

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



COMMONWEALTH REGISTER

**VOLUME 30
NUMBER 12**

DECEMBER 22, 2008

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1 **Commonwealth of the Northern Mariana Islands**
2 **Health Care Profession Licensing Board**

3
4 *In the Matter of Terri H. Clawson, PA,*) Case No. 2008-02
5 (Amendment of Practice Agreement))
6

7 **BOARD EMERGENCY ORDER #04**
8 **APPROVING PRACTICE AGREEMENT AMENDMENT**
9 **FOR REMOTE SUPERVISION**

10
11 **Summary**

12
13 This Order extends the last order which the Board entered in this case on or about December
14 12, 2008. In order to timely address the needs of Tinian, the practice of Ms. Clawson, and
15 public notice, this Board is meeting today, all members having been notified. Attending at the
16 meeting were Ms. Clawson, Dr. Shirish Balachandra and representatives of the Tinian Health
17 Center ("THC" or "the Center").
18
19

20 **Board Findings and Conclusions**

21
22 There was extensive discussion at the Board's meeting today, December 16, 2008. Physician
23 Assistant Terri Clawson's situation has not changed materially at the Tinian Health Center. The
24 Center has not yet hired a physician, although senior management have assured the Board that
25 they are actively recruiting, and explained their efforts at our meeting. Ms. Clawson still needs a
26 supervising physician. Presently, Dr. Balachandra has agreed to provide that supervision.
27

28 The Board's primary responsibility, given by statute, is to protect the health of the people of the
29 Commonwealth. In this instance, it is to protect the health of the people of Tinian. The Board
30 informs our decision from our respective health care disciplines, and roughly 100 years of
31 collective health care practice of our members.
32

33 The Board finds that it would produce a net deficit in available, required health care, and be
34 unfair to the people of Tinian to restrict Ms. Clawson from practicing at the THC merely because
35 the Center has been unable to find a permanent physician. We will not continue the authority
36 provided in this Order indefinitely. But we will continue it for a time.
37
38

39 **Ruling and Ordering Paragraphs**

40
41 The Board having fully advised in the premises of this matter, for the above-stated reasons
42 hereby ORDERS that:
43

- 44 1. Ms. Terri Clawson may continue in her work as a licensed professional.
45
46 2. Supervision: Dr. Shirish Balachandra, a physician employed at the Commonwealth
47 Health Center, Saipan, or his designee, shall be the supervising physician for Ms.
48 Clawson.
49

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3. The agreement shall include:
 - a. Daily emails shall be exchanged between Ms. Clawson and Dr. Balachandra for permitted controlled substance prescriptions.
 - b. The database of patients on chronic or long-term scheduled medications shall be maintained and updated by Ms. Clawson. It shall monthly be reviewed by Dr. Balachandra to ensure adherence to the standard of care.
 - c. Chart notes and prescriptions will be sent to Dr. Balachandra for review and signature, as provided below.
 - d. Dr. Balachandra shall closely monitor chronic pain contracts for adherence. Patients shall be expected to provide frequent, random urine specimens, and evidence of illicit or inappropriate drug use shall be grounds for discontinuation of opiate therapy. Diversion of prescription medications shall not be tolerated. As per widely accepted practice standards, patients will receive a maximum of one warning for non-adherence to chronic pain contracts.

4. Ms. Clawson is authorized to prescribe:
 - a. Schedule II medications as follows: Not during the pendency of this Order, except in cases of bona fide medical emergency. The practice agreement shall define "bona fide medical emergency" and require record-keeping. The supervisor shall countersign the chart within 24 hours.

 - b. Schedule III through V medications as follows: Ms. Clawson shall inform the supervisor with daily emails. The supervisor shall review and sign chart notes monthly. Prior approval from the supervisor before starting chronic or long term medication is a prerequisite.

5. Ms. Clawson shall submit a new Practice Agreement, which shall be approved by the Board, to address the requirements of this Order, and which shall be signed by both herself and Dr. Balachandra. (Fax signatures are acceptable.) **This agreement must be submitted to the Board no later than Wednesday, December 17 at 4:30 pm, by hard copy or electronically; otherwise this Order expires 24 hours later.**

6. Ms. Clawson shall provide her DEA number to the Board and a copy of her DEA certificate with the practice agreement. (Email and fax are acceptable.)

7. The Board's above-referenced, preceding Order in this case, as modified by today's order, is continued through the following date: **March 31, 2009, midnight.**

8. The Board shall review this matter at its next board meeting. THC senior management is invited to appear at that meeting and update the Board on its efforts at recruiting a supervising physician.

9. A copy of this Order shall be placed in a public area of the Tinian Health Center. The Executive Director is directed to do the following in person or by electronic means:
 - a. Serve this Order on the licensee, Ms. Terri Clawson.
 - b. Serve this Order on the director of the Tinian Health Center.

- 1 c. Have the Order published in the next Commonwealth Register.
2 d. Place this matter on the Board's agenda for its next meeting.
3

4 A party seeking to appeal this Order is directed to 1 CMC § 9112(b), which provides for judicial
5 review of final orders within 30 days in the Commonwealth Superior Court. The Board believes
6 that this is a final Order.
7

8 Dr. Ahmad Al-Alou, /s/
9 Chair

Dated: 12/17/08

10
11 Dr. Leticia Borja, Board Member /s/
12 Ms. Pamela Carhill, Secretary /s/
13 Dr. Janet McCullough, Vice Chair /s/
14 Dr. Ken Pierson, Board Member /s/
15

Health Care Professions Licensing Board
Bldg #1336, Ascension Drive
Capitol Hill, Saipan, MP 96950\
Tel: 670.664.4811
Fax: 670.664.4813
Email: bpl@pticom.com

05T Clawson Order thru Mar 31.wpd

16

**Commonwealth of the Northern Mariana Islands
Department of Public Safety, Bureau of Motor Vehicles
P.O. Box 500796
Saipan MP 96950**

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF
THE DEPARTMENT OF PUBLIC SAFETY,
BUREAU OF MOTOR VEHICLE**

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND

REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Public Safety, Bureau of Motor Vehicles (BMV) intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Commissioner is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities. Public Law No. 16-2 Section 8. Various Government Service Fees (a)(1) thru (a)(9) and (b)(1), (b) & (c).

THE TERMS AND SUBSTANCE: The Rules and Regulations provide the effect of the new fees schedule.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

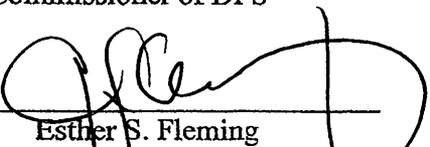
- 1) To establish the appropriate fees for subsections (a)(1) thru (9) (b) and (c) as listed in Section 8 of this act

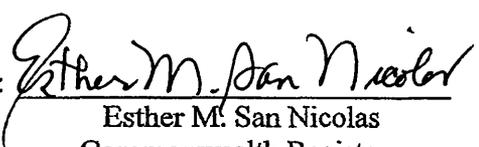
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(2))

TO PROVIDE COMMENTS: Send or deliver your comments to Commissioner, Department of Public Safety, Attn: Santiago F. Tudela at the above address. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments.

These proposed regulations were approved by Commissioner Santiago F. Tudela.

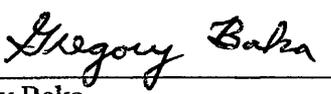
Submitted by:  12/15/08
Santiago F. Tudela
Commissioner of DPS
Date

Received by:  12/19/08
Esther S. Fleming
Governor's Special Assistant for Administration
Date

Filed and Recorded by:  12.19.08
Esther M. San Nicolas
Commonwealth Register
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 reulations 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 this 12/12 date of 2008.


Gregory Baka
Acting Attorney General

The Department of Public Safety, Bureau of Motor Vehicles under Public Law 16-2, Section 8 entitled "Various Government Services Fees" took effect on June 1, 2008 for the following:

Driver License Fees	Current	New Fees/Rates
- Off Island Valid Driver License	\$15.00	\$ 30.00
- Renewal	\$15.00	\$ 30.00
- Penalty after 30 working days	\$10.00	\$ 20.00
- Duplicate	\$ 5.00	\$ 10.00
- Change of Information	\$ 5.00	\$ 10.00
- Extension Permit	\$ 5.00	\$ 10.00
- Taxi License – New/Renewal	\$15.00	\$ 30.00
- Off Island Driving Record	\$ 2.00	\$ 4.00

Vehicle Registration Fees

- Bicycles	\$ 1.50	\$ 3.00
- Mopeds/Motorcycles up to 100 cc	\$ 5.00	\$ 10.00
- Motorcycles over 100 cc	\$10.00	\$ 20.00
- Taxi Operators License	\$75.00	\$150.00
- Pickup, jeeps, sedans and other motor not exceeding six passengers or one-half ton capacity and weighing less than 2,000 pounds,		
- Trucks, buses, self-propelled equipment and machinery by weight in pounds as specified by the manufacturer at the time of the original sale or entry into the Commonwealth, whichever is greater;		
(a) Under 2,999 pounds of fraction thereof	\$ 25.00	\$ 50.00
(b) 3,000 to 4,999 pounds of fraction thereof	\$ 50.00	\$100.00
(c) 5,000 to 7,4999 pounds of fraction thereof	\$100.00	\$200.00
(d) 7,500 pounds and over	\$200.00	\$400.00
- Lowboys	\$ 25.00	\$ 50.00
- Duplicate Registration/Certificate of Ownership	\$ 5.00	\$ 10.00
- Lost/Stolen License Plate	\$ 5.00	\$ 10.00
Heavy Equipment/Bus License Plate	\$ 10.00	\$ 20.00
- Replacement of Safety Sticker (decal)	\$ 5.00	\$ 10.00

Motor Vehicle Inspection Station Facility Permit

- New & Renewal	\$100.00	\$200.00
- Inspector Certificate	\$100.00	\$200.00

Vessel & Jetski

- New/Import/Renewal	\$ 10.00	\$20.00
- Duplicate Registration/Certificate of Ownership	\$ 5.00	\$10.00

Firearms & Record Section Fees

- Police Report (per page)	\$ 1.00	\$ 2.00
- Fingerprinting	\$ 10.00	\$20.00
Firearms	\$ 10.00	\$20.00 (set of two)
Employment	\$ 24.00	\$48.00 (set of two)
Teachers	\$ 24.00	\$48.00 (set of two)
Taxicab	\$ 24.00	\$48.00 (set of two)
- Firearms I.D. Renewal	\$ 25.00	\$50.00 (per I.D.)

Firearms Dealer/Manufacturer or Wholesaler License

- New & Renewal	\$300.00	\$600.00
- Employment License	\$ 25.00	\$ 50.00
- Shooting Gallery Range License	\$5,000.00	\$10,000.00
- Range Safety Officer	\$ 25.00	\$ 50.00

Driver Education School License

- New/Renewal	\$100.00	\$200.00
- Instructor License	\$ 50.00	\$100.00

**Commonwealth gi Sangkattan na Islan Marianas Siha
Dipattamenton Polisia, Bureau of Motor Vehicles
P. O. Box 500796
Saipan, MP 96950**

**NOTISIAN PUPBLIKU POT I MAPROPONEN AREKLAMENTO YAN
REGULASION SIHA NI PARA I AMENDASION PARA I AREKLAMENTO
YAN REGULASION SIHA GI DIPATTAMENTON POLISIA, BUREAU OF
MOTOR VEHICLE**

**MA INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE I MAN
MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA:** I
Commonwealth gi Sangkattan na Islan Marianas siha, i Dipattamenton Polisia,
Bureau of Motor Vehicle(BMV) ha intensiona para u adapta komu petmanente na
regulasion siha ni chechetton gi man mapropone na Regulasion , sigun i manera siha
gi Akton Administrative Procedure, 1 CMC § 9104(a). I Regulasion siha para u
efektibugi halom dies(10) diha siha despues di ma'adaptã-ña yan i publikasion gi halom
i Rehistran Commonwealth. (1 CMC § 9105(b)

ÅTURIDÅT: I Lehislatura ha nã'i fuetsã-ña i Komisina para u adapta i areklamento
yan regulasion siha para i atministrasion yan dinimãndan i estatua ni ginobebetna i
aktibidãt-ña siha. Lai Pupbliku Numiru 16-2 Seksiona 8.(a) asta (1)(9) yan (b) & (c)
Diferentes Åpas Setbision Gobietno.

I SUSTÅNSIAN I PALÅBRA SIHA: I Areklamento yan Regulasion siha ha pribeniyi
ni nuebu na schedule pot åpas

I SUHETO NI MASUMÅRIA YAN ASUNTO NI TINEKKA: Este na areklamento
yan regulasion siha:

- 1) Para u ma'estapblisa propiu na åpas para subsection siha (a) asta (9) (b) yan (c) komu
malista gi halom Seksiona 8 guini na åkto.

DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA: I man Mapropone na
Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi seksiona
ni mapropone yan nuebu na ma'adaptan regulasion siha (1CMC §9102(a)(1) yan u
mapega gi man kombiniente na lugãt siha gi halom civic center yan gi ofisinan
gobietnamento siha gi kada distriton senadot, parehu gi English yan i prinsipãt na
lengguãhen natibu. (1 CMC § 9104(a)(2)

PARA U MAPRRIBENIYI OPIÑION SIHA: Na' hanãgue osino entrega i opiñion-mu
para i Komisina, Dipattamenton Polisia, Atension: Santiago F. Tudela gi sanhilo' na
address. Todu opiñion debi na u fan hãlom trenta(30) diha siha ginen i fechan notisian
publikasion. Pot fabot na hãlom infotmasion, opiñion pat testimonion kinontra siha.

Este i man mapropone na regulasion siha man ma'apreba as Komisina Santiago F.

Tudela.

Nina'háloom as: _____
Santiago F. Tudela
Komisinan DPS
Fecha

Rinesibi as: _____
Esther S. Fleming
Especiát Na Ayudánte Para I Atministrasion
Gobietno
12/19/08
Fecha

Pine'lo Yan Rinekot as: _____
Esther M. San Nicolas
Rehistran Commonwealth
12.19.08
Fecha

Sigun i 1 CMC § 2153(e) (I Abugádu Henerát ha apreba i regulasion siha na para u macho'gue komu fotma) yan 1 CMC § 9104(a)(3) hentan inapreban Abugádu Henerát) i man mapropone na regulasion siha mañechetton guini man marebisa yan ma'apreba komu fotma yan suficiente ligát ginen i CNMI Abugádu Henerát yan debi na u mapublika, 1 CMC § 2153(f) (publikasion areklamento yan regulasion siha).

Mafecha guini gi 19 Disiembre, 2008.

Gregory Baka
Gregory Baka
Acting Abugádu Henerát

I Dipattamenton Polisia, Bureau of Motor Vehicle papa' i Lai Ppubliku 16-2, Seksiona 8 entitled "Diferentes Ápas Setbision Gobietno" u me'efektibu gi Huñiu 1, 2008 para i sigiente:

Ápas Lisensian Mañugon	Presente	Nuebu na Ápas/Kosta
- Valid na Lisensian Mañugon-Off Island	\$15.00	\$30.00
- Marinueba	\$15.00	\$30.00
- Penalty after 30 working days	\$10.00	\$20.00
- Duplicate	\$5.00	\$10.00
- Tinilaikan Infotmasion	\$5.00	\$10.00
- Ma'ekstenden Lisensia	\$5.00	\$10.00
- Lisensian Takse-Nuebu/Rinueba	\$15.00	\$30.00
- Rekot Mañugon Off Island	\$2.00	\$4.00

Ápas Rehistrasion Tumobet

- Bisikleta Siha	\$1.50	\$3.00
- Mopeds/Motorcycles hulo' asta 100cc	\$5.00	\$10.00
- Lisensian Takse Operators	\$75.00	\$150.00
- Pickup, yip, sedan yan otro motor ni menus di sais na pasaheru pat one-half ton na kapasidat yan minakkat menus di dos mit (2,000) libra.		
- Trák siha, bás, self-propelled equipment yan mákinan mamesa gi minakkat libra komu ma'episifika ginen i manufacturer gi tiempo i original sale pat entry gi halom i Commonwealth, whichever is greater;		
(a) Papa' i 2,999 na libra gi fraction thereof	\$25.00	\$50.00
(b) 3,000 asta 4,999 na libra gi fraction thereof	\$50.00	\$100.00
(c) 5,000 asta 7,499 na libra gi fraction thereof	\$100.00	\$200.00
(d) 7,500 na libra yan más	\$200.00	\$400.00

- Lowboys	\$25.00	\$50.00
- Duplicate Rehistrasion/Settifikon Dueño	\$5.00	\$10.00
- Malingo/Masákke Pláton Lisensia	\$5.00	\$10.00
- Heavy Equipment/Pláton Lisensian Bás	\$10.00	\$20.00
- Replacement of Safety Sticker (decal)	\$5.00	\$10.00

Motor Vehicle Inspection Facility Permit

- Nuebu Yan Renueba	\$100.00	\$200.00
- Settifikon Inspektadot	\$100.00	\$200.00

Vessel Yan Jetski

- Nuebu/Mana'háлом/Renueba	\$10.00	\$20.00
- Duplicate Rehistrasion/Settifikon Dueño	\$5.00	\$10.00

Firearms Yan Record Section Fees

- Ripot Polisia (kada páhina)	\$1.00	\$2.00
- Fingerprinting	\$10.00	\$20.00
- Paki	\$10.00	\$20.00(set of two)
- Cho'cho'	\$24.00	\$48.00(set of two)
- Ma'estro/a	\$24.00	\$48.00(set of two)
- Takse Kap	\$24.00	\$48.00(set of two)
- Firearms I.D. Renewal	\$25.00	\$50.00(per I.D.)

Firearms Dealers/Manufacturer pat Wholesaler License

- Nuebu Yan Renueba	\$300.00	\$600.00
- Lisensian Cho'cho'	\$25.00	\$50.00
- Lisensian shooting Gallery Range	\$5,000.00	\$10,000.00
- Range Safety Officer	\$25.00	\$50.00

Eskuelan Edukasion Lisensian Mañugon

- Nuebu/Renueba	\$100.00	\$200.00
- Lisensian Instructor	\$50.00	\$100.00

Commonwealth of Northern Mariana Islands
Department of Public Safety, Bureau of Motor Vehcles
P.O. Box 500796
Seipél MP 96950

ARONGOL TOULAP REEL ALLÉGH KKA AA LLIWEL LLÓL
BWULASIYOOL LAYÚR TOULAP SCHÓÓL AKKÚLÉ, BUREAU OF MOTOR
VEHICLE

MÁNGEMÁNGIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:
Bwulasyool Public Safety, Bureau of Motor Vehicls mellól Commonwealth Téél falúw kka falúwasch Efáng Mariana Islands (BMV) e tipeli ebwe schéschéél fillóóy pomwol allégh kka e appasch bwelle reel mwóghutul Administrative Procedure Act, 1 CMC Tálil 9104(a). Allégh kkaal nge ebwe kkamalló llól seigh (10) ráálil mwiril yaar fillóóy me akkatéélóól llól Commonwealth Register. (1 CMC Tálil 9105(b))

BWÁNGIL: Sów fféerúl Allégh (Legislature) nge e ngáleeey bwángil samwool (commissioner) ebwe fillóóy allégh kkaal ngáli administration me mwóghutáágheli allégh ye lemeli wiisal. Alléghúl Toulap Numero. 16-2 Tálil 8.(a)(1) ngáli (a)(9) me (b) me (c) akkááw bwulasyool gobenno kka ekke ayoora ammwelil óbwos.

AWEEWEL ME ÓUTOL: Allégh kkaal nge ayoorátá bwelle rebwe ghutchuw ótol óbwos kka e ffé.

KKAPASAL ME AWEEWE KKA E TÉÉTÁ: Allégh kkaal:

- 1) Ebwe affata óbwos mellól Tálil kkaal (subsections) (a)(1) ngáli (9) (b) me (c) ye elo llól Tálil 8 sáangi allégh yeel

AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol Allégh kkaal ebwe akkatééló llól Commonwealth Register sáangi tálil kka raa pomwoli me fillóól allégh kka e ffé (1 CMC Tálil 9102(a)(1) me appaschetá igha toulap rebwe woori meiyé me llól bwulasyool gobenno kkaal llól senatorial district, eweewe schagh llól kkapasal Amerikkónu me Remeraalis/Refalúwasch. (1 CMC Talil 9104(a)(2))

REEL ISISILONGOL MÁNGEMÁNG: Afanga me ngáre bwughiiló reel Samwool, Bwulasyool Layúúr Toulap Schóól Akkúlé, Attn: Santiago F. Tudela sáangi address iye elo weiláng. Aghiyegh ebwe atotoolong llól eliigh (30) ráálil igha schagh raa atééw arong yeel. Óutu ghal soong, ów isisilong ischil mángemángiy.

Pomwol allégh kkaal nge aa alúghúlúghúló mereel Samwool ye Santiago F. Tudela.

Isaliyallong: _____
Santiago F. Tudela
Samwoolul DPS

Rál

Mwir sángi: _____
Esther S. Fleming
Sów Alillisil Sów Lemelem

12/19/08
Rál

Ammwel sángi: _____
Esther M. San Nicolas

12.19.08
Rál

Sángi allégh ye 1 CMC Tálil 2153(e) (alúghúlúgh mereel AG ebwe akkaté ighila) me 1 CMC Tálil kka 9104(a)(3) (bwughi yaal alúghúlúgh AG) pomwol allégh kka e appasch ikka raa takkal amweri fischi me allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééwow, 1 CMC Tálil 2153(f) (akkatéél allégh kkaal).

