of emergency shall automatically terminate within 60 days of its proclamation; unless the Governor shall, prior to the end of the 60 day period, notify the presiding officers of the legislature that the state of emergency has been extended, for a like term, and giving the reason for extending the state of emergency.

(b) If the legislature is not in session when the Governor prepares the report required by subsection (a) of this section, the Governor shall call the legislature into special session for the purpose of receiving the report, and of taking other action as may be necessary under the circumstances, as soon as it is physically prudent to hold a special session.

1 CMC § 7403.

26. The Chief of Civil Litigation, Peter Van Name Esser, concluded that a utility shortage or stoppage constitutes a "calamity" under Art. iii, § 10 of the CNMI Constitution.

He cited the Analysis of the Constitution, which presents "...a serious crisis caused by the unavailability of public utilities, transportation or communications," as an example of an emergency.

And he relied on Webster's definition of "emergency" as "any event or occasional combination of circumstances which calls for immediate action or remedy, pressing necessity; exigency," citing *People v. Ansen*, 105 P2d 321 (Cal. 1937) (Municipal streetcar driver was entitled to show in defense of prosecution for running "stop" signal that "emergency" supported continued travel through intersection); *Geisendorfer*

AG Opinion No. 05-13
MPLA Board transfer of funds in emergency

v. Mayor and City Council of Baltimore, 3 A.2d 860 (Md. 1947) (Emergency is lack of funds for school system); and Mullins v. Henderson, 170 P2d 118 (1942) (Mayor may use emergency powers to avert shutdown of street railway).

AG Op. 81-31 (7/23/81).

27. The LRC's "Constitution Annotated" discusses the *Analysis*, its stated purpose of explaining each section of the Constitution, and its limited use as authority:

Courts have cited the *Analysis* in several decisions. According to the *Analysis*' brief preface:

The purpose of this memorandum is to explain each section of the Constitution of the Commonwealth of the Northern Mariana Islands and to summarize the intent of the Northern Marianas Constitutional Convention in approving each section. This statement was approved by the Convention on December 6, 1976 with the direction that it be available to the people along with the Constitution for their consideration before the referendum on the Constitution.

Id. at 1. The 1976 *Analysis* was approved by the Convention, and published in a small, blue paperback booklet, 215 pages in length. The *Analysis* is mentioned in article III, § 23(b) (directing the resident executive for indigenous affairs to "coordinate the translation and distribution of such official documents as the Constitution of the Northern Mariana Islands and the Covenant and analysis thereof").

Comments to many sections in this publication include quotations from the *Analysis*. It is important to note that while courts have often cited the *Analysis* in support of rulings, they are not obligated to follow its interpretation of Constitutional provisions. In short, "the *Analysis* does not have the force law." *Camacho v. Civil Service Commission*, 666 F.2d 1257, 1264 (9th Cir. 1982) (rejecting *Analysis* interpretation of article III, § 16). According to a Commonwealth Trial Court decision:

The *Analysis* is not the law. It was not voted on by the electorate. At most, it is an attempt to clarify what the law is as stated in the Constitution. To use the *Analysis* as authority to overcome the clear language of the Constitution is not permissible.

Camacho v. Camacho, 1 CR 620, 628-29 (Trial Ct. 1983) (rejecting *Analysis*' interpretation of schedule on Transitional Matters. § 4).

Comm.. Law Rev. Com'n, Constitution of the Commonwealth of the Northern Mariana Islands, annotated, 1st ed. (June 1995), p xiii-xiv. (Fn's omitted)

28. The *Analysis* refers to legislative approval – "The governor may use contingency funds for disaster aid and divert from regular programs during the state of emergency with legislative approval." – but there is no such language on legislative approval in article III, § 10.

29.1 CMC § 2153(h): Attorney General Duties

The Attorney General shall have the powers and duties as provided in the Commonwealth Constitution. In addition, the Attorney General shall have the following powers and duties:

....