^{Tumwur}
Rááilil ye 19 ~~11~~ 11ó1/2008

Gregory Baka
Gregory Baka
Sów Bwungul Allégh Lapalap

Bwulasiyool Layúúr Toulap Schóól Akkúlé, Bureau of Motor Vehicles sángi Alléghúl Toulap ye 16-12, Talil 8, aweewe “ Bwulasiyool Gobenno kka ekke ayoora wiisal óbwos” ebwe fis ótol Ghúúw 1, 2008 sángi tálil kka elo faal.

Obwossul Driver License	Ighila	óbwós ye e fféetá
-Driver License igha ubwe mwete sángi falúw	\$ 15.00	\$30.00

-Fféer Sefáál	\$15.00	\$30.00
-Óbwós, mwiril eliigh (30) ráálil llól angaang	\$10.00	\$20.00
-Fféer liwelil	\$ 5.00	\$10.00
-Ammataf kka e ssiwel	\$ 5.00	\$10.00
-Lisensia kka e sóbwósóbw	\$ 5.00	\$10.00
-Lisensial Taxi-Mil ffé/ Fféer sefáál	\$15.00	\$30.00
-Kkapasal lisensia igha u mwete sáangi falúw	\$ 2.00	\$ 4.00

Óbwóssul Vehicle Registration

-Biskileeta	\$ 1.50	\$ 3.00
- <u>Mopeds/Motorcycles</u> ngáli 100cc	\$ 5.00	\$10.00
- <u>Motorcycles</u> kka eyoor 100cc	\$ 10.00	\$20.00
-Lisensial schóól Taxi	\$ 75.00	\$150.00
- <u>Pickup, jeeps, sedans</u> , me Akkááw tappal mootá kka essóbw Luuló oloomal schóóy tatta me Ngáre <u>one-half ton</u> tchówul me Essóbw páreló ruwangaras tchówul.		

Truks, buses, self-propelled equipment
me mókkinaal atchow ye mwir sáangi
schéschéél méél me atotoolongol llól
Commonwealth, ese lefil llapal tchówul;

(a) Sáangi 2,999 eghus tchowul	\$25.00	\$50.00
(b) 3000 ngali 4, 999 eghus tchowul	\$50.00	\$100.00
(c) 5,000 ngali 7, 4999 eghus tchowul	\$100.00	\$200.00
(d) 7, 500 tchowul me parelo	\$200.00	\$400.00
Lowboys	\$25.00	\$ 50.00
Duplicate Register/Certificate of Ownership	\$ 5.00	\$10.00
Malingu/purufal License Plate	\$ 5.00	\$10.00
Heavy Equipment/Bus License Plate	\$10.00	\$20.00
Siwelil Safety Sticker (aghikkil)	\$ 5.00	\$10.00

Motor Vehicle Inspection Station Facility Permit (leliyel ammwelil lisensia)

-Ffé/Fféér sefáál	\$100.00	\$200.00
-Ósósótól Certificate	\$100.00	\$200.00

Waa/Jetski

-Ffé/Atotoolong/Fféér sefáál	\$ 10.00	\$ 20.00
- <u>Duplicate Registration</u> Of Ownership	\$ 5.00	\$ 10.00

Pákk me Leliyel Óbwós

-Kkapasal polisia (eew schéél)	\$ 1.00	\$ 2.00
<u>Finger Printing</u>	\$ 10.00	\$ 20.00
Pákk	\$ 10.00	\$ 20.00 (set of two)
Schóól angaang	\$ 24.00	\$ 48.00 (set of two)
Schóól afal	\$ 24.00	\$ 48.00 (set of two)
Taxicap	\$ 24.00	\$ 48.00 (set of two)
Fféér sefáál I.D.reel pack	\$ 25.00	\$ 50.00 (eew ID.)

School ammwelil Pakk/Manufacturer me ngare Wholesale License

-Ffé me fféér sefáál	\$300.00	\$600.00
-Lisensial schóóy tarabwaagho	\$ 25.00	\$ 50.00
- <u>Lisensial Shooting Range</u>	\$5,000.00	\$10,000
<u>Range Safety Officer</u>	\$ 25.00	\$ 50.00

Lisensial schóól affaráághil baasil gakko

-Ffé/Fféér sefáál	\$100.00	\$200.00
-Lisensial Sów Afal	\$ 50.00	\$100.00

PUBLIC NOTICE
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING
THE NORTHERN MARIANA ISLANDS RETIREMENT FUND

The Board of Trustees of the Northern Mariana Islands Retirement Fund ("NMI Retirement Fund"), as authorized pursuant to 1 CMC § 8315(f), hereby gives notice to its members and the general public that it has proposed amendments to the NMI Retirement Fund's Regulations pursuant to the Administrative Procedures Act, 1 CMC § 9101, *et. seq.* The attached proposed amendments would modify the Regulations published in the Commonwealth Register, Volume 30, Number 05 at pages 28507 to 28514, on May 27, 2008, and adopted and published in Volume 30, Number 06 at page 28527, on June 27, 2008; and as further amended and published in Volume 30, Number 07, at pages 28535 to 28541, on July 28, 2008, and adopted and published in Volume 30, Number 10, at page 28890, on October 25, 2008 (effective date November 4, 2008).

The purpose of these amendments is to amend the language under Part 4 – Section 4.05, and the Disability Policy and Procedures regarding Disability Benefits. The Board is soliciting comments and recommendations regarding these proposed amendments, which must be received by the NMI Retirement Fund within thirty (30) days of publication of this notice in the Commonwealth Register.

Written comments on these amendments should be sent to Mark A. Aguon, Administrator, NMI Retirement Fund, Retirement Fund Building, Isa Drive, Capitol Hill, P.O. Box 501247, Saipan, MP 96950-1247, or by facsimile to (670) 664-8080. Copies of these amendments may be obtained at the NMI Retirement Fund offices on Saipan, Tinian and Rota.

Dated this 24 day of December 2008.

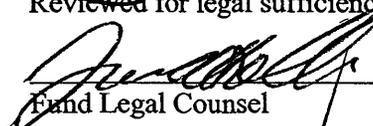


Juan T. Guerrero
Chairman, Board of Trustees, NMIRF



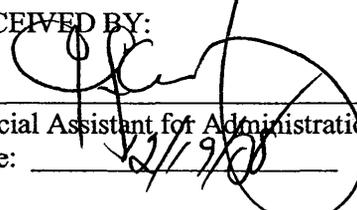
Mark A. Aguon
Administrator, NMIRF

Reviewed for legal sufficiency this 2nd day of December 2008 by:



Fund Legal Counsel

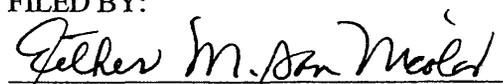
RECEIVED BY:



Special Assistant for Administration

Date: 12/19/08

FILED BY:



Commonwealth Register

Date: 12-19-08

Certification by the Office of the Attorney General

Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the proposed amendments to the Rules and Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated this 12 day of December 2008.



Attorney General (Acting)

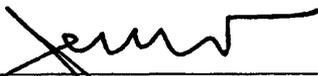
NOTISIAN PUPBLIKU
MAN MAPROPONE NA AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION
SIHA NI GUMUBEBIETNA I FUNDON RITIRÃO I SANKATTAN SIHA NA ISLAN MARIANAS

I Kuetpon Trustees i Fundon Ritirão i Sankattan Siha na Islan Marianas, (“NMI Retirement Fund”), ni ma’aturisa sigun i lai gi 1 CMC Seksiona 8315(f), ha nãna’ i notisia para i membru siha yan i pupbliku henerât na ha propopone i amendasion siha para i Regulasion i Fundon Ritirão i Sankattan Siha na Islan Marianas sigun i Âkton i Areklamenton Atministrasion, 1 CMC Seksiona 9101, et,seq. I man che’cheton ni man mapropone na amendasion siempre a tulaika i Regulasion ni mapublika gi Rehistran i Commonwealth, Baluma 30, Numiru 05 gi pâhinan 28507 yan 28514, gi Mayo 27, 2008 ya ma’ adapta yan ma’publika gi Baluma 30, Numiru 06 gi pâhinan 28527, gi Junio 27, 2008; yan gi Baluma 30, Numiru 07 gi pâhinan 28535 yan 28541, gi Julio 28, 2008, ya ma’ adapta yan ma’publika gi Baluma 30, Numiru 10 gi pâhinan 28890, gi Oktobre 25, 2008 (ha’ânen ana’i efektibu Novembre 4, 2008).

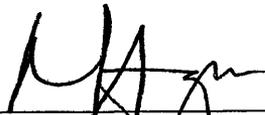
I rason este siha na amendasion pot para ma’omentâyi i lengguâhe papa Pâtte’ 4 – Seksiona 4.05 yan i policy yan procedure pot beneficion disability. I Kuetpo magâgâgâo upiñon yan rekomendasion siha ni tineteka este man mapropone na amendasion siha, ni debi di u maresibe ni i Fundon Ritirão i Sankattan Siha na Islan Marianas gi halom trenta (30) diha siha gi publikasion este na notisia gi Rehistran i Commonwealth.

I tinige’ upiñon siha debi di u mana fan halom guatu gi as Mark A. Aguon, i Atministradot, i Fundon Ritirão i Sankattan Siha na Islan Marianas, gi Isa Drive, Capitol Hill, P.O. Box 501247, Saipan MP 96950-1247, osino facsimile guato gi (670) 664-8080. Siña man machule’ i kopian este mapropone na amendasion siha gi maseha amânu na Ofisinan i Fundon i Ritirão giya Saipan, Luta yan Tinian.

Mafecha este gi mina 2nd na diha gi December 2008.

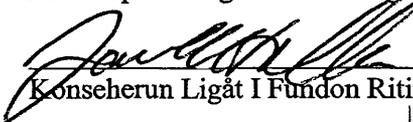


Juan T. Guerrero
Kabiseyu, Kuetpon i Trustee Siha, NMIRF

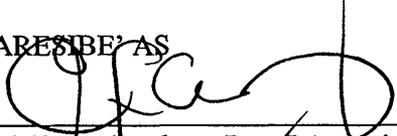


Mark A. Aguon,
Atministradot, Fundon i Ritirão gi NMI

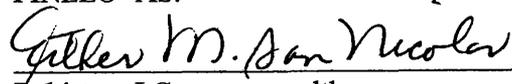
Ma’ina para u ligât suficiente gi mina 2nd na diha gi December 2008 as:



Konseherun Ligât i Fundon Ritirão

MARESIBE’ AS


Espisiât na Ayudante Para i Atministrasion
Fecha: 12/19/08

PINELO’ AS:


Rehistran i Commonwealth
Fecha: 12.19.08

Setifikasion Ginen i Ofisinan i Abugão Henerât:

Sigun i lai 1 CMC Seksiona 2153, ni inamenda ni Lai Ppubliku 10-50, i mapropone na amendasion siha para i Areklamento yan Regulasion siha ni man che’che’ton man ma’ina yan ma’apruueba pot para u fotma yan ligât suficiente ni i Ofisinan i Abugão Henerât.

Mafecha este gi mina 12 na diha gi Disiembre 2008.



Abugão Henerât (Acting)

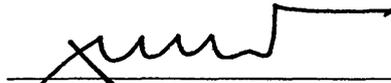
**POMWOL SSIWEL KKAAL NGÁLI ALLÉGH YE E LEMELI
NORTHERN MARIANA ISLANDS RETIREMENT FUND**

Mwiischil Trustees mellól Northern Mariana Islands Retirement Fund (“NMI Retirement Fund”), iye re ngálleey bwángil mereel allégh ye 1 CMC Tálil 8315(f), ekke arongaar membro me aramas toulap igha ekke pomwoli ssiwel kkaal ngáli Alléghúl NMI Retirement Fund bwelle Administrative Procedure Act, 1 CMC Tálil 9101, *et seq.*. Pomwol ssiwel kka e appasch ebwe liweli Allégh kka aa akkatééló llól Commonwealth Register, Volume 30, Numero 05 reel peigh 28507 me ngáli 28514, ótol May 27, 2008, me fillóól me akkatééló llól Volume 30, Numero 06 llól peigh kka 28527, ótol June 27, 2008; and as further amended and published n Volume 30, Number 07, at pages 28535 to 28541, on July 28, 2008, and adopted and published in Volume 30, Number 10, at page 28890, on October 25, 2008 (effective date November 4, 2008).

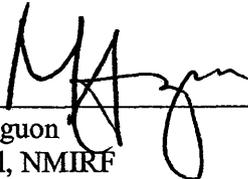
Bwulul ssiwel kkaal bwelle igha ebwe toolong faal kkapas ye Peigh 4 – Tálil 4.05 and the Disability Policy and Procedure regarding Disability Benefits. Schóóy Retirement mwiisch (board) re tittingór aghiyegh bwelle reel pomwol ganansia kkaal, NMI Retirement Fund ebwe bwughil pomwol kkaal llól eliigh (30) ráálil yaal akkatééwow mellól Commonwealth Register.

Alongal ischil mángemáng reel ssiwel kkaal ebwe akkafang ngáli Mark A. Aguon, Samwoolul, NMI Retirement Fund, Retirement Fund Building, Isa Drive, Capitol Hill, P.O. Box 501247, Seipél, MP 96950-1247, me ngare facsimile reel (670) 664-8080. Emmwel bwe tilighial ssiwel kkaal óubwe bwughil mellól Bwulasiyool NMI Retirement Fund mewóól Seipél, Tchúlúyól me Luuta.

E fféer 9th llól December 2008.



Juan T. Guerrero
Samwoolul, Mwiisch mellól Trustees, NMIRF



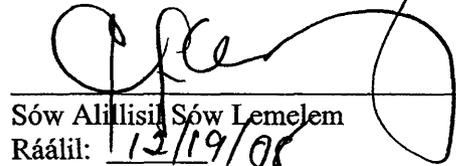
Mark A. Aguon
Samwoolul, NMIRF

Alúghúlúgh llól 2nd ráálil December 2008 sáangi:



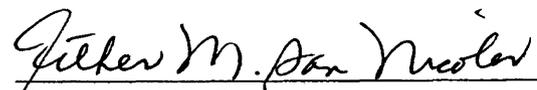
Sów Bwungul NMIRF

MWIR SÁNGI:



Sów Alillisi Sów Lemejem
Ráálil: 12/19/08

AMMWEL SÁNGI:

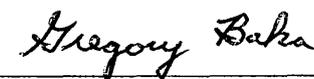


Commonwealth Register
Ráálil: 12-19-08

Alúghúlúgh mereel Bwulasiyool Sów Bwungul Allúgh Lapalap

Sáangi allégh ye 1 CMC Tálil 2153, iye aa lliwelló mereel Alléghél Toulap 10-50, pomwol lliwel ngáli allégh kka e appasch nge raa takkal amweri fischiy me aléghéléghéló mereel Bwulasiyool Sów Bwungul Allégh Lapalap.

Ráálil ye 12 llól Junwus 2008.



Sów Bwungul Allégh Lapalap (Acting)

**PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS
GOVERNING THE NORTHERN MARIANA ISLANDS RETIREMENT FUND**

Citation of Statutory Authority:

The Board of Trustees ("Board") of the Northern Mariana Islands Retirement Fund ("Retirement Fund") has statutory power to promulgate and effect Rules and Regulations pursuant to 1 CMC § 8315(f).

Statement of Goals and Objectives:

The Rules and Regulations provide guidelines for the Board to manage the government retirement program, as well as provide government employees and retirees information on how the program functions. The primary goals and objectives of the proposed amendments are to effectuate the changes as outlined by Public Law 16-19 regarding certification requirements for Disability Benefits.

Summary of Amendments:

These proposed amendments to the Rules and Regulations would provide for comprehensive policy and procedures for members applying for disability benefits and the requirements thereof.

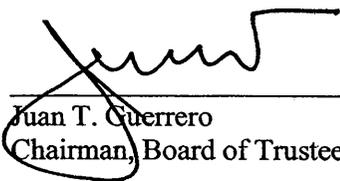
For Further Information:

Contact Mark A. Aguon, Administrator, NMI Retirement Fund, by telephone (670) 322-3863 or facsimile (670) 664-8080.

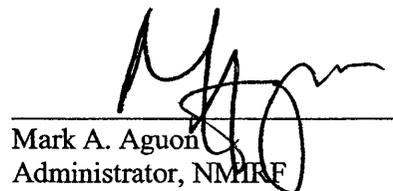
Citation of Related and/or Affected Statutes, Regulations and Orders:

Public Law 13-60, Public Law 16-19, 1 CMC § 8347(a) and (b), Section 4.05 of the Fund Administrative Rules and Regulations; Commonwealth Register, Volume 30, Number 05, dated May 27, 2008, and adopted and published in Volume 30, Number 06, dated June 27, 2008; and in Volume 30, Number 07, dated July 27, 2008, and adopted and published in Volume 30, Number 10, dated October 25, 2008, effective date November 4, 2008.

Dated this 21st day of December 2008.

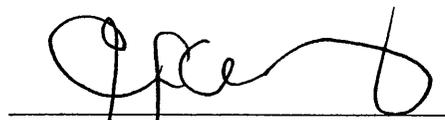


Juan T. Guerrero
Chairman, Board of Trustees, NMIRF



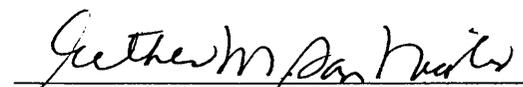
Mark A. Aguon
Administrator, NMIRF

RECEIVED BY:



Special Assistant for Administration
Date: 12/19/08

FILED AND RECORDED BY:



Secretary, Commonwealth Register
Date: 12.19.08

**MAN MAPROPONE I AMENDASION SIHA PARA I
AREKLAMENTO YAN REGULASION NI GUMIBEBIETNA I
FUNDON RITIRÃO I SANKATTAN SIHA NA ISLAN MARIANAS**

Sitasion Pot Áturidat i Lai:

I Kuetpon i Trustees ("Board") gi i Fundon Ritirão ("Retirement Fund") gi Sankattan Siha na Islan Marianas gai áturidat ni para u cho'gue yan efekta i Areklamento yan Regulasion siha sigun gi 1 CMC Seksiona 8315(f).

Mensáhe pot Finiho:

I Areklamento yan Regulasion siha ni ha na' guahayi giniha para i Kuetpo ni para u mamaneha i prugrãman ritirão gi gobietnamento yan kontodu man nã'en infotmasion siha para empleão yan i ritirão siha pot i kinalamten i prugrãma. I prinisipat na diniseha yan punto siha gi man mapropone na amendasion siha anai para u efektibu i tinilaika komu ma' obra ni Lai Pupbliku 16-19 sigun gi ginagagão siha gi settifikon Benifision Disabilidat siha.

Mensáhe pot i Amendasion Siha:

Este i man mapropone na amendasion siha para i Areklamento yan Regulasion siha a ha pribeniyi para u más komprendiyon I regulasion yan areklamento para i man manaplilika na membro siha para benefision disabilidat yan ayo i ginagagão siha.

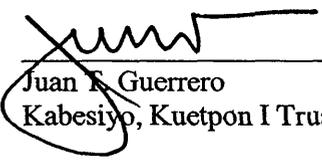
Para Más Infotmasion:

Ágang si Mark A. Aguon, i Atministradot, gi Fundon Ritirão, gi numirun tilfon (670) 322-3863 osino facsimile gi numiru (670)664-8080.

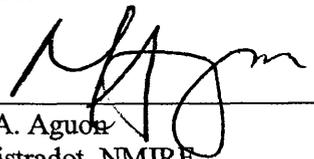
**Annok i Man Achule' Yan/
Pat Inafekta na Lai
Regulasion yan Otden Siha:**

Lai Pupbliku 13-60; Lai Pupbliku 16-19; 1 CMC § 8347(a) yan (b); Pátte 4.05 gi Areklamento yan Regulasion anai mapuplika gi i Rehistran i Commonwealth, Baluma 30, Numiru 05, ni mafecha gi Mayo 27, 2008, yan ma'adopta ya mapuplika gi Baluma 30, Numiru 06, ni mafecha gi Junio 27, 2008, yan gi Baluma 30, Numiru 07, ni mafecha gi Julio 28, 2008, ya ma'adopta ya mapuplika gi Baluma 30, Numiru 10, ni mafecha gi Oktobre 25, 2008, ya efektibu gi Novembre 4, 2008.

Mafecha este gi mina 2nd na diha gi December 2008.

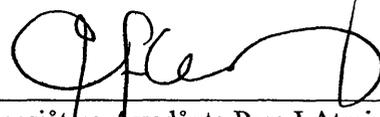


Juan F. Guerrero
Kabesiyo, Kuetpon I Trustees, NMIRF



Mark A. Aguon
Atministradot, NMIRF

MARESIBE AS:



Espiãt na Ayudãnte Para I Atministrasion

Fecha: 12/19/08

PINELO' YAN MARIKOT AS:



Sekretãria, Rehistran I Commonwealth

Fecha: 12.19.08

**POMWOL SSIWEL KKAAL NGÁLI ALLÉGH KKA E LEMELI
NORTHERN MARIANA ISLANDS RETIREMENT FUND**

Akkatéél Bwángil:

Schóóy mwiisch mellól Trustees ("Board") loll Northern Mariana Islands Retirement Fund ("Retirement Fund"), nge eyoor bwángil ebwe akaté me mwóghutáagheli Allégh kkaal bwelle 1 CMC Tálil 8315(f).

Aweweel Pomwol Allégh:

Allégh kkaal nge e ayoora mwóghutul imwiisch (board) igha rebwe ammwela progómaal government retirement, me bwal schóóy angaangal llól gobenno me ammataf ngáliir schóóy aséésé (retirees) reel mwóghutughutul progróoma. Aweewel kkaal ngáli pomwol lliwel kkaal ebwe ghitipwotchuw ssiwel kkaal iye e toowow mereel Allégh ye 16-19 bwelle alúghúlúghúl (certification requirements) ngáli Disability Benefits.

Aweweel Pomwol Lliwel:

Pomwol lliwel kkaal sáangi Allégh kkaal ebwe affatawow ammwelil me mwóghutuuro membro igha rebwe tingór ngáre toolong loll disability benefits me mweiti ngáli milleel.