(h) To act, upon request, as counsel to all departments, agencies and instrumentalities of the Commonwealth, including public corporations, except the Marianas Public Land Trust. Subject to availability of funds by budgetary appropriation, separate legal counsel may be retained for particular matters.

1 CMC § 2153(h).

30.1 CMC § 2153(g).

31. Faced with two conflicting opinions of the CNMI Attorney General, the Supreme Court, responding to a certified question from the U.S. District Court, rejected the earlier, four-sentence-long opinion containing "ninety words with no reference to case law or legislative history" as "unpersuasive" in favor of the Attorney General's thoroughly researched brief. *Borja (Mayor of Tinian)*, 2003 MP ¶ 21.

32. *Castro v. Hotel Nikko Saipan, Inc.*, 4 N.M.I. 268, 275 (1995), citing 7 CMC § 3401.

33. The Mafnas' court's decision was "The absence of any language excluding such interests from the restriction in Article XII leads us to conclude that they are within the restriction." *Aldan-Pierce v. Mafnas*, 2 N.M.I. 122 (1991), at n 24.

The principle of "expressio unius est exclusio alterius" was addressed in the legislative context as the existence of express exceptions to a rule gives rise to a presumption that no other exceptions were intended. *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action No. 94-0516 (Super. Ct. 1994) ("MVB"). The case cited *Andrus v. Glover Constr. Co.*, 100 S. Ct. 1905, 1910 (1980); Norman J. Singer, 2A *Sutherland Statutory Construction* § 47.11 (5th ed. 1993). MVB, p 28. See also *E-Tours Inc. v. Marianas Visitors Authority*, Civ. No. 00-0078D, p 7 (Super. Ct. 2000).

34. The full text of the District Court's statement is as follows:

It is now settled that the United States stands in relation to the peoples of Micronesia as a trustee. See, e.g., *Palacios v. Commonwealth of the Northern Mariana Islands*, Civ.App. No. 81-9017 (D.N.M.I. (App. Div.) 1983); *Gale v. Andrus*, 643 F.2d 826, 830 (D.C.Cir. 1980) ('the entire authority of the United States in the Trust Territory is derived from a trust'); *Ralpho v. Bell*, 569 F.2d 607, 619 (D.C.Cir. 1977) ('the United States does not hold the Trust Territory in fee simple, as it were, but rather as a trustee'). In general, a fiduciary relation is described as one 'in which the law demands of one party an unusually high standard of ethical or moral conduct with reference to another.' G.G. Bogert and G.T. Bogert, *The Law of Trusts and Trustees*, p. 3 (2nd Ed. 1965). The nature of the fiduciary obligations which the United States shoulders in its capacity as a trustee to a race or nation of peoples is well summarized in *Smith v. United States*, 515 F.Supp. 56, 60 (N.D.Cal. 1978), a decision based on the United States-Indian trust relationship. In *Smith*, Judge Sweigert describes those fiduciary duties as duties that must be exercised with 'great care,' *United States v. Mason*, 412 U.S. 391, 398, 93 S.Ct. 2202, 2207, 37 L.Ed.2d 22 (1973), in accordance with 'moral obligations of the highest responsibility and trust,' that must be measured 'by the most exacting fiduciary standards.' *Seminole Nation v. United States*, 316 U.S. 286, 297, 62 S.Ct. 1049, 1054, 86 L.Ed. 1480 (1942). This Court previously has held that the 'very purposes which engendered the judicially created Indian fiduciary doctrine apply a fortiori to the Micronesian-U.S. relationship.' *Palacios*, supra, slip op. at 10.

Pangilinan v. Castro, 1985 WL 3792 (D.N.Mar.I. 1985).

35. With respect to the business judgment rule, see also *Francis v. United Jersey Bank*, 432 A.2d 814 (N.J.1981) (A director should become familiar with fundamentals of business in which corporation is engaged and because directors are bound to exercise ordinary care, they cannot set up as a defense lack of knowledge needed to exercise the requisite degree of care; and if one feels that he has not had sufficient business experience to qualify him to perform the duties of a director, he should either acquire the knowledge by inquiry, or refuse to act).