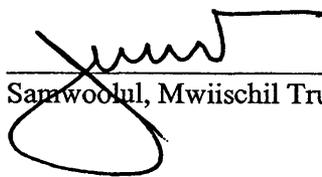
Reel Ammataf Faingi:

Mark A. Aguon, Samwoolul, NMI Retirement Fund, reel tilifoon ye (670) 322-3863 me facsimile reel (670) 664-8080.

Akkatéél Akkáaw Pomwol Lliwel Me Tingórol:

Alléghúl Toulap ye 13-60; Alléghúl Toulap ye 16-19; 1 CMC § 8347(a) and (b) Peigh 4.05 iye aa akkatéelong llól, Commonwealth Register, Volume 30, Numero 05, otól Ghúúw 27, 2008, me fillóól me ayoorallong llól Volume 30, Numero 06, otól Alimaté 27, 2008, and in Volume 30, Numero 07, otól Wuun 28, 2008, me fillóól me ayoorallong llól Volume 30, Numero 10, otól Sarobwél 25, 2008 (schéshéél otól Aremwoy 4, 2008).

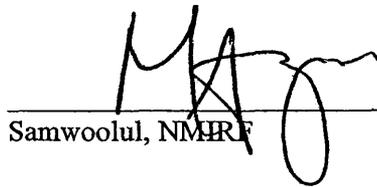
Rááilil ye 2nd llól December 2008.


Samwoolul, Mwiischil Trustees, NMIRF

MWIR SÁNGI:


Sów Alillisil Sów Lemelem

Rááilil: 12/19/08


Samwoolul, NMIRF

AMMWEL SÁNGI:


Commonwealth Register

Rááilil: 12.19.08

**Proposed Amendments to the
NORTHERN MARIANA ISLANDS RETIREMENT FUND
ADMINISTRATIVE RULE AND REGULATIONS**

PART 4 – SECTION 4.05 and DISABILITY POLICY AND PROCEEDURES are amended to delete and add the following language:

4.05. *Disability Benefits.* [See Disability Policy and Procedures]

- A. Any member who becomes disabled from an occupational cause and qualifies for disability benefits will have his or her benefits computed at 50 percent of the salary earned at the time the disability was incurred, except that a person who is found by the Board to be disabled shall receive the amount of salary applicable according to the law in place at the time the Board finds the disability. Provided however, that any disabled Class I member, who is otherwise eligible to retire on a normal or service retirement, shall not receive a retirement annuity but rather shall receive disability benefits in an amount no greater than the retirement annuity to which they would have been otherwise entitled.
- B. If the disability continues until the member reaches 62 years of age or if the disability commences after the member reaches age 62 years of age, the benefits shall be based on the normal retirement for Class I members or the greater of the normal retirement or disability benefits for Class II members. (1 CMC §8345(b))
- C. A member applying for non-occupational disability benefits must meet the following additional requirements:
1. A person who became a member before December 5, 2003 (the effective date of Public Law 13-60), and did not refund contributions must have at least eighteen (18) months of membership service.
 2. A person who became a member on or after December 5, 2003 (the effective date of Public Law 13-60), including those persons who were refunded contributions and who subsequently became re-employed with the CNMI Government on or after the effective date of Public Law 13-60 must have at least five (5) years of membership service.
- D. Investigation, Records, and Other Information
1. In accordance with 1 CMC §8347, the Administrator shall have the right to investigate the member's disability and submit any information gathered from an investigation to a licensed physician or a ~~vocational rehabilitation counselor~~ **specialist** to determine a member's initial or continuing entitlement to a disability annuity.
 2. The member shall be required to undergo reasonable examination by **two licensed and practicing physicians selected by the Board, at least one of whom is a specialist in the area of the disability being examined** ~~vocational rehabilitation experts, or other experts selected by the Administrator.~~

3. The member shall be required to provide medical records, other medical information, employment information, financial information and any other information reasonably requested by the Administrator.
 4. The member, any current employer, and any former employer is required to provide the job description, job duties, essential functions, job site conditions, possible accommodation, payroll records, attendance records, return-to-work information, and any other employment related information reasonably requested by the Administrator.
- E. If any examination indicates that the disability annuitant is no longer physically or mentally incapacitated for service, or that the disability annuitant is engaged in or is able to engage in a gainful occupation, payment of the disability annuity by the Fund shall be discontinued.
- F. If the Administrator determines that the disability annuitant received any amount from the United States Social Security system, any worker's compensation insurance program, or any insurance or other program covering the annuitant's disability, the Administrator shall reduce the amount of the disability annuity by an amount equal to any sum the annuitant is entitled to from any other disability program.
1. In order to substantiate that the disability annuitant did not receive any amount from other disability programs, the member must submit, within thirty (30) days of the annual Commonwealth or federal deadline (or applicable extended deadline) for filing tax returns, a certified copy of his or her latest income tax returns, including W-2 forms, schedules and other supporting documents.
- G. Failure to undergo a reasonable examination or re-examination, failure to cooperate with the examiner or the Administrator, or failure to provide any requested information under this section 4.05 may cause the application to be cancelled and any payment, if started, to cease.

DISABILITY BENEFITS POLICY AND PROCEDURES

I. POLICY

A. All full-time defined benefit plan members ("regular employees") disabled from an occupational cause are eligible for consideration for Disability benefits. All regular employees allegedly disabled from a non-occupational cause who had been a member prior to December 5, 2003 with more than 18 months of membership service and who did not refund their contributions are eligible for consideration of non-occupational Disability Benefits. All regular employees allegedly disabled from a non-occupational cause who became a member after December 5, 2003 with more than five years of membership service and who did not refund their contributions are eligible for consideration for non-occupational Disability Benefits. Disability Benefits shall be based on applicable law at the time of a Board finding of disability, pursuant to 1 CMC § 8347.

B. Benefits are available only to a regular employee who is under a duly licensed physician's care, and as certified by the Board of Trustees. The Board of Trustees shall certify a List of Physicians and, Specialists, ~~and/or Vocational Rehabilitation Counselors~~. The Physicians to certify the starting, continuing, and ending dates of the employee's disability on the Disability Certification Form may not be the Applicant's primary care physician. The Physicians, one of whom is a Specialist in the area of the disability being evaluated ~~Vocational Rehabilitation Counselor~~ must also, certify, with limited exception, that the member is totally and permanently disabled for the further performance of the duties of any assigned position in the service of the government. The Administrator retains authority to prescribe applicable forms for Disability Applicants and to further request information/medical reports.

C. Reconfirmation of disability by the certifying Physicians and Specialists, ~~and/or Vocational Rehabilitation Counselors~~ will be required by the Fund annually for a five year period, and once for every following three year period, unless a certified Physician or Specialist in the hemodialysis field certifies the Applicant is diagnosed with End Stage Renal Disease with permanent hemodialysis as the only treatment plan.

D. Following five years of continuous disability, an assessment will be made to see if the employee qualifies for disability benefits as a Long-Term Disability Applicant. In the event the qualification for Long Term Disability is met, a reconfirmation of the disability by the certifying Physicians and (one of whom is a Specialist), ~~and/or Vocational Rehabilitation Counselors~~ will be required by the Fund once for every following three year period, with limited exceptions as noted *supra*, which may be elaborated based on Board Resolution.

E. Under no circumstances will the combined benefits from a Disability Plan or the Disability program exceed the highest salary received by the member prior to the Board finding of disability.

II. RESPONSIBILITIES

A. The Member is responsible for completing his/her section of the Disability Certification Form and for obtaining the necessary information from the certifying Physicians one of whom is a Specialist, ~~and/or Vocational Rehabilitation Counselors~~. These certifying Physicians and

Specialists must certify the nature, extent of illness or injury and projected duration of the disability on the Disability Certification Form.

B. The Member is responsible for completing the annual certification of disability during the first five years of the disability period. In the event the Member is certified as a Long-Term Disability Annuitant, the Member is responsible for complying with the certification process once every following three year period. The certifying Physicians and/or Specialists must also certify the nature, extent of illness or injury during each following three year period of the Member's disability on Disability Certification Forms.

III. PROCEDURES

A. The Member obtains applicable physicians' statements (Disability Certification Forms), certifying the nature, extent and duration of illness/disability and forwards it to the Administrator or the Administrator's designee, for initial review and compliance, and accompanies these Forms with Certification from a Specialist in the area of the disability ~~Vocational Rehabilitation Counselor~~, unless the Board makes a finding of *in extremis* or grave and exceptional circumstances.

- The physician must fill out the form by printing the information if it cannot be typed, to include height, weight and blood pressure of the patient. Submissions that are illegible or incomplete will be returned to the patient who has the obligation to see that the information is supplied in satisfactory format. The employee then obtains the certification of a specialist in the area of the disability ~~Vocational Rehabilitation Counselor~~ pursuant to applicable law.
- The physician must sign a disclaimer that if the information provided is knowingly false or misleading, in an attempt to defraud the CNMI government, they may be guilty of a misdemeanor under applicable Commonwealth or Federal law.
- The Member applying for disability on the basis of End Stage Renal Disease that will be starting on hemodialysis must submit a treatment plan from an attending physician with a certification as a specialist or work assignment in the Hemodialysis Unit.
- If the disability is related to a disease that required surgery, or was caused as a complication of surgery, the Operative Report must be submitted along with the application form.
- If the diagnosis related to the primary disability required hospitalization, a copy of the Discharge Summary must accompany the application form.
- The primary diagnosis must be assigned an ICD-9 Code. The ICD-9 Code of any secondary diagnosis that impacts upon the extent or duration of the patient's disability must be included. The Board reserves the policy decision to update ICD Codes in the future.
- If the condition(s) causing the disability require standard radiologic examination (X-ray) or imaging examinations (CT scan, Magnetic Resonance Imaging, ultrasound, echocardiography, angiography, bone density scans, etc.) or any other examination modality, a copy of those reports must accompany the initial application for disability.
- Disability upon a psychiatric diagnosis must include an evaluation by a licensed and board certified psychiatrist or licensed clinical psychologist with specialized training/certification in the disability asserted.

- Disability related to physical limitations must be documented by an evaluation by the Vocational Rehabilitation Counselor or an Occupational Therapist and/or licensed Physical Therapist.
- Disability related to malignant disease must be accompanied by a pathology report if any surgery or biopsies were used to establish the diagnosis.
- Presumptive disability such as sudden blindness, bilateral amputations, major organ transplant (e.g. heart/lung), severe burns over 70% of the body, etc. must be accompanied by medical records justifying such presumptive disability, and/or grave and exceptional circumstances.

B. The Administrator, the Benefits Branch Director, or the Administrator's designee, reviews the documentation and may request additional information or request additional medical reports from the applicable physician to confirm illness/disability before forwarding this information to the Board for its review and/or approval or disapproval.

C. The Administrator, the Benefits Branch Director, or the Administrator's designee, in the event the Board makes a finding of disability, initiates a Status Change Form authorizing Short-Term Disability benefits, and obtains the Applicant's signature on it.

D. The Administrator, the Benefits Branch Director, or the Administrator's designee, estimates the benefit amount the employee is expected to receive from the Short-Term Disability annually during the five-year period of the Short-Term Disability.

E. The Administrator, the Benefits Branch Director, or the Administrator's designee, may terminate the Short-Term Disability benefits when the member's illness/disability prognosis improves, or at the end of the initial five-year period unless a duly licensed Physician or Specialist in Nephrology certifies the Applicant is diagnosed with End Stage Renal Disease requires chronic hemodialysis as the only treatment plan for their disease. Other diagnoses by a duly licensed Physician or Specialist of terminal conditions such as terminal Cancer or diseases like Cystic Fibrosis, Myasthenia Gravis, etc. may be considered a permanently disabling condition/disease.

F. The Member obtains applicable physician's statements (Disability Certification Form), certifying nature, extent and duration of a long term illness/disability and forwards it to the Administrator or the Benefits Branch Director, or the Administrator's designee, for initial review and compliance with Long-Term Disability Benefits.

G. The Administrator, the Benefits Branch Director, or the Administrator's designee, reviews the documentation and may request additional information or request additional medical reports from the applicable physician to confirm illness/disability before forwarding this information to the Board for its review and approval or disapproval.

H. The Administrator, the Benefits Branch Director, or the Administrator's designee, in the event the Board makes a finding of long-term disability, initiates a Status Change Form authorizing Long-Term Disability benefits, and obtains the Applicant's signature.

I. The Administrator, the Benefits Branch Director, or the Administrator's designee, estimate the annual benefit amount expected to be received from Long-Term Disability.

J. The Administrator forwards this estimated annual Long-Term Disability Annuity Form to the Board for its review and approval and certification of expenditure of funds.

Rota Casino Gaming Commission

Post Office Box 1547, Rota, MP 96951

Phone:1.670.532.7242

Fax:1.670.532.9454

Email: rotacommission@gmail.com

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS:
RULES AND REGULATIONS, 2008 FOR ROTA CASINO GAMING COMMISSION,
(hereafter "RCGC").

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:
The Commonwealth of the Northern Mariana Islands, Rota Casino Gaming Commission intends to adopt as permanent regulations the attached Proposed Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1CMC § 9105 (b)).

AUTHORITY: The Rota Casino Gaming Commissioners hereafter "Commissioners") are empowered by the Rota Casino Gaming Act of 2007 to adopt rules and regulations for the administration and enforcement of the statute governing the activities of the RCGC. On December 16, 2008 pursuant to a duly noticed meeting, the Commissioners voted unanimously for the passage of the attached proposed Rules and Regulations.

THE TERMS AND SUBSTANCE: The Rules and Regulations provide rules for Casino Applications, Casino Service Industry, Hearing and Internal Control System in compliance with the Rota Casino Gaming Act of 2007.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Creates the Rules and Regulations which a Casino Operator and Casino Service Industry must follow and comply as regulated by RCGC. It further establishes a systematic method of rules governing application, operation, management, security and maintenance of the Casino Industry by RCGC.
2. The proposed Rules and Regulations also provide a Hearing section for disputes for any aggrieved party.

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 § 9104(a) (1)).

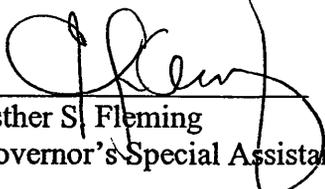
TO PROVIDE COMMENTS: Send or deliver your comments to Chairman Diego Songao at the above address, fax or email address, with the subject line "RULES AND REGULATIONS, 2008."

Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

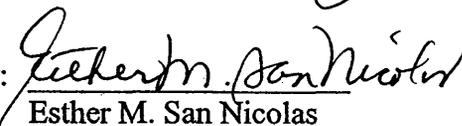
These proposed regulations were approved by the Commissioners for the Rota Casino Gaming Commission on December 16, 2008.

Submitted by: 
Victorino DLG. Torres
Attorney for Rota Casino Gaming Commission

12/17/2008
Date

Received by: 
Esther S. Fleming
Governor's Special Assistance for Administration

12/18/08
Date

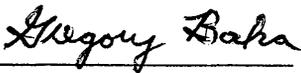
Filed and
Recorded by: 
Esther M. San Nicolas
Commonwealth Register

12.19.08
Date

*9104

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC §*(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).

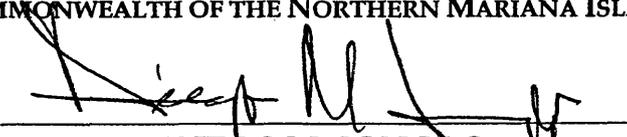
Dated the 19 day of December, 2008


Gregory Baka
Acting Attorney General

ROTA CASINO GAMING COMMISSION

WE THE UNDERSIGNED, BEING ALL OF THE CHARTER MEMBERS OF THE ROTA CASINO GAMING COMMISSION, PURSUANT TO THE ROTA CASINO ACT OF 2007, AS MEMBERS OF THE COMMISSION HEREBY SET FORTH AND UNANIMOUSLY APPROVE THE RULES AND REGULATIONS OF THE ROTA CASINO GAMING COMMISSION.

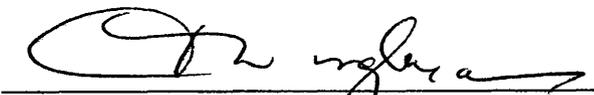
SIGNED AND DATED ON 16th DAY OF DECEMBER IN THE YEAR 2008,
IN THE ISLAND OF ROTA OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.



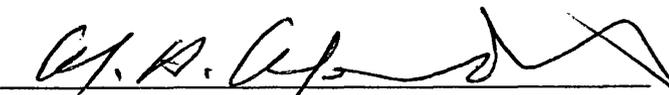
DIEGO M. SONGAO
CHAIRMAN OF THE COMMISSION



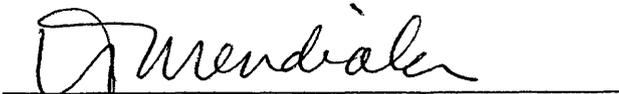
ELPHREM S. TAIMANAO
VICE CHAIRMAN OF THE COMMISSION



JUSTIN S. MANGLONA
SECRETARY OF THE COMMISSION



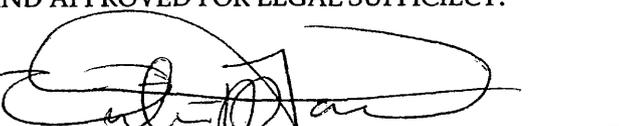
MELCHOR A. MENDIOLA
MEMBER OF THE COMMISSION



ABELINA T. MENDIOLA
MEMBER OF THE COMMISSION

LEGAL SUFFICIENCY:

THE FOLLOWING RULES AND REGULATIONS OF THE
ROTA CASINO GAMING COMMISSION HAS BEEN
RECEIVED AND APPROVED FOR LEGAL SUFFICIENCY.



VICTORINO DLG. TORRES, Esq.
LEGAL COUNSEL

Kumision Luta Huegon Saláppe'

Post Office Box 1547, Luta, MP 96951

Telefon: 1.670.532.7242

Fax: 1.670.532.9454

Email: rotacommission@gmail.com

NOTISIAN PUBLIKU PUT MAPROPONEN AREKLAMENTO YAN REGULASION SIHA: AREKLAMENTO YAN REGULASION SIHA, 2008 PARA I KUMISION LUTA POT HUEGON SALÁPPE' PARA MO'NA ("RCGC").

MA INTENSIONA NA AKSION PARA U MA 'ADÁPTA ESTE SIHA I MAN MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: i Commonwealth gi Sangkattan na Islan Notte Marianas siha, I Kumision Luta Huegon Saláppe' ha intensiona na para u adápta komu petmaniente na regulasion siha ni mafetchetton na Maproponen Regulasion siha, sigun gi manera siha gi Ákton i Administrative Procedure, 1 CMC § 9104(a). I Regulasion siha para u efektibu gi halom dies diha siha despues di adaptasion yan publikasion gi halom i Rehistran Commonwealth. (1CMC § 9105 (b).

ATURIDAT: I Kumisinan Luta siha pot Huegon Saláppe' guini despues siha "Kumisina") man ma'aturisa ginen i Ákton Huegon Saláppe' Luta gi 2007 para u adápta i areklamento yan regulasion siha para i atministrasion yan u mana' metogot i lai ni ginobebietna i aktibidat siha gi RCGC. Gi Disembre 16, 2008 sigun i propiu na notisian i miting, i Kumisina siha todú bumota para u mapása ni mafetchetton na maproponen regulasion procurement.

I SUSTANSIAN I PALÁBRA SIHA: I Areklamento yan Regulasion siha ha pribeniyi areklamenton para aplikasion siha, Industrian Setbision Huegon, Sistemán Ginobietnan Sanhalom yan Hinekkongok ni dinimánda yan i Ákto gi 2007 Luta Huegon Saláppe'.

I ASUNTO SIHA NI MAN TINETEKKA: Este na areklamento yan regulasion siha:

1. Ha na' guaha Areklamento yan Regulasion siha anai i Mina'nchan Huegu yan Industrian Setbision Huegu debi na u matattiyi yan u makomple komu ginobietna ni RCGC. Ha kontinua mo'na u ma'estapblesi i systematic method na areklamento siha ni ginobebietna i aplikasion, i operasion, manehánte, inasigura yan inadahen gi Industrian Huegu ginen i RCGC.
2. I maproponen regulasion lokkue' ha pribeniyi seksionan Hinekkongok para i rinesiste gi maseha háfa i rason i pattida.

DIREKSION PARA U MAPO'LO YAN PUPBLIKASION: Este i man Mapropone na Regulasion siha debi na u mapublika gi halom i Rehistran Commonwealth gi seksiona ni mapropone yan nuebu na ma'adapta na regulasion siha)1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI OPINION SIHA: Na' hanagui pat osino entrega i opifion-mu siha para Kabesiyu as Diego Songao gi sanhilo' na address, fax pat email address, yan i rāyan suhetu ni "AREKLAMENTO YAN REGULASION SIHA, 2008"

Todu opifion debi na u fan hālom gi halom trenta(30) diha siha na tiempo ginen i fechan publikasion este na notisia. Put fabot na hālom i infotnasion, opifion pat osino testamonlon kinontra siha. (1 CMC § 9104(a)(2)).

I man mapropone na regulasion siha man ma'apreba ginen i Kumisina siha para i Kumision Luta Huegon Salappe' gi Disembre 16, 2008.

Nina hālom as:


Victorino DLG. Torres
Abugādu para Luta Kumision Huegon Salappe'

12/18/08
Fecha

Rinesibi as:


Esther S. Fleming
Especiāt na Ayudānte Para i Atministrasion Gobietno

12/19/08
Fecha

Pine'lo yan Rinekot as:

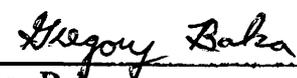

Esther M. San Nicolas
Rehistran Commonwealth

12-19-08
Fecha

* 9104

Sigun i 1 CMC § 2153(e) (i Abugādu Henerāt ha apreba i regulasion siha ni para u macho'gue komu fotma) yan 1 CMC §*(a)(3) (minantiene ni inapreban i Abugādu Henerāt) i maproponen regulasion siha ni mafechetton guini man marebisa yan man ma'apreba komu fotman yan suficiente ligāt ginen i CNMI Abugādu Henerāt yan debi na u mapublika, 1 CMC § 2153(f) (publikasion areklamento yan regulasion siha).

Mafecha gi diha 19 gi Disembre, 2008


Gregory Baka
Acting Abugādu Henerāt

ROTA CASINO GAMING COMMISSION

Post Office Box 1547, Rota, MP 96950

Phone 1.670. 532. 7242

Fax: 1 670. 532. 9454

Email: rotacommission@mail.com

ARONGOL TOULAP REEL POMWOL ALLÉLGH KKA RE AGHIYEGHI ALLÉGHÚL LLÓL ROTA CASINO GAMING COMMISSION, (ighila mwetelo mmwal "RCGC")

MÁNGEMÁNG IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:

Commonwealth Téel falúw kka falúwasch Marianas, Rota Casino Gaming Commission e mwuschel ebwe schéschéél fillóóy allégh kka e appasch, bwelle mwóghutul Adminsitrative Procedure Act, 1 CMC Tálil 9104(3). Allégh kkaal ebwe kkamalló llól seigh (10) ráálil ngáre schagh raa fillóóy me akkatéélong llól Commonwealth Register. (1 CMC Tálil 9105 (b)).

BWÁNGIL: Ighila, Rota Casino Gaming Commissioners "Mwiisch") nge e tabweey bwángil Rota Casino Gaming Act llól 2007 igha ebwe fillóóy allégh sangi administration me mwóghutul aweewe ye e lemeli RCGC, Ótol Tumwur 16, 2008 bwelle e fis sangi mwiisch, E lap yaar schóóy mwiisch bootáali pomwol alleghul procurement ye e appasch.

AWEEWEL ME KKAPASAL: Ayoorátá allégh bwelle alléghúl procurement mwóghutul ye e welepakk sangi RCGC igha ebwe fisch mwóghutul allegh kka e appasch.

ÓUTOL ME AWEEWE KKA EYOOR: Allégh kkaal:

1. Fféer Mwóghutul me Wiisal llól RCGC ye eyoor aweewel procurement goods me mwóghutughut ye e welepakk pomwol, lemelemil me ammwelil llól RCGC ye e toowow mereel Mwiisch.
2. Pomwol allégh kkaal nge ebwal ayoora leliyel aweewe reel mwóghutul procurement igha ressóbw weires amweyút.

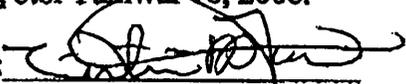
AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol Allegh kkaal ebwe akkatééló llól Commonwealth Register sáangi Tálil ye re pomwoli me fillóól allégh kka e ffé (1 CMC Tálil 9104(a) (1)).

REEL ISISILONGOL MÁNGEMÁNG: Afanga me ngáre bwughiiló reel Samwool ye Diego Songao reel address umwu elo weiláng, fax me ngáre email address, reel kkapas ye "ALLEGH ME AMMWELIL, 2008 "

Aghiyegh ebwe isisilong llól eliigh (30) ráálil igha schagh aa akkaté ammataf yeel. Óutu ghal soong ów isisilong yáámi aingiing. (1 CMC Tálil 9104(a)(2)).

Pomwol allégh kkaal nge aa aléghéléghéló mereel Mwiisch ngáli Rota Casino Gaming Commission ótol Tumwur 16, 2008.

Isaliyallong:


Victorino DLG. Torres
Sów Bwungul Allégh
Ngáli Rota Casino Gaming Commission

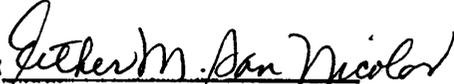
12/18/08
Rál

Mwir sangi:


Esther S. Fleming
Sów Alillisil Sów Lemelem

12/09/08
Rál

Ammwel sangi:

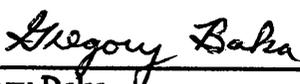

Esther M. San Nicolas
Commonwealth Register

12-19-08
Rál

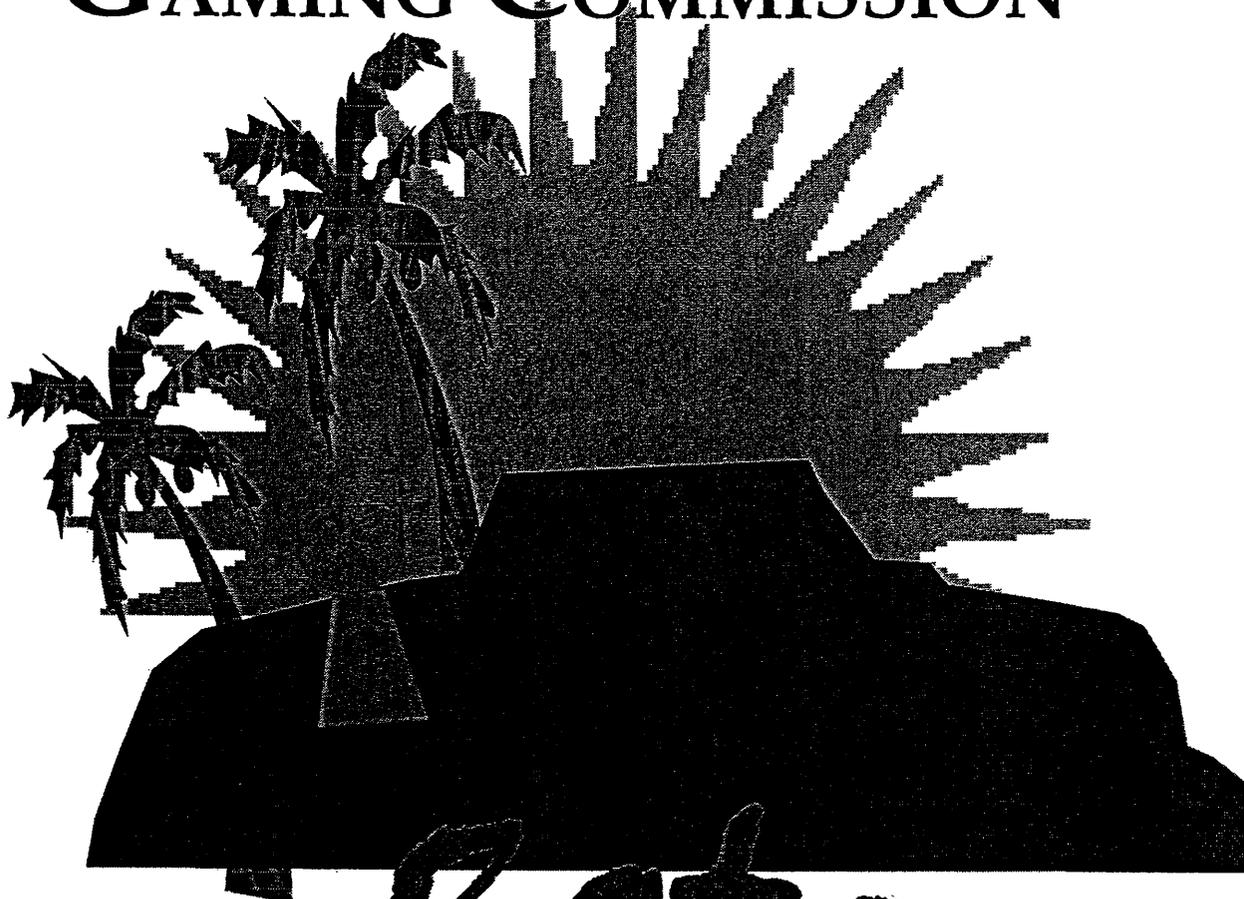
*9104

Sángi allégh ye 1 CMC Talil 2153(e) (Alúghúlúgh mereel AG reel allégh kka ebwe akkaté ighila) me 1 CMC Talil (a)(3) (bwughi alúghúlúghúl AG) pomwol allégh kka e appasch nge raa takkal amweri fischi mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatéwow. 1 CMC Talil 2153(f) (akkatéél allégh kkaal).

Rááílil yeel 19 llól maramal Tumwur, 2008


Gregory Baka
Acting ngáli Sów Bwungul Allégh Lapalap

ROTA CASINO GAMING COMMISSION



*Rota
Casino*

RULES AND REGULATIONS

2008

DIEGO M. SONGAO, Chairman * ELPHREM S. TAIMANAO, Vice Chairman
JUSTIN S. MANGLONA, Secretary * MELCHOR A. MENDIOLA, Member * ABELINA T. MENDIOLA, Member

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MISSION STATEMENT

TO SERVE THE COMMUNITY
BY ENSURING THE INTEGRITY
OF THE CASINO INDUSTRY,
AND TO PROVIDE
OPPORTUNITIES,
ECONOMIC GROWTH
FOR ROTA AND
THE COMMONWEALTH.

STATEMENT OF PURPOSE

To protect the reputation of Rota by seeking:

- To ensure that all gaming activities on Rota are conducted fairly and honestly;
- To provide revenue for the management of the Commission and the Municipality as intended by the Act;
- To provide guidance to monitor and safeguard the Casino industry and to protect the interest of the public;
- To contribute to the general fund through licensing activities therefore increasing the economic tax base;
- To promote the tourism industry on Rota and the CNMI.

INTRODUCTION

From 1991 to 2003, the people of Rota have tried four (4) times, through public initiative, to allow Casino operation without success. However, in November 2007 election, the people by overwhelming vote (85% vote cast) finally approved the public initiative to allow Casino gaming. This law is now known as the Rota Casino Act of 2007. The Act provides for the establishment of a Rota Casino Gaming Commission. There are five (5) Commission members appointed by the Mayor and confirmed by the Rota Municipal Council.

The Commission is the governing body authorized by the Act to promulgate Rules and Regulations. The Rules and Regulations includes: receiving application, impose fees, process application for eligibility, issue licenses, conduct hearings, and enforces for compliance.

An applicant for a Rota Casino Gaming License will seek the granting of a privilege and the burden of proving their qualifications to receive such license are at all times on the applicant.

An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action, or financial loss, which may result from action with respect to an application, and expressly waives any claim from damages as a result thereof.

Anything in the application document or supplementary documents prepared for the purpose of soliciting applications for Casino Gaming License under the terms of the Rules and Regulations does not form part of any agreement nor does it amount to a representation that the Commission will act in any way.

With its rich history and tradition of having the friendliest people in the Marianas and with the protection of the American Judicial System and US Laws, investing on Rota can be mutually beneficial to both investors and the people of Rota. If you are serious in investing on Rota, you may find Rota a perfect choice of location for your Casino, with Guam as your closest customer base and China, Japan, South Korea, Taiwan, Hong Kong, and Manila with only three (3) to five (5) hours flight time to Rota.

DEFINITIONS OF TERMS

Act	Means the Rota Casino Act of 2007.
Authorized Personnel	Means any member or designee of the Rota Casino Gaming Commission.
Casino	Means a place, area, structure, subject to license under Section 6(a) of the Rota Casino Act of 2007 for the conduct and playing of one or more games, including associated activities, such as money counting, surveillance, accounting, and storage, related to such conduct and playing.
Casino Employee	Means an individual who is employed in the operation of a Casino and who "Does Not Supervise" other individuals employed in the Casino and include: <ol style="list-style-type: none">1) A dealer, a security employee, count room employee, a cashier's cage employee, a slot machine employee, a slot booth employee and a surveillance employee, an audit and accounting employee and a data processing employee.2) Any other individual, including a maintenance employee and a food and beverage server, who has access to the Casino.3) Any employee whatsoever of a Casino Licensee so designated by the Commission.
Casino Gaming	Means card games, table games and other games of chance, including without limitation Slot Machines, blackjack, poker, dice, roulette, baccarat, and money-wheels and video facsimiles of all such games.
Casino Gaming Licensee	Means the holder of the license to operate Casino Gaming at the Casino Gaming Facility.

Casino Gaming Service Provider	Means Gaming Equipment Distributor (any person who distributes, sells, supplies or markets gaming equipment). Gaming Equipment Industry (gaming equipment manufacturers, produces or assembles gaming equipment). Gaming Equipment Manufacturer (any person who manufactures gaming equipment). Gaming Equipment Servicer (any person who maintains, services or repairs gaming equipment). Gaming School (an individual or an institution that provides training for Casino employees).
Casino Key Employee	Means an individual who is employed in the operation of a Casino and who "Supervises" other individuals employed in the Casino and includes: <ul style="list-style-type: none"> 1) A manager, an assistant manager, a floor person, a pit boss, a shift boss, a credit manager, and a count room manager; and 2) A supervisor of security employees, surveillance employees, accounting and auditing employees, and cashier's or count room employees; and 3) Any employee whatsoever of a Casino Licensee so designated by the Commission.
Casino Licensee	Means the holder of the license to operate Casino Gaming at the Casino Gaming Facility.
Casino Non-Gaming-Related Supplier	Means a person who provides for the playing of games of chance in a casino, gaming equipment that is not mentioned in the definition of casino gaming-related supplier in this Section, or goods or services that relate to the construction, furnishing, repair, maintenance or business of a casino, but that are not directly related to the playing of games of chance.
Casino Security Service	Means any non-governmental enterprise providing physical security services to a Casino, a Casino

licensee, to an approved hotel or to any premises located with a Casino hotel complex.

Casino Service Provider

Means a person subject to license under Section 6(b) of the Rota Casino Act of 2007 that offers goods or services directly related to gaming, including such persons as gaming equipment manufacturers, importers, distributors, or repairers; schools that teach gaming, including playing, dealing, or other techniques; and Casino security services.

Chairman (Chair)

Means the Chairman of the Rota Casino Gaming Commission also acts as the Chief Executive Officer of the Commission. The Chairman presides over Commission and conduct the business of the Commission.

CMC

Means the Commonwealth Marianas Code.

CNMI

Means the Commonwealth of the Northern Mariana Islands.

Commission

Means the Commission means the Rota Casino Gaming Commission established by Section 3 of the Rota Casino Act 2007; it is the governmental body charged with regulating Casino and other types of gaming and of enforcing gaming law in general. The official name of this regulatory body is the Rota Casino Gaming Commission.

Commissioner

Means the commission member of the Rota Casino Gaming Commission.

Commonwealth

Means the Commonwealth of the Northern Mariana Islands.

Confidential Information

Means any information or data, furnished to or obtained by the Commission from a source, which is considered confidential pursuant to the applicable statutory provision, judicial decision or rule of court.

Eight k: 8 (k)

Means Annual Dividends Report.

Executive Director	The Executive Director of the Rota Casino Gaming Commission is the senior manager or executive officer of the Commission office. Responsible for the day-to-day operation of the Commission, including managing staff in collaboration with the Commission. In essence, the Commission grants the Executive Director the authority to run the RCGC and is accountable to the Chairman of the Commission.
Financial Year	Means the period of 12 months ending on 30 September in any year or, where the Rota Casino Gaming Commission approves some other date as the terminating date of a financial year in a particular case, the period of 12 months ending on a date so approved.
Fiscal Year	Means the fiscal year shall be the period commencing on October 1 and ending the subsequent September 30.
Game	Means any activity that includes elements of prize, consideration, and chance.
Gaming	Means the playing of any game.
Gaming Equipment	Means any mechanical, electrical or electronic contrivance or machine used in connection with gaming or any game and includes, without limitation, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, chips, plaques, card dealing shoes, drop boxes, and other devices, machines, equipment, items or articles determined by the Commission to be so utilized in gaming as to require licensing of the manufacturers, distributors or services or as to require Commission approval in order to contribute to the integrity of the gaming industry.

Gross Gaming Revenue	Means an imposed Rota Gaming Tax equal to Ten Percent (10%) of the gross gaming revenue of any casino subject under the Rota Casino Act of 2007. The term "gross gaming revenue" means the total of all sums received as winnings less only the total of all sums paid out as losses by a Casino under a gaming license. In regards to tournament fees, it shall equal the total contribution to the tournament fees while playing at the Casino minus any credits, bonuses paid, charge backs, or costs attributable directly and specifically to the player in that specific tournament.
Hotel/Casino Complex	Means an establishment that provides lodging accommodations and gaming facilities required under the Rules and Regulations.
Junket	Means a Casino junket, where gamblers are flown to an area where legalized gambling is available and booked into a Hotel/Casino.
Members	Means the members of the Rota Casino Gaming Commission.
Municipality	Means the Municipality of Rota in the First Senatorial District, Commonwealth of the Northern Marianas.
Operator	Means a person that actually provides the overall management of the operations of a Casino, whether by ownership, lease, contract, agreement, or otherwise.
Person	Means and includes a natural person, as well as a partnership, corporation, association, joint venture, or other business entity.
RCGC	Means the Rota Casino Gaming Commission as created by the Rota Casino Act of 2007.

RCGC Logo

The Logo consists of the symbol and landmark of Rota, it includes Mount Taipingot which lies at the southern end of Songsong Village in Rota. It is more commonly known as "Wedding Cake Mountain" because of its resemblance to a layered wedding cake. The areas in and around the mountain are conservation areas established to protect the native flora and fauna that thrive there. Also included is a latte stone, or simply latte (also latde), is the term for a pillar (haligi) capped by a hemispherical stone capital (tasa) with the flat side facing up. Used as building supports by the ancient Chamorro people, they are found throughout most of the Marianas Islands, the latte stone is seen as a sign of Chamorro identity. Lastly, the Coconut Tree is known to have many uses, from its roots to tips (leaves), from culinary to non-culinary, the coconut tree is considered as the "Tree of Life".

Rota Casino Gaming Commission

Means the regulatory agency of local government established by the Rota Casino Act of 2007.

Rota Municipal Treasurer

Means a person appointed by the Mayor who's primarily responsibility is to collect and account for all revenues derived from Casino industry.

Rules and Regulations

Means the policies promulgated by the Rota Casino Gaming Commission.

Sales Representative

Means any person owning an interest in, employed by or representing a Casino service industry enterprise licensed, who solicits the goods and services or business thereof.

Secure Storage Facility

Means any area, room, furniture, equipment, machinery or other device used by the Commission for the storage of confidential information access to which is limited to authorized personnel at all times by lock or other appropriate security precaution.

Severability

Means if any provision of the Rules and Regulations or any application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or the application of these Rules and Regulations which can be given effect without the invalid provision and, to this end, the provisions of these Rules and Regulations are "severable."

Ten k: 10(k)

Means Annual audited Financial Report

Ten q: 10 (q)

Means Quarterly Financial Report

CHAPTER 1

GENERAL PROVISION

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SUBCHAPTER 1. CONSTRUCTION AND APPLICATION OF RULES

1-1.1 AUTHORITY

These Rules and Regulations are issued under authority of the Rota Casino Gaming Commission (RCGC) provided for under Section 4 to 15 of the Rota Casino Act of 2007.

1-1.2 CONSTRUCTION AND AMENDMENTS

- a) These Rules and Regulations shall be constructed in accordance with generally accepted principles of statutory construction.
- b) These Rules and Regulations shall be liberally construed to permit the Commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission.
- c) Nothing contained in these Rules and Regulations shall be so construed as to conflict with any provision of the Act.
- d) In special cases and for good cause shown, the Commission may relax or permit deviations from these Rules and Regulations.
- e) These Rules and Regulations may be amended by the Commission from time to time in accordance with the provisions of the Administrative Procedure Act (1 CMC 9101 et seq.).
- f) Whenever any provision of these Rules and Regulations requires that an act or event occur on a specified day or date, and such day or date falls upon Saturday, Sunday or Legal Holiday, such provision shall be construed to refer to the next business day immediately following such day or date.
- g) The Commission may authorize the temporary adoption, amendment or repeal of any Rules and Regulations concerning the conduct of gaming or the use or design of gaming equipment for an experimental period not to exceed ninety (90) days, for the purpose of determining whether such Rules and Regulations should be adopted on a permanent basis. Any interested person may file a petition for temporary rulemaking with Commission in accordance with the Rules and Regulations at 4-6.1 et seq.

1-1.3 WORDS AND TERMS; TENSE, NUMBER AND GENDER

In construing the provisions of these Rules and Regulations, except when otherwise plainly declared or clearly apparent from the context:

- 1) Words in the present tense shall include future tense;
- 2) Words in the masculine shall include the feminine and neutral genders;
- 3) Words in the singular shall include the plural and the plural shall include the singular.

1-1.4 SEVERABILITY AND PREEMPTION

- a) If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these entire rules and regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these Rules and Regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstance therein involved.
- b) The Commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its power under the provisions of the Act and these Rules and Regulations.

1-1.5 PRACTICE WHERE REGULATIONS DO NOT GOVERN

- a) In any matter not governed by these Rules and Regulations, the Commission shall exercise its discretion so as to carry out the purposes of the Act.
- b) The Commission may require an audit of its operations as needed.

SUBCHAPTER 2. ORGANIZATION AND OPERATION OF THE COMMISSION

1-2.1 ORGANIZATION

- a) The Commission consists of five (5) members appointed by the Mayor with the advice and consent of the Municipal Council.
- b) The officers of the Commission shall include a Chairman, Vice-Chairman and Secretary who shall be members of the Commission. The officers of the Commission shall be elected biannually at the organizational meeting of the Commission by a majority of the full Commission. The Chairman, as Chief Executive Officer of the Commission, shall schedule and preside at all meetings of the Commission; shall appoint the members of the

Commission to such committees as the Commission may, from time to time, establish; shall have the authority to accept for filing all applications; shall have the authority to incur on behalf of the Commission such expenses as the Commission shall have approved in its operating budget or by majority vote of the Commission pursuant to a duly organized meeting; shall have general supervision, direction and control of the affairs of the Commission; and shall perform such other duties as are incidental to the office and as may be assigned, from time to time, by the Commission.