36. This Opinion will not catalogue the almost-daily press coverage of the CUC emergency, as it is well known, and the press clippings can be assembled if needed.

37. The Constitution's language was "for use for a public purpose by another agency of government", NMI Const. art. XI, § 5(c), and, with respect to an interest in public lands located within 150 feet of the high water mark of a sandy beach, specifically excepted to authorize construction of facilities "for public purposes", NMI Const. art. XI, § 5(e).

38. The appropriations act restricted reprogramming to the same senatorial district:

Section 8. Reprogramming. Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reprogrammed by an appropriation bill of the CNMI Legislature or pursuant to the process specified in or 1 CMC 7302, all or in part among the projects funded by this Act to alternative projects included in the CIP Plan adopted by Section 5 of Public Law 11-78. However, notwithstanding other provisions of law, funds can only be reprogrammed from one project in a senatorial district to another project in the same senatorial district. Reprogramming of funds to alternative projects not included in the CIP Plan, must comply with the Plan Amendment Process as specified in Section VII of the CIP Plan.

PL 11-79 § 8. Since the overwhelming majority of CUC's power is consumed on the Island of Saipan, the reprogramming presented to the Board was to the same Senatorial District as the Koblerville project. As to the CIP Plan process, the State of Emergency supercedes the necessity to revise the CIP Plan, as a one of the regulatory provisions subject to suspension.



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MEMORANDUM AND ORDER

TO: All Immigration Personnel

FROM: Pam Brown, Attorney General 

DATE: September 1, 2005

RE: Admission of Bangladeshi Citizens

As of today, the CNMI will no longer admit citizens of Bangladesh for any purpose. This is due to the high frequency of document fraud in that country. We are unable to verify the authenticity of travel documents originating there and therefore must deny entry in the best interests of the Commonwealth. Please do not process any entry permit applications from citizens of Bangladesh.



Commonwealth of the Northern Mariana Islands
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**Public Notice of Erratum
CNMI Aboveground Storage Tank Regulation**

The CNMI Division of Environmental Quality hereby gives notice of a printing error in Volume 27, Number 4 of the Commonwealth Register (May 2005); the final page of the recently adopted CNMI Aboveground Storage Regulations was inadvertently excluded. The excluded page, reproduced herein, addressed, in part, procedures for the issuance of administrative orders; severability of regulatory provisions; and delaying the effective date of the regulation 10 (ten) calendar days after the notice of adoption was published.

The complete version of the CNMI Aboveground Storage Regulations was available to the general public for review and comment at the DEQ Offices, on the DEQ webpage, and by written request or telephone request to DEQ. The printing error that excluded the final page of the regulations was limited solely to the Commonwealth Register. DEQ did not receive comments regarding the provisions that appeared on the last page of the regulations. Therefore, the duly adopted DEQ Aboveground Storage Tank regulations will remain in full force and effect with the addition of the final page.

SEP 21 2005

Date

John I. Castro, Jr., Director
Division of Environmental Quality

- 23.2.3 Any person subject to an Order imposing penalties pursuant to 23.2.2 may request, in writing, a hearing before the designated hearing officer. Request for a hearing shall be served upon the Division within seven (7) calendar days from the date the Order is received. Failure to request a hearing within seven (7) calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the Order.
- 23.2.4 Persons subject to orders issued pursuant to the Act and these regulations may also request an informal Settlement Conference. An informal Settlement Conference shall not affect the person's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.
- 23.2.5 Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, et seq.

PART 24 SEVERABILITY

Should any provision of these regulations or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and/or the application of the affected provision to other persons or circumstance shall not be affected thereby.

PART 25 EFFECTIVE DATE

These regulations will take effect (ten) 10 calendar days after notice of adoption is published in the Commonwealth Register.