1-2.2 MEETINGS

- a) Regular meetings of the Commission shall be held at least once per month on Rota, CNMI, on such dates and at such times as the Commission shall establish.
- b) Special meetings of the Commission will be held from time to time on such dates and at such times and places as the Commission may deem convenient pursuant to the Open Government Act.
- c) The organizational meeting of the Commission shall be held every two (2) years from the date first (1st) organized.
- d) The Commission may prepare an agenda describing the order of business for public meetings, which agenda shall include, but not be limited to:
 1. Call to Order;
 2. Roll Call;
 3. Adoption of Agenda;
 4. Adoption of Minutes;
 5. Consideration of Applications for Licenses;
 6. Consideration of Complaints Against Licenses;
 7. Consideration of Petitions for Commission
Action or Approval;
 8. Chairman's Report;
 9. Committee Reports;
 10. Executive Director's report;
 11. Old Business;
 12. New Business;
 13. Miscellaneous;
 14. Adjournment.
- e) Where not inconsistent with either the Act or internal policies developed by the Commission, the newly revised Robert Rules of Order shall govern any procedural matters before the Commission or its committees.

1-2.3 QUORUM; VOTES

- a) A majority of the full Commission shall constitute a quorum at any meeting of the Commission.
- b) The vote on any matter before the Commission shall be taken in a manner to be determined by the Commission. The names of the members voting for or against or abstaining shall be entered in the minutes of the meeting.

1-2.4 RESOLUTIONS AND MINUTES

- a) The records of the Commission shall include a minute book and a resolution book. The vote on any matter before the Commission shall be set forth in the minutes in accordance with requirements of (b) below. If the Commission determines to memorialize the vote on a particular matter by the preparation of a formal resolution, the resolution shall be prepared in accordance with the requirements of (c) below and shall be recorded in the resolution book.
- b) Every vote of the Commission recorded in the minutes shall include the following information:
 - 1) The substance of the matter considered;
 - 2) The vote of the Commission, including the names of any Commissioner dissenting or abstaining;
 - 3) If appropriate, reference to the existence of a formal resolution concerning the matter; and
 - 4) Certification by the Secretary of the Commission.
- c) Every formal resolution of the Commission shall include the following information:
 - 1) A concise statement of the issues presented and the relevant procedural history;
 - 2) The precise statutory authority for the action taken;
 - 3) A precise statement of the action taken by the Commission, including any terms or conditions attached thereof; and
 - 4) Certification by the Secretary of the Commission.

SUBCHAPTER 3. INFORMATION AND FILINGS

1-3.1 OFFICE MAILING ADDRESS AND HOURS

- a) The main mailing address of the Commission is:

Post Office Box 1547 Rota, MP 96951

- b) The office hours of the Commission is from 7:30 A.M. to 4:30 P.M., Monday through Friday, unless otherwise authorized by the Commission. The office of the Commission is closed on Legal Holidays authorized by the CNMI Government.

1-3.2 OFFICIAL RECORDS; FEES FOR COPIES

- a) No original official record of the Commission shall be released from the custody of the Commission unless upon the express direction of the Chairman or upon the order of a court of competent jurisdiction.
- b) Copies of the official records of the Commission which are required by law to be made available for public inspection will be made available during the hours provided for in 1-3.1(b), and upon the payment of appropriate fees.
- c) No person shall, directly or indirectly, procure or attempt to procure from the records of the Commission or from other sources, information of any kind which is not made available by proper authority.
- d) No application, petition, notice, report, document or other paper will be accepted for filing by the Commission and no request for copies of any forms, pamphlets, records, documents, or other papers will be granted by the Commission, unless such papers or request are accompanied by the required fees, charges, or deposits.
- e) Copies of official records of the Commission which are required by law to be made available for public inspection where copies are provided shall be Fifty Cent (\$.50) per page.
- f) All payment of Fees, deposits and charges shall be made payable to the order of the "Rota Municipal Treasurer" and delivered to the main office of the Commission or certified mailed to the mailing address of the Commission.

1-3.3 COMMUNICATIONS/NOTICES

- a) Except as otherwise provided at 1-3.1, all papers, process or correspondence relating to the Commission should be addressed to or served upon the Rota Casino Gaming Commission at the Commission's main office.
- b) All such papers, process or correspondence shall be deemed to have been received or served when delivered to the main office of the Commission but a Commissioner or such individual members of the Commission's staff as the Chair may designate, may in his or her discretion receive papers or correspondence or accept service of process.
- c) Except as otherwise provided by law, notices and other communications from the Commission will be sent to an applicant or licensee by ordinary mail at the address shown in the application or license. Notices shall be deemed to have been served upon their deposit, postage prepaid, in the United States mails, and the time specified in any such notice shall commence to run from the date of such mailing. Any applicant or licensee who desires to have notices or other communications mailed to an address other than that specified in the application or license shall file with the Commission a specific request for that purpose, and notices and other communications will, in such case, be sent to the applicant or licensee at such address.

1-3.4 PUBLIC INFORMATION OFFICE

Request for information regarding the Rota Casino Gaming Commission may be directed to:

**Rota Casino Gaming Commission
Post Office Box 1547, Rota, MP 96951**

1-3.5 FILING OF PETITIONS AND APPLICATIONS

Petitions for formal action by the Commission shall be addressed to the Chairman of the Commission and should be certified mailed or delivered to:

**Attention: Chairman of the Commission
Rota Casino Gaming Commission
Post Office Box 1547, Rota, MP 96951**

1-3.6 PETITIONS FOR RULEMAKING

- a) Any interested person may file a petition with the Commission for the adoption, amendment or repeal of any rule, pursuant to Commission regulation. Such petition shall be in writing, be signed by the petitioner, and include the following information:
 - 1) The name and address of the petitioner;
 - 2) The substance or nature of the requested rulemaking;
 - 3) The reasons for the request;
 - 4) The specific legal rights, duties, obligations, privileges, benefits or other specific legal relations of the interested person which are affected by the requested rulemaking; and
 - 5) Reference to the statutory authority under which the Commission may take the requested action.
- b) Any document submitted to the Commission which is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further action. The Commission may return the document to the petitioner with instructions as to the steps necessary to correct any defects or omissions in accordance with this section.
- c) A petition for rulemaking shall be scheduled for consideration at a regularly scheduled public meeting of the Commission. The petitioner shall be given an opportunity to make a statement in support of the requested rulemaking.
- d) Within sixty (60) days of receipt of a petition which is in compliance with this section, the Commission shall mail to the petitioner a notice of action on the petition, which shall include the nature or substance of the Commission's action upon the petition and a brief statement of reasons for the Commission's actions.
- e) Commission action on a petition for rulemaking may include:
 - 1) Approval or Denial of the petition;
 - 2) Filing a notice of proposed rule; or

- 3) Referral of the matter for further deliberations, the nature of which will be specified and which will conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner.

SUBCHAPTER 4 CONFIDENTIAL INFORMATION

1-4.1 DEFINITIONS

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise.

- a) *Authorized Personnel* means any member or designee of the Rota Casino Gaming Commission.
- b) *Confidential Information* means any information of data, furnished to or obtained by the Commission from a source, which is considered confidential pursuant to the Open Government Act, applicable statutory provision, NMI Constitution and judicial decision or rule of court.
- c) *Secure Storage Facility* means any area, room, furniture, equipment, machinery or other device used by the Commission for the storage of confidential information, access to which is limited to authorized personnel at all times by lock or other appropriate security precaution.

1-4.2 DETERMINATION OF CONFIDENTIAL STATUS

- a) All information and data furnished to or obtained by the Commission which relates to the internal controls, or to the earnings or revenue of any applicant, or licensee, or which pertains to an applicant's criminal record, family or background, shall not be released or disclosed to any person except in accordance with the provisions of this subchapter.
- b) Any question concerning whether or not a specific item of information or data within the possession of the Commission is deemed to be confidential information, or any other applicable statutory provision, judicial decision or rule of court, shall be submitted to the Commission or its designee for determination or referral to appropriate authorities.

1-4.3 ACCESS

Access to confidential information within the possession of the Commission shall be restricted to authorized personnel.

1-4.4 RETENTION IN SECURE STORAGE FACILITIES

- a) Confidential information which is not presently being utilized by authorized personnel shall be stored in secure storage facilities designated for such purposes by the Commission. No one except authorized personnel may gain access to designated secure storage facilities except in accordance with the provisions of this subchapter.
- b) All Commission offices in which secure storage facilities are located shall be protected from unauthorized intrusions at all times. Proper security precautions during non-business hours may include the use of alarm or security guard systems.
- c) Every secure storage facility shall be placed under the direct supervision and control of an appropriate supervisor who shall periodically review for their effectiveness all security procedures and precautions pertaining to the confidential information stored therein. Security procedures and precautions that are determined to be ineffective shall be immediately corrected.
- d) Confidential information may be stored in secure facilities on micrographics, hard copy (paper), magnetic media or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.
- e) Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual or access code from the appropriate supervisor. Operating keys, code manuals and access codes shall be limited in number and shall be controlled by the appropriate supervisor.

1-4.5 TEMPORARY CUSTODY BY AUTHORIZED PERSONNEL

- a) Authorized personnel shall not remove confidential information from designated secure storage facilities unless such removal is necessary to the fulfillment of their official duties. Confidential information which is not presently being utilized by authorized personnel shall be promptly returned to the secure storage facility.
- b) A record shall be maintained on all confidential information which is removed from secure storage facilities other than those which utilize computer or magnetic media. This record shall include:
 - 1) The name of the person removing the information;

- 2) The name of the person for whom the information is being obtained;
 - 3) The date of removal;
 - 4) A brief description of the information removed or the number of the file which has been removed; and
 - 5) The date the information is returned.
- c) Confidential information shall not be removed from the office of the Commission without the prior approval of an appropriate supervisor. Such approval shall only be granted where removal of the confidential information is necessary to the performance of the official duties of authorized personnel pursuant to 1-4.8 (a).
- d) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released or disclosed to any unauthorized person. Information temporarily stored outside designated secure storage facilities shall be maintained in a locked desk or filing cabinet, or protected by other appropriate security precautions.

1-4.6 COPIES

A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Commission, shall only be made available where absolutely necessary to carry out the enforcement of the Rules and Regulations, or where an authorized release of the confidential information is made available pursuant to this subchapter.

1-4.7 RETENTION SCHEDULE AND STORAGE DESTRUCTION

- a) The Commission shall establish and maintain a record retention schedules for all confidential information within their possession.
- b) Any confidential information in the possession of the Commission shall be destroyed in accordance with the provisions of the applicable records retention schedule required by (a) above.

1-4.8 RELEASE; NOTICE

- a) Confidential information within the possession of the Commission shall not be released or disclosed in whole or in part to any person, except:
 - 1) In the course of the necessary administration of the Act; or
 - 2) Upon lawful order of a court of competent jurisdiction; or
 - 3) Upon presentation of proper identification, to the applicant, registrant or licensee who furnished the confidential information to the Commission; or
 - 4) Upon presentation of a duly executed and notarized release authorization by the applicant, or licensee who furnished the confidential information, to any person making a written request for specifically identified confidential information.
- b) If confidential information is released or otherwise disclosed to any person under any circumstances other than those identified in (a) 4 above, written notice of such release or disclosure shall be given to any applicant or licensee affected, unless notice would otherwise imperil the integrity of Casino operations. To the extent known, the notice shall include:
 - 1) The name and address of the person to whom the information was released or disclosed;
 - 2) A description of the information released or disclosed; and
 - 3) The date of the release or disclosure.
- c) Whenever possible, any such notice of confidential information to be released or disclosed shall be given prior approval the release or disclosure.

1-4.9 PENALTIES

- a) Any direct or indirect willful disclosure of confidential information by authorized personnel of the Commission except as provided herein, shall be a violation of the Commission's Code of Ethics and these Rules and Regulations.
- b) The unauthorized release or disclosure of confidential information shall also be a violation. Such violations may include penalties as establish by the Commission.

CHAPTER 2
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SUBCHAPTER 1. APPLICATION

2-1.1 RECEIPT

All application papers, unless otherwise directed by the Chair, shall initially be submitted to and received by the Chair, or such members of the Commission staff as the Chair may designate, who shall cause to be endorsed thereon the date of such receipt.

2-1.2 FILING

The Chair, or such members of the Commission staff as the Chair may designate, shall determine the date of filing as to each application received and shall issue cause to be endorsed thereon the date of such filing. No application shall deem filed until the applicant satisfies all appropriate requirements to wit:

- a) That all papers presented conform to all requirements relating to format, signature, oath or affirmation, attorney certification and copies;
- b) That all appropriate application, business entity disclosure forms, personal history disclosure forms, and supplemental to personal history disclosure forms have been properly completed and presented;
- c) That all required consents, waivers, fingerprint impressions, photographs and handwriting exemplars have been properly presented;
- d) That all other information, documentation, assurances and other materials required or requested at that preliminary stage pertaining to qualifications have been properly presented; and
- e) That all required fees have been properly paid and all required bonds have been properly furnished.

2-1.3 PROCESSING

Upon a determination that all prerequisites for filing have been met, the Chair, or such members of the Commission staff as the Chair shall designate:

- a) To accept the application for filing and cause same to be docketed by the Executive Director.

- b) To notify the applicant or his attorney, if any, in writing, of the fact that the application has been accepted for filing and docketed, the date of such acceptance for filing and the docket number thereof and of the further fact that such expectance for and docketing of the application shall constitute no evidence whatsoever that any requirement of the act or the regulations of the Commission have been satisfied.
- c) To direct the staffs of the Commission to analyze obtain and evaluate such information of either a factual nature or otherwise as may be necessary to determine the qualifications of the applicant and any other matter relating to the application.
- d) To direct the Commission staff to determine the costs of processing the application, as required by Section 2-8.7.

2-1.4 PUBLIC INSPECTION OF INFORMATION

No information in the possession of the Commission relating to any application shall be made available for public inspection prior to the time that the said application shall be accepted for filing and docketed in accordance with the Rules and Regulations. Confidential and privileged information are in full effect at all times.

2-1.5 AMENDMENT

It shall be the duty of each applicant to promptly file with the Chair, or such members of the Commission staff as the Chair shall designate, a written amendment to the application explaining any changed facts or circumstances whenever any material or significant change of facts or circumstances shall occur with respect to any matter set forth in the application or other papers relating thereto. Any applicant may be permitted by the Chair or designee to file any other amendment to the application at any time prior to final action made by the Commission.

2-1.6 WITHDRAWAL

- a) Except as otherwise provided in (b) below, a written notice of withdrawal of application may be filed by an applicant at any time prior to final Commission action. No application shall be permitted to be withdrawn, however, unless the applicant shall have first established to the satisfaction of the Commission that withdrawal of the application would be consistent with the public interest and the policies of the Act. The Commission shall have the authority to direct that any applicant so permitted to withdraw his application shall not be eligible to apply again

for licensure or approval until after the expiration of one year from the date of such withdrawal. Unless the Commission shall otherwise direct, no fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

- b) Where a hearing on an application has been requested by a party or directed by the Commission, the Commission shall not permit withdrawal of said application after:
 - 1) The application matter has been assigned to any other hearing examiner authorized by law to hear such matter; or
 - 2) The Commission has made a determination to hear the application matter directly.
- c) Notwithstanding the foregoing, the Commission may accept and consider written notice of withdrawal after the time specified herein if extraordinary circumstances so warrant.

2-1.7 REAPPLICATION BY NATURAL PERSON AFTER DENIAL OR REVOCATION.

- a) Any natural person required to be licensed, qualified or approved under the provisions of the Act or regulations of the Commission whose licensure, qualifications, or approval is either denied or revoked by the Commission on the basis of that person's failure to satisfy the affirmative qualification criteria, or due to a Commission finding that such person is disqualified under the criteria, or both, may reapply for licensure, qualification or approval until complied with 2-1.7(b) below.
- b) Any natural person whose licensure, qualification or approval is denied or revoked by the Commission on the basis of any of the following enumerated provisions of the Act or regulations of the Commission may reapply, in accordance with the procedure set forth in (c) below, for licensure, qualification or approval upon satisfaction of the conditions specified herein:
 - 1) Lack of financial stability: Reapplication is permitted upon said person achieving status of financial stability;
 - 2) Lack of business ability and Casino experience: reapplication is permitted upon said person acquiring the requisite business ability and Casino experience;
 - 3) Failure to satisfy age requirement: Reapplication is permitted upon said person attaining the requisite age or upon a Commission finding that such age will be attained prior to the completion of the processing of said reapplication;

- 4) Conviction of statutory disqualifier or inimical offenses: Reapplication is permitted after the lapsed of five years from the date of denial or upon the issuance of a judicial order of expungement or sealing, whichever occurs first;
 - 5) Prosecution or pending charges related to statutory disqualifier, reapplication is permitted upon the disposition of the prosecution or pending charges against such person.
- c) If the licensure, qualification or approval of any natural person has been denied or revoked on the basis of two or more statutory or regulatory provisions, reapplication shall only be permitted upon compliance with the requirements of this regulation as to each statutory or regulatory provision which the Commission found to be a basis for such denial or revocation.
 - d) This regulation applies with equal force and effect to the denial of any application by a natural person for licensure, qualifications or approval, and to any denial of any reapplication for licensure, qualification or approval permitted under the provisions of this regulation.

SUBCHAPTER 2. LICENSE AND REGISTRATION REQUIREMENTS

2-2.1. CASINO LICENSES

- a) An applicant may own or operate a Casino provided that a Casino license or a conditional Casino license shall have first been issued.
 - 1) Casino license shall be issued upon fulfillment of the requirements of the Act and the Rules and Regulations.
 - 2) Conditional Casino license may be issued for a specified period as determine by the Commission.
 - 3) Temporary Casino license may be issued to chartered non-profit or charitable organizations not to exceed fifteen (15) calendar days per year. This provision is extinguished upon the first day of the Casino operator's casino gambling operation.
- b) Only the following persons shall be eligible to apply for a Casino license:
 - 1) Any person who either owns one-hundred (100%) percent of an approved Hotel/Casino complex or owns or has contract to

purchase or construct in the judgment of the Commission can become an approved Hotel within thirty-six (36) months;

- 2) Any person who in accordance with the Act and the Rules and Regulations whether under the terms involving payments of a fixed sum or otherwise and whether as either a lessor or a lessee, either leases One Hundred (100%) percent of the approved Hotel/Casino or leases or has an agreement to lease One Hundred (100%) percent of a Hotel/Casino which in the judgment of the Commission can become an approved Hotel/Casino within thirty-six (36) months unless otherwise extended by the Commission;
 - 3) Any person who both has an agreement for the complete management of a Casino in accordance with the Rules and Regulations. Whether under terms involving payments of a fixed sum or otherwise, and either owns One Hundred (100%) percent of or controls any approved Hotel/Casino facilities; and
 - 4) Any other person whom the Commission determined to be qualified.
- c) No corporation shall be eligible to apply for or hold a Casino license unless it shall, in accordance with the provisions of the Act and the Rules and Regulations:
- 1) Have been incorporated in the CNMI;
 - 2) Maintain an office in the premises licensed or to be licensed;
 - 3) Comply with all the requirements of the laws of the CNMI pertaining to corporations;
 - 4) Maintain a ledger in its principal office in the CNMI reflecting the current ownership of every class of security issued by the said corporation;
 - 5) Maintain all operating accounts required by the Commission in a bank or banks in the CNMI;
 - 6) Provide in its charter among other purposes stated the conduct of Casino gaming;
 - 7) If not a publicly traded corporation, establish by an appropriate charter or by law provision that, upon Commission disapproval of any future transfer of any corporate security of, share of or other interest in the applicant corporation or any holding company or

subsidiary thereof, such corporations and companies shall have the absolute right to repurchase the same; and

- 8) If a publicly traded corporation, establish by appropriate charter or, by law provisions that, upon Commissions disqualification of any holder of any security of the applicant corporations, such holder shall disclose of his security interest therein.
- d) No corporation shall be eligible to apply for or hold a Casino license unless each corporate and non corporate holding company and intermediary company with respect thereto shall first qualify to do business in the CNMI.
- e) Temporary Casino License:

Shall mean a Casino license issued to conduct Casino gaming not more than fifteen (15) calendar days per year. An applicant shall apply using a temporary license application.

1) Qualifications criteria shall include the following:

- a) As chartered non-profit organizations based in Rota.
 - b) For fundraising of a charitable purpose and good cause.
- 2) Temporary License Application Fee shall be Five Hundred Dollars (\$500.00) and the tax shall be 10% of gross winning.
- 3) Ten (10) days after the completion of the activity, the licensee shall provide financial summary report to the Commission.

2-2.2 CASINO SERVICE INDUSTRY LICENSES

- a) No enterprise shall, on a regular or continuing basis, provide any goods or services to or conduct any business whatsoever with a Casino, a Casino licensee, its employees or agents, w hether or not said goods, services or business directly relates to Casino or gaming activity, unless a Casino service industry license authorizing the particular Casino service business shall have first been issued to the enterprise.
- b) No Casino licensee shall conduct any school teaching gaming, playing or dealing techniques unless a separate Casino service industry license shall have first been issued.

- c) The following Casino service industry enterprise shall be required to be licensed as Casino service industries in accordance with the Rules and Regulations, but not limited to:
- 1) All enterprises providing goods and services or doing any business whatsoever which directly relates to Casino or gaming activity;
 - 2) All schools teaching gaming, playing or dealing techniques;
 - 3) All gaming equipment manufacturers, suppliers, distributors, services and repairers;
 - 4) All Hotel/Casino security service enterprises;
 - 5) All enterprises providing goods or services or doing any business whatsoever which does not directly relate to Casino or gaming activity;
 - 6) All suppliers of alcoholic beverages, food and nonalcoholic beverages;
 - 7) All garbage handlers;
 - 8) All vending machine providers;
 - 9) All linen suppliers;
 - 10) All maintenance companies;
 - 11) All shopkeepers located within any approved hotel; and
 - 12) All limousine, shuttle vehicle and taxi service enterprises.
- d) The Commission may exempt any person or field of commerce from the Casino service industry licensing requirements:
- 1) That such person or field of commerce is regulated by a public agency;
 - 2) That licensure is not necessary to protect the public interest; and
 - 3) That licensure is not necessary to accomplish the policies established by Rules and Regulations.
- e) Casino operators are encourage to use locally available manpower as well as goods and services in their operations.

2-2.3 EMPLOYEE LICENSES

- a) **Casino Key Employee**, means individual who is employed in the operation of a Casino and who "Supervises" other individuals employed in the Casino and includes:
- 1) A manager, an assistant manager, a floor person, a pit boss, a shift boss, a credit manager, and a count room manager;
 - 2) A supervisor of security employees, surveillance employees, accounting and auditing employees, and cashier's or count room employees; and
 - 3) Any employee whatsoever of a Casino licensee so designated by the Commission.
- b) **Casino Employee** means an individual who is employed in the operation of a Casino and who "Does Not Supervise" other individuals employed in the Casino and includes:
- 1) A dealer, a security employee, count room employee, a cashier's cage employee, a slot machine, employee, a slot booth employee and a surveillance employee, an audit and accounting employee and a data processing employee;
 - 2) Any other individual, including a maintenance employee and a food and beverage server, who has access to the Casino; and
 - 3) Any employee whatsoever of a Casino licensee so designated by the Commission.
- c) Every Casino key employee and Casino employee, except those approved by the Chairman, shall wear in a conspicuous manner their license credential issued by the Commission at all times while on duty in the Casino area which includes without limitation the Casino floor, cashier's cage, courtrooms, eye-in-the-sky and closed circuit television monitoring.
- d) No Casino licensee shall permit any Casino key employee or Casino employee, except those approved by the Chairman, to work in the Casino area without wearing of their license credential as required herein;
- e) Each Casino licensee shall provide each such employee with a holder for the Commission license credential which shall contain the name of the Hotel/Casino Complex, a photograph of the employee, the employee position and title shall numerically be controlled and shall permit the

prominent display of the information contained on the license credential. thirty (30) days prior to the use of any such holder, a Casino license or permittee shall submit a prototype to the Commission along with a narrative description of the proposed manner in which the employee will be required to wear such holder.

- f) In those situations where a license credential is lost or destroyed, a Casino key or employee may be authorized to enter the Casino area to perform employment duties so long as:
 - 1) The loss or destruction of the license is promptly reported in writing to the Commission;
 - 2) The employee applies for a new license credential; and
 - 3) Permission is received from a duly authorized Commission representative to do so.
- g) An application for renewal as a Casino key employee or a Casino employee shall be accompanied by an offer for continues employment by a Casino operator, renewal of license shall be made annually from the date of issuance.
- h) All suppliers of the Casino operators while conducting business within the premise shall wear in plain view an identification card that identifies the supplier. Supplier identification cards shall be issued by a Casino operator shall be sequentially numbered and shall be approved by the Commission.
- i) Each Casino licensee shall provide adequate benefit for health insurance; sick and annual leave or similar coverage as provided by CNMI, civil service. In addition, pursuant to Section 15 of the Act, shall provide for compensation applicable to the laws of the CNMI.
- j) For any violation of this section, the Commission may impose the penalties authorized by the Act.

2-2.4 APPLICATION FOR EMPLOYEE LICENSE

- a) An application for a Casino employee license or Casino key employee license shall be made by the applicant and addressed to the Executive Director and shall, accordingly to the application in questions:
 - 1) Be in the prescribed form;
 - 2) Be accompanied by the prescribed fee in respect thereof;

- 3) Specify the type of license applied for;
 - 4) Specify from the prescribed list the type of work proposed to be performed by him as a licensee;
 - 5) Contain or accompanied by the prescribed information and particulars with respect to the applicant;
 - 6) Be accompanied by such other records, reports, documents and writings relating to the applicant as may be prescribed;
 - 7) Be forwarded to or lodged with the Executive Director;
 - 8) Be accompanied by a letter from a Casino operator addressed to the Executive Director stating that there are intends to employ the applicant (subject to appropriate case), upon the successful completion by the applicant from a training course in the type of work referred to or upon his being granted a license applied for; and
 - 9) Be accompanied by a certificate in the prescribe form from the Casino operator, that the applicant has successfully completed a training course approved pursuant to the Act or otherwise qualified experience.
- b) It is condition precedent to consideration of an application for a license provided the applicant is agreeable to having photograph, fingerprinting and palm prints taken.

2-2.5 TRAINING COURSES OF EMPLOYEES

- a) A Casino operator shall provide for person(s) employed or to be employed in a Casino, training courses relating to the playing of games, the conduct of games and associated activities in connection with the operations.
- b) All training courses shall be:
 - 1) Conducted by the Casino operator or, with the approval of the Commission, by the nominee of the Casino operator; and
 - 2) Of such content, format and duration as approved by the Commission.
- c) The successful completion of an approved training course is a prerequisite for:

- 1) The issuance of Casino key employee license or a Casino employee license; or
 - 2) the approval of the Commission to making of an amendment (and such amendment being made) in a licensee in respect to the type of work performed or to be performed by the licensee and for employment of the licensee in the type of work specified in the license, either in the first instance pursuant to the amendment, unless the licensee is qualified by the experience, satisfactory to the Commission, appropriate to the type of work to be performed by him as a licensee.
- d) A Casino operator may conduct gaming on a simulated basis for the purpose of training employees, testing gaming equipment and gaming procedures and demonstrating the conduct and playing of games provided:
- 1) He has obtained the prior approval of the Commission; and
 - 2) No cash is used and no chips are used.

SUBCHAPTER 3. HOTEL/CASINO FACILITIES

General Provision - Hotel/Casino Complex facility shall comply with the minimum investment of Twenty-Five Million Dollars (\$25,000,000.00) as set forth in the Act. Complete plans for such facilities should be submitted to the Commission.

2-3.1 IMPACT OF THE FACILITIES.

No Casino license shall be issued unless the Commission shall have been first satisfied that:

- a) The Casino, its related facilities and its proposed location are suitable;
- b) The proposed Casino hotel will not adversely affect other licensed Casino operations or facilities;
- c) The proposed facilities comply in all respects with all requirements of the Rules and Regulations.
- d) The proposed facilities comply in all respects with all CNMI laws.
- e) The facility for the patron market is adequate.

- f) The proposals will not adversely affect overall environmental, economic, social, demographic competitive conditions or natural resources of Rota.

2-3.2 THE HOTEL/CASINO COMPLEX

No Casino license shall be issued unless the Casino shall be located within Casino licensee proposed:

- a) Is under one ownership either sole proprietorship, partnership or corporation;
- b) Contains not fewer than one-hundred fifty (150) hotel rooms of at least three-hundred twenty (320) square feet each held available and used regularly for the lodging of tourist, and Casino guest;
- c) Contains the minimum amount of indoor dining, entertaining and sports facilities space;
- d) Contains a Casino room of ten-thousand (10,000) square feet minimum with entrance and visibility requirements arranged to promote maximum patron comfort and optimum Casino operational security and an atmosphere of social graciousness;
- e) Contains closed circuit television system;
- f) Contains specifically designated and secure areas for the inspection, repair and storage of gaming equipment;
- g) Contains a count room and such other secure facilities for the inspection , counting and storage of cash, coins, tokens, checks, dice, cards, chips, and other representative of value;
- h) Contains such facilities in the ceiling of the Casino room commonly referred to as an "eye-in-the-sky "appropriate to permit direct overhead visual surveillance of all gaming therein; provided, however, that the Commission may exempt from its requirements any Casino room in any building if its satisfied that same contains an acceptable approved alternative and that such exemption would not be inimical to Commission;
- i) Contains facilities suitable for any family, cabaret, and pub entertainment requirements; and
- j) Hotel/Casino Complex shall be completed within thirty-six (36) months.

2-3.3 DECLARATORY RULINGS AS TO PROPOSED HOTEL/CASINO HOTEL FACILITIES

- a) Upon the petition of any persons who owns, has a contract to purchase or construct, lease or has agreement to lease any building or site located within the limits of Rota and who intends to and is able to complete a proposed Hotel/Casino facility therein or thereon, the Commission may in its discretion make a declaratory ruling as to whether or not in conformance of the proposed Hotel/Casino facility.
- b) It shall be the affirmative responsibility of each such petitioner to file all information, documentation and assurances material to be requested declaratory ruling in such form as is required of an applicant for a Casino license, which may include filing a completed "Hotel/Casino facility statement".
- c) The Commission shall afford the interested parties an opportunity for hearing upon any petition for a declaratory ruling us to proposed Hotel/Casino facility.
- d) A declaratory ruling as to proposed Hotel/Casino facility shall bind the Commission as the parties to the proceeding on the statement of the facts set forth therein and shall deemed a final action provided, however, that no Casino license shall be issued concerning any such Hotel/Casino facility unless compliance with every requirements of the Act and regulations of the Commission as of the time of the issuance of such license shall have first been established.
- e) No petition for a declaratory ruling shall be accepted by the Commission unless the petitioner shall have first been paid in full a fee of not less than Two Thousand Five Hundred Dollars (\$2,500.00) and in such further amount as the Commission may in its discretion, deem reasonable, proper and appropriate in relation to the operating expenses of the Commission in considering the petition.

2-3.4 DUTY TO MAINTAIN AND OPERATE A SUPERIOR QUALITY FACILITY

Every Casino licensee shall have a continuing duty to maintain and operate its entire Hotel/Casino complex of a superior quality as first approved by the Commission, to submit the said complex to periodic inspection by the Commission and to promptly comply with all the requirements and the directives of the Commission relating to the maintenance and operation of the said complex.

2-3.5 LEASES OF HOTEL/CASINO COMPLEX OR OF CASINO

- a) Subject to this Act, a Casino licensee may subject to the prior approval of the Commission, lease to another person:
 - 1) The Hotel/Casino Complex; or
 - 2) The Casino.
- b) An application to lease shall be made by the Casino licensee to the Commission in the prescribed form and shall be accompanied by a draft of the proposed lease; full details of the proposed lessee and such other particulars as may be prescribed.
- c) The Executive Director may require the Casino licensee or the proposed lessee to supply additional information, documents or other writings considered necessary to enable to make the recommendation to the Commission.

2-3.6 CASINO MANAGEMENT AGREEMENT

- a) Subject to this Act, a Casino licensee under a Casino lease may, subject to the prior approval of the Commission, enter into Casino management agreement with another person for the management by that other person of:
 - 1) The Hotel/Casino Complex
 - 2) The Casino.
- b) An application to enter into such agreement shall be made by the Casino licensee or the lessee under the Casino lease to the Executive Director in the prescribed form and shall be accompanied by a draft of the proposed agreement. Full details of the other party to the proposed agreement and such other particulars as may be prescribed must be provided.
- c) The Executive Director may require the Casino licensee, the lessee under the lease or the other party to the proposed agreement to supply to him such additional information or documents or other writings to enable him to make a recommendation to the Commission.

2-3.7 MORTGAGE AND ASSIGNMENT OF CASINO LICENSE, ETC.

- a) A Casino license shall not mortgage, charge or otherwise encumber;

- 1) A Casino license;
 - 2) The Hotel/Casino Complex to which the Casino license related; or
 - 3) The rights and benefits under the agreement in question without the consent of the Commission.
- b) Where the mortgagee wishes to enforce his security under the mortgage, charge or other encumbrance pursuant to his rights there under;
- 1) The Casino license and the rights, benefits and obligations under the relevant agreement, shall be assigned only to the person approved by the Commission;
 - 2) Any receiver and manager appointed shall be a person approved by the Commission.
- c) As a condition precedent to the approval by the Commission, the Commission may require that the further agreement in writing be entered into between;
- 1) The Executive Director for and on behalf of the Commission and the proposed assignee; or
 - 2) The Executive Director for and on behalf of the Commission and some other person whom the Commission considers to be appropriate person to be a party to the agreement with a view to the assignment or the Casino license to the proposed assignee containing such terms and conditions with respect to the assignment and the proposed assignee as the Commission thinks fit;
- d) Any such further agreement shall have no force or effect unless and until approved by the Commission.
- e) Prior to any approval by the Commission, the Executive Director shall cause to be undertaken such investigation as are necessary to satisfy the Commission or shall require the proposed person and all persons not associated or connected or to be associated or connected in the opinion of the Executive Director, with the ownership, administration or management of the operations or business of the proposed person to satisfy the Commission that such proposed persons and such persons as aforesaid are suitable persons to be associated or connected with the management and operations of a Hotel/Casino complex or Casino

having regard to the matters appropriate to them respectively that are set subject to such adoption of those paragraph as are necessary for the purpose of their application to such proposed person and other person as aforesaid, having regard to such other matters with respect to which the Commission determines it should be satisfied in the particular case. The cooperation and assistance of the Federal Bureau of Investigation, Interpol and other jurisdictions investigative agencies shall be sought where appropriate.

- f) Upon a Casino license being assigned, the assignee is the Casino licensee in respect of the Casino license in question, and the Executive Director shall cause the license to be amended to show the name of the assignee, date of assignment and such other particulars as may be prescribed; and the license shall be made available to the Executive Director for the purpose of amendment accordingly.
- g) A decision by the Commission to approve or not to approve of a person pursuant to the Rules and Regulations is final and conclusive.

SUBCHAPTER 4. PERSONS REQUIRED TO BE QUALIFIED

2-4.1 CASINO LICENSES

No Casino license shall be issued unless the individual qualifications of each of the following persons shall have first been established pursuant to the Act and the Rules and Regulations and that:

- a) Each applicant applying for a Casino license in accordance with the Casino license standards as set forth in the Act and this Rules and Regulations.
- b) Each of the following financial source, either in effect or proposed, on the submitted Casino proposal in this Rules and Regulation include:
 - 1) Each financial backer;
 - 2) Each investor;
 - 3) Each mortgagee;
 - 4) Each bond holder, and
 - 5) Each holder of debenture, notes, or other evidence of indebtedness, either in effect or proposed.

- c) Each of the following persons of every corporate applicant for a Casino license and of every corporate holding company of and corporate intermediary company of every corporate applicant for a Casino license in accordance with the Casino key employee standards shall include:
- 1) Each officer;
 - 2) Each director;
 - 3) Each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation;
 - 4) Any person who in the opinion of the Commission has the ability to control corporation or elect a majority of the board of directors of that corporations, other than a banking or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary cause of the business;
 - 5) Each principal employee; and
 - 6) Any lender, underwriter, agent or employee of the corporation whom the Commission may consider appropriate for approval or qualification.
- d) In the case of a publicly-traded corporate holding company of a corporate applicant for a Casino license, the individual qualifications may be waived as to:
- 1) Any such person of the publicly-traded corporate holding company who is not significantly involved in the activities of the corporate applicant for the Casino license; and
 - 2) Any such security holder of a publicly-traded corporate holding company who does not have the ability to elect a director of or to control the said holding company.
- e) Each of the following persons of every non corporate applicant for a Casino license and of every corporate intermediary company of every corporate applicant for a Casino license in accordance with the Casino key employee standards:
- 1) Each person who directly or indirectly holds any beneficial interest or ownership in the applicant for the Casino license;

- 2) Each person who in the opinion of the Commission has the ability to control the applicant for the Casino license; and
- 3) Each person whom the Commission may consider appropriate for approval or qualifications.

2-4.2 CASINO SERVICE INDUSTRY LICENSES

No Casino service industry license shall be issued unless the individual qualification of each of the following persons shall have first been established in accordance with all provisions, including those cited in the Act and of the Rules and Regulations.

In the case of the Casino service industry licenses issued in accordance with the Rules and Regulations of the Commission:

- a) Each such Casino service industry enterprise, its owners, its management personnel, its supervisory personnel and its principal employees in accordance with the Casino employee standards; and
- b) Each employee of such Casino service industry school teaching gaming or playing or dealing techniques shall be in accordance with the Casino employee standard.

2-4.3 EMPLOYEE LICENSES

No employee license shall be issued unless, the individual qualifications of the natural person applying thereof, shall have first been established in accordance with the standards of the Act and of this Rules and Regulations.

SUBCHAPTER 5. STANDARDS FOR QUALIFICATIONS

2-5.1 SCOPE

License shall be issued to any person qualified in accordance with the standards applicable to the said person as set forth in the Rules and Regulations.

2-5.2 CASINO AND EMPLOYEE LICENSING STANDARDS

- a) General and Affirmative Criteria:
 - 1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence his individual qualifications, and for a Casino licensee the qualifications of each person who is required to be qualified under this Rules and Regulations;

- 2) Any applicant or licensees shall provide all information required and satisfy all requests for information pertaining to qualification;
- 3) All applicants and licensees shall have the continuing obligation to provide any assistance or information required and to cooperate in any inquiry or investigation conducted by the Commission;
- 4) Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability and integrity of the applicant including but not limited to bank references, business and personal income, tax returns and other reports filed with governmental agencies;
- 5) Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders and holders of indentures, notes or other evidence of indebtedness either proposed or in effect. The integrity of financial sources shall be judged upon the same standards as the applicant. The applicant shall produce whatever information documentation and assurances as may be required to establish the adequacy of financial resources to both construct and operate the Hotel/Casino complex;
- 6) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include but not be limited to family habits, character, reputation, criminal and arrest record, business activities, financial affairs, professional and business associates covering a five (5) year period immediately preceding the filing of the application; and
- 7) Each applicant shall produce such information, documentation and assurances to establish by clear and convincing evidence that the applicant has sufficient business ability and Casino experience to establish the likelihood of the creation and maintenance of a successful Casino operation.

(b) Disqualification Criteria

The Commission shall deny a Casino license to any applicant who is disqualified on the basis of the following:

- 1) Failure of the application to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of the Act and the Rules and Regulations.
- 2) Failure of the applicant to provide information, documentation or assurances requested by the Commission or failure of the applicant to reveal any fact material to qualification or the supplying of information which is untrue or misleading as to any material fact.
- 3) Conviction of the applicant or any person required to be qualified, of any offenses in any jurisdiction which would be:

6 CMC 1101	Murder
6 CMC 1203	Aggravated Assault and Battery
6 CMC 1301	Rape
6 CMC 1309	Rape by object
6 CMC 1311	Sexual Abuse of a child
6 CMC 1323	Child pornography
6 CMC 1411	Robbery
6 CMC 1421	Kidnapping
6 CMC 1432	Usurping control of aircraft
6 CMC 1433	Mutiny on a vessel
6 CMC 1601(b) (1)	Theft of property or services
6 CMC 1603	Theft by deception
6 CMC 1604	Theft by extortion
6 CMC 1606	Receiving stolen property
6 CMC 1607	Theft of services
6 CMC 1608	Theft by failure to make required disposition of funds received
6 CMC 1701	Forgery
6 CMC 1705	Deceptive business practices
6 CMC 1707	Counterfeiting
6 CMC 1802	Arson and related offenses
6 CMC 2141(a) and (b) 1	Offenses and penalties for illegal drug use
6 CMC 2143	Commercial offenses-drugs offenses
6 CMC 2144	Fraud offenses-manufacture/distribution penalties
6 CMC 2145	Attempt and conspiracies drug offenses
6 CMC 2147	Distribution to persons under 18
6 CMC 3155	Gambling offenses prohibited
6 CMC 3201	Bribery
6 CMC 3302	Obstructing justice
6 CMC 3303	Obstructing justice-interference of services
6 CMC 3304	Tampering with judicial records or process
6 CMC 3305	Tampering with jury
6 CMC 3366	Perjury

- 4) Any other offenses under CNMI, Federal Law or any other jurisdiction which indicates that licensure of the applicant would be inimical to the policy of the Commission and to Casino operations; however, that the automatic disqualification provisions of the subsection shall not apply with regard to any conviction which did not occur within the ten (10) year period immediately proceeding the application for licensure or any conviction which has been the subject of a judicial order of expungement or sealing.
- 5) Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this regulation for any of the offenses enumerated above; provided, however that at the request of the applicant or person charged, the Commission shall defer discussion upon such application during the pendency of such charge.
- 6) The identification of the applicant or any person who is required to be qualified under this regulation as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policies of the Rules and Regulations and a Casino operations. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal of the public policy of the Commonwealth. A career offender cartel shall be defined as any group of persons who operate together.
- 7) The applicant or any person who is required to be qualified under the Rules and Regulations as a condition of a Casino license of any act or acts which would constitute any offense under Sections 3 or 4 above, even if such conduct has not or may not be prosecuted under the criminal laws of the CNMI.

2-5.3 CASINO PATRONS (PROHIBITION ON PLAY)

- a) The Commission finds it necessary to pass this prohibition to protect the welfare of individuals, promote the welfare of the community, minimize social ills and criminality and promote fiscal responsibility. It is also necessary to maintain the perception and integrity of the Casino industry. Accordingly, the following individuals are prohibited from playing in the Casino:
 - 1) Individuals under 18 years of age;

- 2) Individuals who appear to be intoxicated;
 - 3) Individuals who appear to be addicted to gambling, and the Casino operator shall implement policies and procedures designed to identify individuals exhibiting behavior evidencing a problem with gambling;
 - 4) Members or employee of the Commission;
 - 5) Officers, directors or partners of the Casino operator; or
 - 6) Gaming assistants, Casino key employees, Casino employees or Casino clerks of the Casino operator.
 - 7) Any person who is a current recipient of any welfare federal or local assistance based on low-income such as food stamp recipients.
- b) No Casino operator shall permit gaming equipment to be used for the playing of games of chance in the Casino if the equipment has, in any way, been marked or tampered with so that it could affect the outcome of the games or their payouts.
 - c) No Casino operator shall permit any electrical, mechanical, telecommunications or other device, including a calculator or a computer, to be used in playing of games of chance in the Casino if the device could assist projecting the outcome of a game or could keep track of cards that have been dealt, changing probabilities or playing strategies being used in a game.
 - d) No Casino operator shall permit patron use of cameras, photographic equipment or video cameras within the Casino or its confines.

2-5.4 SECURITY CLEARANCE

- a) The members of the Commission, Executive Director, and designated employees of the Commission shall be subject to a Level III security clearance as set out in clause (b)3 below.
- b) Registered suppliers and gaming assistant shall be subject to one of the following levels of security Clearance determined by the Commission:
 - 1) Level I – persons subject to this level of security clearance shall not have access to sensitive or strategic information and shall not hold a supervisory position;

- 2) Level II – persons subject to this level of security clearance may hold positions of trust, have access to assets, sensitive information or both and may hold a supervisory position: and
 - 3) Level III – persons subject to this level of security clearance may hold senior positions of trust have direct access to cash and assets and may have knowledge of both sensitive and strategic information and may supervise employees.
- c) All other persons shall supply information necessary to conduct an investigation in order to have a security clearance.

SUBCHARTER 6 STATEMENT OF COMPLIANCE

2-6.1 GENERAL PROVISIONS

The Commission may, in its sole and absolute discretion, issue a Statement of Compliance to an applicant for any licenses certifying that all requirements relating to a particular specified eligibility criterion or stage in the license consideration process have been complied with at any time the Commission is satisfied that any such requirements have been established by the applicant in accordance with the Act and the Rules and Regulations.

2-6.2 PETITIONS

- a) A request for a Statement of Compliance shall be initiated by a petition. One (1) original copy signed by the petitioner and six (6) photocopies of the petition shall be filed with the Commission. The petition shall include, at a minimum, the following items:
 - 1) The eligibility criteria for which the Statement of Compliance is requested;
 - 2) The person(s) whose compliance is requested to be considered;
 - 3) The facts and circumstances underlying the request, including the reason for the request; and
 - 4) Subject to the limitations contained in Section 2-6.6 of this Subchapter, the period for which the Statement of Compliance is requested to be effective.
- b) Each petition for a Statement of Compliance must also contain the following undertakings:
 - 1) Petitioner understands that any Statement of Compliance issued pursuant to the petition is revocable by the Commission;

- 2) Petitioner understands that any Statement of Compliance issued pursuant to the petition does not create a property right in the petitioner;
- 3) Petitioner understands that the issuance of a Statement of Compliance is not an issuance of a license; and
- 4) Petitioner understands that no license shall be issued unless every qualification as of the time of the issuance of a license shall have first been established in accordance with the Act and the Rules and Regulations.

2-6.3 FILING DATE

A petition requesting a Statement of Compliance may be filed at the time of or subsequent to the filing of a License Application. However, no petition shall be considered until the Commission or designated individual has completed its investigation of matter(s) which the Statement of Compliance is requested to address.

2-6.4 PETITION FILING FEE AND INVESTIGATION COSTS

- a) Except as otherwise provided herein, all fees and costs incurred in conjunction with the investigation of any petition for a Statement of Compliance must be paid by the petitioner.
- b) Each petition for a Statement of Compliance must be accompanied by a non-refundable filing fee in the amount of Two Thousand Five Hundred Dollars (\$2,500.00).
- c) In addition to the non-refundable filing fee, the Commission may require a petitioner to pay such supplementary investigative fees and costs as may be determined by the Commission. At any time or times during the pendency of a petition, the Commission may estimate the supplementary investigative fees and costs and require a deposit or deposits to be paid by the petitioner in advance as condition for continuing the investigation.
- d) The Commission will not take final action on a petition unless all filing and investigative fees and cost have been paid in full. It shall be grounds for denial of the petition if the petitioner has failed or refused to pay all filing and investigative fees and costs required hereunder.
- e) After all supplementary investigative fee and costs have been paid by a petitioner, and after all actions on behalf of the Commission have been

taken with respect to the petition, the Commission shall refund to the person who made the required deposit any balance remaining in the investigative account of the petitioner.

- f) Upon final action on the petition, the Commission shall give to the petitioner an itemized accounting of the investigative fees and cost incurred.
- g) The Commission may, in its sole and absolute discretion, waive payment of any investigative fee or cost.

2-6.5 HEARING

All hearings pursuant to a petition for a Statement of Compliance shall be subject to Section 4-7.1 of the Rules and Regulations.

2-6.6 EFFECTIVE PERIODS

- a) A Statement of Compliance shall be effective upon payment of the fee provided under Section 2-6.4(b) of this subchapter 6 and shall expire according to the terms contained therein or until revoked by the Commission; provided, however, the effective period of a Statement of Compliance shall not exceed one (1) year.
- b) A Statement of Compliance may be revoked by the Commission upon a finding that a change of circumstances has affected such compliance, that the subject of the statement has otherwise failed to qualify for licensure, that the subject of the statement has failed to comply with any conditions imposed by the Commission or that any other reason for revocation exists.

2-6.7 STATEMENT OF COMPLIANCE FEE

- a) Upon the issuance of Statement of Compliance for an application of a Casino license the full amount of the annual fee shall be paid by the petitioner.
- b) The fee shall be prorated for any effective period specifically described in the Statement of Compliance if less than one (1) year. The fee shall not be refunded if the Statement of Compliance is revoked by the Commission.
- c) The total fee shall be reduced by the amount of the filing fee paid by the petitioner under Section 2-6.4(b) of Subchapter 6.
- d) If a Casino license is issued prior to the expiration of the effective period of the Statement of Compliance, a prorated portion of the fee shall be applied to the annual license fee.

2-6.8 CONTENTS

Every Statement of Compliance shall:

1. Specify the particular criterion or stage complied with and indicate that such applicant has qualified for licensure in relation to the criterion or stage specified;
2. Set forth, its date of issuance, the date as of which such compliance existed;
3. Set forth its date of expiration;
4. Indicate that it may be revoked by the Commission upon a finding that a change of circumstances has affected such compliance, that the applicant has otherwise failed to qualify for licensure, that the applicant has failed to comply with any conditions imposed by the Commission or that any other reason for revocation exists;
5. Indicate that it does not create a property right in the recipient;
6. Indicate that it is not a license; and
7. Indicate that no license shall be issued unless every qualification as of the time of the issuance of a license shall have first been established in accordance with the Act and Rules and Regulations.

2-6.9 ISSUANCE OF LICENSES

No license shall be issued unless all qualification requirements are met in accordance with the Act and the Rules and Regulations.

2-6.10 PERSONS TO BE QUALIFIED

Nothing in this Subchapter 4 and 5 shall limit or define the types of persons who must be found suitable or qualified under the Act or the Rules and Regulations.

SUBCHAPTER 7 INFORMATION

2-7.1 AFFIRMATIVE RESPONSIBILITY TO ESTABLISH QUALIFICATIONS

It shall be the affirmative responsibility and continuing duty of each applicant and licensee to produce such information, documentation and assurances as may be required to establish by clear and convincing evidence his qualifications in accordance with the Rules and Regulations.

2-7.2 DUTY TO DISCLOSE AND COOPERATE

It shall be the affirmative responsibility and continuing duty of each applicant, licensee, and person required to be qualified to provide all information, documentation, and assurances pertaining to qualifications required or requested by the Commission and to cooperate with the Commission in the performance of its duties. Any refusal by any such person to comply with a formal request for information, evidence or testimony shall be a basis for denial, revocation or disqualifications.

2-7.3 DISPOSITION OF PROPERTY OF A CASINO APPLICANT OR LICENSEE

It shall be an affirmative responsibility of each Casino applicant or licensee to submit to the Commission a copy of all agreements regarding the lease or purchase of, or the option to lease or purchase, any property in Rota, or any affiliate of the applicant or licensee.

2-7.4 DUTY TO PROMPTLY FURNISH INFORMATION

It shall be the duty of each applicant or licensee to promptly furnish all information, documentation, assurances, consents, waivers, fingerprint impressions, photographs, handwriting exemplars or other materials required or requested by the Commission. Any request of information by the Commission shall be submitted at a reasonable time determined by the Commission.

2-7.5 INSPECTION AND MONITORING

As stipulated in the Act on Section 6 subsection (e), that the Commission or its authorized representatives may inspect and monitor at any time of a licensed Casino, including a licensed Casino service provider.

2-7.6 WAIVER OF LIABILITY FOR DISCLOSURE OF INFORMATION

Each applicant, licensee, and person required to be qualified shall, in writing, waive liability to the Commission and its instrumentalities and agents for any damages resulting from any disclosure or publication of any during any inquiries, investigations or hearings.

2-7.7 CONSENT TO EXAMINATION OF ACCOUNTS AND RECORDS

Each applicant and licensee shall, in writing consent to the examination of all accounts, bank accounts and records in his possession or under his control and authorize all third parties in possession or with control of such accounts or records to allow such examination thereof as may be deemed necessary by the Commission.

2-7.8 FINGERPRINTING

Each applicant, licensee, and person required to be qualified shall be fingerprinted in duplicate on fingerprint impression card forms provided by the Commission. One (1) of the said forms shall be filed with the Commission and one (1) shall be filed with the Municipal Police Department.

2-7.9 PHOTOGRAPHING

Each applicant, licensee, and person required to be qualified shall be photographed in duplicate. One (1) set of the said photographs shall be filed with the Commission and one (1) shall be filed with the Municipal Police Department.

2-7.10 HANDWRITING EXEMPLARS

Each applicant, licensee, intermediary company, holding company and person required to be qualified shall, in writing, consent to the supplying of handwriting exemplars in the form and manner directed upon the request of the Commission.

2-7.11 OATH OR AFFIRMATION AND ATTORNEY CERTIFICATION

All applicant, registration, business enterprise disclosure and personal history disclosure forms and all other papers relating thereto submitted to the Commission by or on behalf of an applicant shall be sworn to or affirmed and subscribed and dated by the applicant and, if different, the author of the said form or paper before a person legally competent to take an oath or affirmation, who shall himself subscribe and date the signature of the affiant and indicate the basis of his authority to take oaths or affirmations. The following statement shall immediately precede the signature of the affiant:

"I swear (or affirm) under penalty of perjury that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment".

The affiant, if requested shall again swear to or affirm and subscribe and date any such paper in the presence of a representative of the Commission. All such forms and papers shall also be signed by the applicant's attorney of record, if any, which shall constitute a certification by him that he has read the said paper and that, to the best of his knowledge, information and belief, its contents are true.

2-7.12 UNTRUE INFORMATION

The Commission shall deny a license or registration to any applicant who shall supply information to the Commission which is untrue or misleading as to a material fact pertaining to the qualifications criteria.

2-7.13 SIGNATURES

All application, business enterprise disclosure and personal history disclosure forms shall be signed by each of the following persons:

- a) If a corporation, by its president, its chairman of the board, any other chief executive officer thereof, its secretary and its treasurer;
- b) If a partnership, by each of its partners; if a limited partnership, only by each of its general partners;
- c) If of any other business enterprise, organization or association or of a governmental agency, by its chief executive officer, its secretary and its treasurer; and
- d) If of a natural person, by the person himself.

2-7.14 FORM OF SIGNATURE

All signature shall be signed in blue ink and dated on all original papers, but may be photographed, typed, stamped, or printed on any copies of such papers. The name and address of the signatory shall be typed, stamped or printed beneath each signature.

2-7.15 FORM OF APPLICATION

Each applicant, licensee, or person required to be qualified shall provide all information in a form specified by the Commission and shall complete and submit all appropriate application, registration, business enterprise disclosure and personal history disclosure forms as directed by the Commission. Application forms are not reproduced herein, but can be obtained from the address below. Application form for a Hotel/Casino and Casino gaming service industry applicant shall be charged Five Thousand Dollars (\$5,000.00) and for a Casino non-gaming service applicant shall be charged Five Hundred Dollars (\$500.00).

2-7.16 NUMBERS OF COPIES

- a) All original applications and other original papers relating thereto submitted to the Commission by the applicant shall be accompanied by one (1) original and one (1) conformed copy.
- b) Additional conformed copies of any such papers shall be supplied upon request by the Commission.

SUBCHAPTER 8. FEES AND DEPOSITS

2-8.1 GENERAL DESCRIPTION OF FEES AND DEPOSIT POLICY

- a) Initial funding by the Commission shall be funded from appropriation from the CNMI or municipal general appropriation funds in accordance to section 16(b) of the Act. The Commission shall establish, by Rules and Regulation, fees for the application issuance and renewal of all licenses pursuant to the Act;
- b) The differing treatment of these license categories reflects a recognition and judgment that Casino applicants and licensees benefit directly or indirectly from all aspects of the regulatory process and are best suited to bear the largest share of the costs incurred by the Commission in implementing that process. Moreover, the actual cost of investigation and considering applications for individual employee licenses and Casino service industry licenses may exceed the amount which those applicants and licensees may fairly be required to pay as fees. The fee structure established by these Rules and Regulations is designed to respond to these policies and problems.
- c) To the extent reasonably possible, each applicant or licensee should pay the investigatory or regulatory costs attributable to their application or license.

2-8.2 FISCAL YEARS

For purpose of this subchapter, a fiscal year shall be the period commencing on October 1 and ending the subsequent September 30.

2-8.3 LICENSE RENEWAL GENERAL PROVISIONS

- a) All classes of gaming licenses, except Casino licenses which remain in force until cancelled, suspended or surrendered, are subject to renewal as provided herein. No license, other than a Casino license, may be renewed later than the date of expiration of the current license.

- b) Any license, other than a Casino license, which is not renewed prior to expiration, will be considered as forfeited. Reinstatement of such a forfeited license will require processing as a new license application including payment of the proper fees associated with initial license issuance as prescribed herein.

2-8.4 PAYMENT OF FEES AND DEPOSITS

- a) No application shall be accepted for filing or processed by the Commission except upon the proper and timely payment of all required fees and deposits in accordance with the Act and these Rules and Regulations. Any portion of an application fee or deposit which is incurred or determined after the filing of the application or which estimated in accordance with this subchapter shall be payable upon demand made by the Commission. Failure to promptly remit any amount so demanded shall be deemed a failure to timely pay the required fee unless the Commission finds cause to permit an extension of time in which to remit the demanded amount.
- b) Except as otherwise provided in the Act and these Rules and Regulations, failure to timely remit fees, or deposits required under this subchapter shall result in suspension of the affected license or application until such time as the full amount of such fee or deposit is paid unless the Commission finds cause to permit extension of time in which to remit the amount due. Except as otherwise provided, failure to remit full amount of a fee or deposit required under this section within thirty (30) calendar days of the date such fee becomes due shall result in permanent forfeiture of the affected license or application unless the licensee or applicant shall show cause for non-forfeiture acceptable to the Commission.
- c) All fees payable under this subchapter shall be paid by check or money order made payable to the "Rota Municipal Treasurer" and presented to the Commission at its offices. No check so presented shall be deemed payment until the Commission shall be satisfied that sufficient funds are contained in the account against which it is drawn. All Casino license application fees and licensing costs deposits shall be payable by cashier's check, certified check, money order or credit card approved by the Commission.

2-8.5 CASINO LICENSE FEES AND DEPOSITS

- a) No application for the issuance of a Hotel/Casino license shall be accepted for filing to the Commission unless a nonrefundable application fee of One Hundred Thousand Dollars (\$100,000.00) is fully paid.
- b) A deposit for processing and investigation cost to be determined by the Commission.

- c) Casino license shall be issued or renewed after the applicant shall first have paid in full an annual license fee of Two Hundred Thousand Dollars (\$200,000.00). The license year for all Casino licenses shall be a fiscal year which ends on September 30.

2-8.6 SPECIAL FEE ASSESSMENTS FOR OTHER PURPOSE

All investigation fees must be shouldered by the applicant and where the initial fee is insufficient, the Commission may require additional funds for the completion of the investigation process. Equally, the Commission shall reimburse any investigation fees not exhausted. The Commission may impose other additional fees that are authorized by the Act.

2-8.7 COSTS OF PROCESSING A CASINO LICENSE APPLICATION

The Commission shall cause all actual costs associated with investigation, hearing and licensing of each Casino license application, as determined necessary by the Commission, to be paid from licensing cost deposits submitted by the affected applicant. With respect to the applicant, officers, principals, shareholders, financiers, contract operators or any other parties which, in the sole view of the Commission, are subject to licensing standards pursuant to the Act, and the Rules and Regulations, actual licensing costs shall include but not be limited to the following:

- a) Professional fees and expenses incidental to investigation of all parties subject to licensing standards;
- b) Expenses incidental to the preparation and conduct of a licensing hearing including expert witnesses or other testimony or evidence considered by the Commission to be relevant to deciding the Casino license application; and
- c) An hourly charge, including a reasonable allowance for overhead, for all time expended by individual Commission members.

2-8.8 FEES AND TAXES

- a) Employee License Fees
 - 1) Casino Key Employees License Fee

A fee of Five Hundred Dollars (\$500.00) each and every Casino Key employee, as defined, shall be paid in full to the Commission prior to the employee engaging in any key employee duties or responsibilities related to the Casino. This shall be one time fee for the duration of the employee serving in the licensed position.

Provided however, that if the employee so licensed assumes a new different employment position, then the employee must pay the appropriate one-time license fee to secure a new license for the new different employment position assumed.

2) Casino Employee License Fee

A fee of Fifty Dollars (\$50.00) for each and every Casino employee, as defined, shall be paid in full to the Commission prior to the employee engaging in any duties and responsibilities. This shall be one-time fee for the duration of the employee serving in the licensed position. Provided however, that if the employee so licensed assumes a new different employment position, then the employee must pay the appropriate one-time license fee to secure a new license for the new different employment position assumed.

3) Hotel Employee License Fee

A fee of Fifty Dollars (\$50.00) for each and every hotel employee shall be paid in full to the Commission prior to the employee engaging in any duties or responsibilities. This shall be a one-time fee for the duration of the employee serving in the licensed position. Provided however, that if the employee so licensed assumes a new different employment position, then the employee must pay the appropriate one-time license fee to secure a new license for the new different employment position assumed.

b) Machine License Fees

1) Machine License fees shall be assessed annually on all mechanical or video devices as part of the games available for play by patrons of the Casino. These includes, but not limited to, slot machines, video Poker machine, video roulette machines, pachinko machines and any and all other video or mechanical or combination machines available for play by patrons in the Casino.

2) License Fees for each machine shall be imposed on a declining scale based on the total number of machines in the Casino. This fee must be remitted to the Commission by October 1st of each fiscal year.

Machines	1-100	\$125.00 per year, per machine
Machines	101-300	\$100.00 per year, per additional machine
Machines	301 or more	\$75.00 per year,

per additional machine

- c) Gaming Table Fees
 - 1) All Casino operators shall submit a list of table games for play to be approved by the Commission.
 - 2) Table fee shall be assessed annually on each gaming table available to play by the patrons in the Casino at the rate of Two Hundred Fifty Dollars (\$250.00) per table.
- d) Casino Gaming and Non-Gaming License Fees
 - 1) No Casino Gaming License shall be issued or renewed unless the applicant shall have first paid in full an annual license fee of Five Thousand Dollars (\$5,000.00). This fee, unlike the Casino license fee, shall be prorated based on the date of issuance of the fiscal year. This fee must be remitted, in full, to the Commission by October 1st of each fiscal year.
 - 2) No Casino Non-Gaming License shall be issued or renewed unless the applicant shall have first paid in full an annual license fee of Two Thousand Five Hundred Dollars (\$2,500.00). This fee, unlike the Casino license fee, shall be prorated based on the date of issuance of the fiscal year. This fee must be remitted, in full, to the Commission by October 1st of each fiscal year.
 - 3) All Casino Gaming and Non-Gaming Service Industry defined in this Section shall be all service industries commencing service to the Casino thirty (30) days prior to the opening. A copy of all documents related to the annual gross and taxes must be provided to the Commission upon remittance of this fee.
- e) Revocation and suspension of Casino Gaming and Non-Gaming Service Industry license are subject to the following:
 - 1) Non payment of all fees described in this Section shall be sufficient grounds for the revocation or suspension of a Casino Service Industry License;
 - 2) Any Casino Gaming and Non-Gaming Service Industry License, whose license is suspended or revoked shall upon notification from the Commission, immediately cease its services to the Casino;
 - 3) All Casino Licenses shall terminate its services from such Casino Service Industry Licensee upon Notification from

the Commission that the License of such Casino Service Industry License has been suspended.

- f) Violation of this Section shall result in penalties assessed against either the Casino Service Industry Licensee or the Casino Licensee, or both, in amount to be determined by the Commission but not to exceed One Hundred Dollars (\$100.00) per day. Penalties are cumulative and imposition of a penalty pursuant to this section. It does not preclude other penalties as provided by the Act and the Rules and Regulations also being imposed against a Casino Service Industry Licensee or the Casino Licensee.

- g) Other Fees
 - 1) Application Form Fee for Hotel/Casino applicant is Five Thousand Dollars (\$5,000.00).
 - 2) Application Form Fee for Casino Gaming or Non-Gaming service provider is Five Hundred Dollars (\$500.00).
 - 3) Petition Fee is Two Thousand Five Hundred Dollars (\$2,500.00).
 - 4) Other fees may be assessed by the Commission as deemed appropriate.

- h) Casino Tax

A Rota Gaming Tax equal to ten percent (10%) of the gross gaming revenue, payable on or before the tenth (10th) day of the following month.

- i) Adjustment of payment of gambling revenue tax in certain circumstances.
 - 1) If the total sums, including checks whether collected or not, actually received in any month by a Casino operator from the conduct of gaming is less than the total of all sums paid out as

winning during that month in respect to gaming, the amount of the difference between the total payment and the total receipt shall for the purpose of assessment of the gambling revenue tax and Casino community benefit levy payable in respect of the next succeeding month be first deducted , to the extent it may be, from the Casino gross revenue of that month.

- 2) Where there is no Casino gross revenue for the month or where the Casino gross revenue for that month is less than the amount of the difference as aforesaid, the amount of the difference or that part thereof that is excess of the Casino gross revenue for that month as the case may be, shall for the purpose of the assessment of gambling revenue tax and Casino community benefit levy payable in respect to the next month thereafter be first deducted, to the extent it may be, from the Casino gross revenue for such next month.
- 3) The operation of this section shall extend, in respect of the amount of the difference between the total payments and the total receipts as aforesaid in any month, only to the two (2) months next succeeding that month. The applications of these calculations of gross revenue and the collection on a monthly basis shall be consistent with the Act.

j) Penalty for late payment

- 1) Penalty at a rate of five percent (5%) shall be charged and become due and payable forthwith on the amount of any Casino license fee or gambling revenue tax remaining unpaid after the date on which it becomes due and payable.
- 2) Additional penalty at the rate of five percent (5%) shall be charged and become due and payable on any part of any amount including penalty that remains unpaid.
 - a) Upon the expiration of one (1) month commencing on the date when the amount first became due and payable; and
 - b) Upon expiration of each month commencing on the like date thereafter.
- 3) Failure to pay the fees and taxes required above, shall cause the Casino license to be automatically suspended on the ninety-first (91st) day past due.
- 4) Any penalty or additional penalty payable under the Rules and Regulation shall be deemed to be a Casino gambling revenue tax.

k) **Liability for Fees and Taxes**

- 1) The Casino licensee is liable for all Fees and Taxes due and payable in accordance with the Act.
- 2) Where the Casino operator is a lessee under a Casino lease, he and the Casino licensee are jointly and severally liable for all Fees and Taxes due and payable in accordance with this Act.
- 3) Where the Casino operator is party to a Casino management with the Casino agreement with the Casino licensee under a Casino lease, he and the Casino licensee or he and the Casino licensee and the lessee, as the case may be jointly and severally liable for all Fees and Taxes due and payable in accordance with this Act.

CHAPTER 3

CASINO SERVICE INDUSTRY PROVIDERS

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CHAPTER 3

CASINO SERVICE INDUSTRY PROVIDERS

3-1.1 DEFINITIONS

The following words and terms, when used in this chapter, have the following meaning unless otherwise indicated.

- a. "Gaming equipment" means any mechanical, electrical or electronic contrivance or machine used in connection with gaming or any game and includes, without limitation, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, chips, plaques, card dealing shoes, drop boxes, and other devices, machines, equipment, items or articles determined by the Commission to be so utilized in gaming as to require licensing of the manufacturers, distributors or services or as to require Commission approval in order to contribute to the integrity of the gaming industry.
- b. "Gaming equipment distributor" means any person who distributes, sells, supplies or markets gaming equipment.
- c. "Gaming equipment industry" means any gaming equipment manufacturer, and any producers or assemblers of gaming equipment(s).
- d. "Gaming equipment manufacturer" means any person who manufactures gaming equipment.
- e. "Gaming equipment servicer" means any person who maintains, services or repairs gaming equipment.
- f. "Sales representative" means any person owning an interest in, employed by or representing a Casino service industry enterprise, who solicits the goods and services or business thereof.
- g. "Security business" or "Casino security service" means any non-governmental enterprise providing physical security services to a Casino, a Casino licensee, an approved hotel or any premises located with a Hotel/Casino complex.

3-1.2 LICENSE REQUIREMENTS

- a) Except as otherwise provided for herein, any enterprise that provides goods or services related to, or transacts business related with, Casino or gaming activity with a Casino applicant or licensee, its employees or agents must be licensed by the Commission. The Commission may

permit an applicant for a Casino service industry license to conduct business transactions with such Casino applicant or licensee prior to the licensure of the Casino service industry license applicant upon a showing of good cause by a Casino applicant or licensee for each business transaction. The following enterprises must be licensed as a Casino service industry.

- 1) Any form of enterprise which manufactures, supplies or distributes devices, machines, equipment, items or articles specifically designed for use in the operation of a Casino or needed to conduct a game including, but not limited to, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, gaming chips, gaming plagues, slot tokens, card dealing shoes and drop boxes; or
 - 2) Any form of enterprise which provides maintenance, service or repair pertaining to devices, machines, equipment, items, or articles specifically designed for use in the operation of a Casino or needed to conduct a game; or
 - 3) Any form of enterprise which provides service directly related to the operation, regulation or management of a Casino including, but not limited to, gaming schools teaching gaming and either playing or dealing techniques, Casino security enterprises, Casino credit collection enterprises; or
 - 4) Any form of enterprise which provides such other goods or services determined by the Commission to be so utilized in or incidental to gaming or Casino activity as to require licensing in order to contribute to the integrity of the gaming industry in Rota.
- b) Unless otherwise licensed in accordance with (a) above, no enterprise is permitted to, on a regular or continuing basis, provide goods or services regarding the realty, construction, maintenance, or business of a proposed or existing Hotel/Casino or related facility to a Casino applicant or licensee, its employees or agents unless such enterprise is licensed or exempted in accordance with this Rules and Regulations. In determining whether an enterprise is subject to the requirements of this subsection, it shall not matter whether the Casino applicant or licensee is a party to any agreement pursuant to which said goods or services are being provided. Enterprises subject to the provisions of this subsection includes, but is not limited to, suppliers of alcoholic beverages, food and nonalcoholic beverages, garbage handlers, vending machine

providers, linen suppliers, maintenance companies, shop-keepers located within the approved hotel, limousine services and construction companies contracting with Casino applicants or licensees or their employees or agents.

- c) In determining if a person or enterprise does or will, on a regular or continuing basis, provide goods or services regarding the realty, construction, maintenance, or business of a proposed or existing Hotel/Casino or related facility to Casino applicants or licensees, their employees or agents, the following factors shall be considered:
- 1) Number of transactions;
 - 2) Frequency of transactions;
 - 3) Dollar amounts of transactions;
 - 4) Nature of goods or services provided or business transacted;
 - 5) Maximum potential period of time necessary to fully provide the goods, perform the services or complete the business which is the subject of the transaction; and
 - 6) The recommendation of the Executive Director or his designee;
- d) Notwithstanding the provisions of (c) above, persons and enterprises which provide, or imminently will provide, goods or services regarding realty, construction, maintenance, or business of a proposed or existing Hotel/Casino or related facility to Casino applicants or licensees, their employees or agents shall, unless otherwise determined by the Commission, be deemed to be transacting such business on a regular or continuing basis if, the total dollar amount of such transactions with a single Casino applicant or licensee, its employees or agents, is or will be equal to or greater than Fifty Thousand Dollars (\$50,000.00) within any twelve (12) month period.
- e) The word "transaction" for purposes of this section, must be construed to effectuate the public interest and the policies of the Commission.

3-1.3 STANDARDS FOR QUALIFICATIONS

- a) The general Rules and Regulations relating to standards for qualification are set forth in the Rules and Regulations and are incorporated herein.

- b) Each applicant required to be licensed as a Casino service industry in accordance with these Rules and Regulations including gaming schools, must, prior to the issuance of any Casino service industry license, produce such information, documentation and assurances to establish by clear and convincing evidence:
- 1) The financial stability, integrity and responsibility of the applicant;
 - 2) The applicant's good character, honesty and integrity;
 - 3) That the applicant, either himself or through his employees, has sufficient business ability and experience to establish, operate and maintain his enterprise with reasonable prospects for successful operation;
 - 4) That all owners, management and supervisory personnel, principal employees and sales representatives qualify under the standards established for qualification of a Casino key employee.
 - 5) The integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidence of indebtedness, either in effect or proposed, which bears any relationship to the enterprise; and
 - 6) The integrity of all officers, directors, and trustees of the applicant.
- c) Each applicant required to be licensed as a Casino service industry in accordance shall, prior to the issuance of any Casino service industry license, produce such information and documentation, including without limitation as to the generality of the foregoing its financial books and records, assurances to establish by clear and convincing evidence its good character, honesty and integrity.
- d) Any enterprise directed to file an application for a Casino service industry license pursuant to these Rules and Regulations may request permission from the Commission to submit a modified form of such application. The Commission, in its discretion, may permit such modification if the enterprise can demonstrate to the Commission's satisfaction that securities issued are listed, or are approved for listing upon notice of issuance, on the New York Stock Exchange or the American Stock Exchange or any other major foreign Stock Exchange.

- e) Any modifications of a Casino service industry license application permitted pursuant to this section may be in any form deemed appropriate by the Commission except that the application for modification must include the following:
- 1) The appropriate Personal History Disclosure Forms for all those individuals required to so file by the Commission; and
 - 2) Copies of all filings required by the United States Securities and Exchange Commission including all 10K's, 10Q's, 8K's, proxy statements and quarterly reports issued by the applicant during the two immediately preceding fiscal years or reports filed pursuant to the requirements of another regulatory body dealing with securities; and
 - 3) Properly executed Consents to Inspections, Waivers of Liability for Disclosures of Information and Consents to Examination of Accounts and Records in forms as prescribed by the Commission; and
 - 4) Payment of the appropriate Casino service industry fee; and
 - 5) Any other information or documentation required at any time by the Commission.

3-1.4 PERSONS REQUIRED TO BE QUALIFIED

The general Rules and Regulations relating to the persons required to be qualified prior to the issuance of a Casino service industry license are set forth in the Rules and Regulations in Section 2-4.2

3-1.5 DISQUALIFICATION CRITERIA

A Casino service industry license may be denied to any applicant who has failed to prove by clear and convincing evidence that he or any of the persons who is qualified under any of the criteria set forth in Section 2-5.2(b) of the Rules and Regulations.

3-1.6 COMPETITION

The Commission has the power and the duty to regulate, control and prevent economic concentration in Casino operations and in Casino service industries so as to encourage and preserve competition.

3-1.7 INVESTIGATION; SUPPLEMENTARY INFORMATION

The Commission may inquire or investigate an applicant, licensee or any person involved with an applicant or licensee as it deems appropriate either at the time of the initial application and licensure or at any time thereafter. It is the continuing duty of all applicants and licensees to provide full cooperation to the Commission in the conduct of such inquiry or investigation and to provide any supplementary information requested by the Commission.

3-1.8 RENEWAL OF LICENSES

- a) An application for renewal of a license shall be filed annually no later than thirty (30) days prior to the expiration of its license. The application for renewal of a license must be accompanied by the prescribed fee and need to contain only that information which represents or reflects changes, deletions, additions or modifications to the information previously filed with the Commission
- b) A change in any item that was a condition of the original license or of a license renewal must be approved by the Commission. A change in ownership shall invalidate any approval previously given by the Commission. The proposed new owner is required to submit an application for licensure and evidence that he is qualified for licensure.

3-1.9 RECORD KEEPING

- a) All Casino service industry licensees must maintain adequate records of business operations which shall be made available to the Commission upon request; the records must be maintained in a place secure from theft, loss or destruction Adequate records include:
 - 1) All correspondence with the Commission and other governmental agencies on the local, State and National level;
 - 2) All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing Hotel/Casino or related facility.
 - 3) All copies of promotional material and advertisement;
 - 4) All personnel file of each employees or agent of the licensee, including sales representatives; and

- 5) All financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing Hotel/Casino or related facility.
- b) Adequate records as listed in subsection (a) above must be held for at least seven (7) years.

3-1.10 RECORD OF GAMING EQUIPMENT INVENTORY

- a) A manufacturer of all gaming machines/equipments but not limited to slot machines, keno games, roulette and big six wheels shall permanently affix an identification plate on each piece of gaming equipment that is clearly visible, showing an identification or serial number, the date of manufacture and the name of the manufacturer.
- b) A manufacturer of the gaming machine/equipment must maintain a record for all periods of registration that it supplies a Casino operator as a Casino gaming-related supplier of gaming equipment.
- c) A Casino operator must maintain a record of each gaming machine/equipment that includes, but not limited to:
 - 1. Name of the manufacturer of each piece of gaming machine/equipment;
 - 2. Date of manufacture;
 - 3. Serial or identification number;
 - 4. Date of delivery to the Casino operator;
 - 5. Current post-delivery status;
 - 6. Disposal date and method; and
 - 7. Name of purchaser at disposal.

3-1.11 EQUIPMENT TESTING COST

- a) All gaming machine/equipment used in the playing of games of chance in the Casino will be subject to random testing by the Commission or its agents at times to be determined by the Commission.
- b) All gaming machine/equipment must pay out a mathematically demonstrable percentage of all amounts wagered subject to the approval of the Commission.

- c) Malfunctioning gaming machine/equipment which have an impact or effect on the performance and/or payout of the game must not be made available for play.

3-1.12 GAMES OF CHANCE

- a) A Casino operator must submit to the Commission for approval, a complete listing and description of any game of chance proposed for play in a Casino that the operator intends to offer for play.
- b) For each game of chance submitted, the Casino operator must provide the rules of play to the Commission.

3-1.13 HARDWARE REQUIREMENTS

- a) Identification plates

An unmovable identification plate containing the following information must appear on the exterior of each gaming equipment and be visible:

- 1) Manufacturer;
- 2) Serial number; and
- 3) Model number.

- b) Power interrupts circuit

- 1) A power interrupt circuit must be installed in all appropriate gaming equipment.
- 2) A battery backup device is required that is capable of maintaining accurate required information after power is discontinued.
- 3) The backup device must be kept within the locked or sealed logic board compartment.

- c) Electromagnetic interference

Each machine or other gaming equipment shall be designed and constructed so that its operation is not adversely affected by static discharge or other electro-magnetic interference.

- d) Each Casino operator must submit its hardware accessories requirements, operational and control system, including, but is not limited to:

- 1) Coin and token;
- 2) Bill Validators;
- 3) Automatic light - alarm;
- 4) Protection of logic boards and memory components;
- 5) Hardware switches;
- 6) Drop bucket; and
- 7) Hopper.

3-1.14 SOFTWARE REQUIREMENTS

Casino Operators must provide to the Commission for approval of its software requirements.

- a) Machine Percentage payout
- b) Machine Control programs
- c) Continuation of game after malfunction is cleared
- d) Machine Specifications – Error Conditions
 - 1) Automatic Clearing
 - 2) Clearing by attendant
 - 3) Computer monitoring requirement for machines
- e) Standards respecting progressive slot machines
- f) Meter requirements
- g) Jackpot Limits
- h) Transfer of jackpots
- i) Linked jackpot arrangements, and or
- j) Associated Equipment.

3-1.15 CAUSE FOR SUSPENSION, FAILURE TO RENEW OR REVOCATION OF A LICENSE

Any of the following is cause for suspension, refusal to renew or revocation of a Casino service industry license; refusal to renew or a revocation may be issued for sufficient cause, other than those listed:

- (a) Violation of any provision of the Act or this Rules and Regulations;
- (b) Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
- (c) Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations; or
- (d) A material departure from any representation made in the application for licensure.

3-1.16 FEES

All fees must comply with the requirements under Chapter 2, section 2-8.8.

3-1.17 EXEMPTION

The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce from the Casino service industry licensure requirements pursuant to the Rules and Regulations in Section 2-2.2 (d).

3-1.18 CASINO SERVICE INDUSTRY LICENSE

No Casino service industry license will be issued unless the individual qualifications of each of the following persons have first been established in accordance with all provisions, including those cited, in the Act and of the Rules and Regulations:

- a) The enterprise;
- b) If the enterprise is, or if it is to become a subsidiary, each holding company and each intermediary company which the Commission deems necessary in order to further the purposes of the Act;
- c) Each owner of the enterprise who directly or indirectly holds any beneficial interest or ownership in excess of five (5%) percent of the enterprise;

- d) Each owner of a holding company or intermediary company who the Commission necessary in order to further the purposes of the Act;
- e) Each director of the enterprise except a director who, in the opinion of the Commission is significantly not involved in or connected with the management or ownership of the enterprise shall not be required to qualify;
- f) Each officer of the enterprise who is significantly involved in or has authority over the conduct of business directly related to Casino or gaming activity and each officer whom the Commission may consider appropriate for qualification in order to ensure the good character, honesty and integrity of the enterprise;
- g) Each officer of a holding company or intermediary company whom the Commission may consider appropriate for qualification in order to ensure the good character, honesty and integrity of the enterprise;
- h) The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a Casino licensee;
- i) Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from Casino licensees; and
- j) Any other person whom the Commission may consider appropriate for approval or qualification.

3-1.19 MASTER VENDORS LIST

- a) Each Casino licensee must establish a listing of all vendors in which it conducts business irrespective of the amount of business transacted;

This listing must include, at a minimum, the following information:

- 1) Name of the company or individual, if sole proprietor;
- 2) Address of company or sole proprietor;
- 3) Amount of business for the month;

- 4) If the licensee is a company, then a listing of the officers and stockholders of the company;
 - 5) A listing of the employees involved with the Casino licensee; and
 - 6) Any other information the Commission determines to be necessary to track levels of business.
- b) By no later than the fifth (5th) of each month, each Casino licensee shall file with the Commission in either a written format or via computer disk or flash drive that is compatible with equipment utilized by the Commission its master vendor list with the information set forth in subsection (a) above.

CHAPTER 4

HEARINGS

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SUBCHAPTER 1. GENERAL PROVISIONS

4-1.1 DEFINITIONS

As used in this chapter, the term:

“Contested case” means any proceeding, including any licensing proceedings, in which the legal right, duties, obligations, privileges, benefits or other legal relation of specific parties are required by constitutional rights or by statute to be determined by any agency by decisions, determinations, or orders, addressed to a party or disposing of its interest after opportunity for an agency hearing:

“Interested person” means any person whose specific legal rights, duties, obligations, privileges, benefit or other specific legal relation are affected by the adoption, amendment, or repeal of a specific regulation or by any decision, order or ruling of the Commission.

“Party” means any person or entity directly involved in a contested case, including petitioner, respondent, intervener, or agency of the Commonwealth of the Northern Mariana Islands proceeding in any such capacity;

“Emergency Orders” means an order issued by the Commission for immediate action/relief.

4-1.2 APPLICABILITY OF RULES

- a) In addition to the Administrative Procedure Rules (APR), the provisions of the Act and the Rules and Regulations in this chapter apply to an appropriate contested case hearing.
- b) To the extent that the Act and the Rules and Regulations in this chapter are inconsistent with APR, the former shall apply.

4-1.3 CONDUCT OF CONTESTED CASE HEARINGS

- a) At all hearings of the Commission in contested cases, unless the Commission hears the matter directly, the chairman may designate a member of the Commission to serve as a hearing Commissioner or shall designate a hearing examiner to serve as a hearing officer. When the Commission hears the matter directly, the chairman must serve as presiding officer.
- b) In the event that the designated hearing commissioner is unavailable prior to the filing of the recommended report and decision for consideration by the Commission, the chairman may either designate another hearing Commissioner or transfer the proceedings to the entire

Commission. In such event, and consistent with the requirements of due process, the Commission or the designated hearing Commissioner may either continue the hearing and render a decision upon the entire record or begin the hearing anew.

SUBCHAPTER 2. RULES CONCERNING ALL CONTESTED CASES

4-2.1 RULES CONCERNING ALL CONTESTED CASES

- a) Whether a contested case hearing is conducted by the Commission, by a hearing Commissioner or Hearing Examiner, in addition to any authority granted in the APR, the Chairman, the Hearing Commissioner or the Hearing Examiner, as the case may be, has the authority to:
 - 1) Administer oaths and to require testimony to;
 - 2) Serve process or notices in a manner provided for the service of process and notice in civil actions in accordance with the rules of court;
 - 3) Issue subpoenas and compel the attendance of witnesses;
 - 4) Propound written interrogatories;
 - 5) Take official notice of any generally accepted information or technical or scientific manner in the field of gaming and any other fact which may judicially noticed by the courts of this Commonwealth; and
 - 6) Permit the filing of amended or supplemental pleadings.

- b) Whether a contested case hearing is conducted by the Commission, a hearing commissioner or hearing examiner, and in addition to any rights granted in the APR, the parties have the right to:
 - 1) Call and examine witnesses;
 - 2) Introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the Commission;
 - 3) Cross examine opposing witnesses in any matters relevant to the issues of the case;

- 4) Impeach any witness, regardless of which party called him to testify;
 - 5) Offer rebuttal evidence; and
 - 6) Stipulate and agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection.
- c) In any contested case, the Commission has authority to:
- 1) Grant testimonial immunity, and
 - 2) Order of rehearing.
- d) In any contested case held, the following special rules of evidence apply:
- 1) Any relevant evidence, not subject to a claim of privilege, may be admitted regardless of any rule of evidence which would bar such evidence in judicial matters;
 - 2) Evidence admitted pursuant to (c)(1) above is sufficient in itself to support a finding, if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affair; and
 - 3) If an applicant, licensee, registrant or person that qualified pursuant to the Act and this regulation is a party, then such party must not testify on its behalf; however, the party may be called and examined as if under cross-examination.

SUBCHAPTER 3. RULES CONCERNING APPLICATION HEARINGS

4-3.1 RIGHTS TO HEARINGS; REQUEST, WRITTEN NOTICE

- a) When the Commission has been provided with all required information necessary for action, the Commission must serve the applicant personally by certified mail, to the address on file with the Commission or by facsimile, or secured email, a written notice of the applicant's right to a hearing and the applicant's responsibility to request a hearing; the Commission may on its own motion direct a hearing to be held.

- b) The applicant may file with the Commission a request for hearing within fifteen (15) days after service of the written notice of right to a hearing and responsibility to request a hearing

4-3.2 PROCEDURE WHEN NO HEARING IS HELD

In any case in which no timely request for a hearing has been filed in which the Commission has not directed a hearing, the Commission must take a final action on the application within ninety (90) days after the receipt of all required information and the completion of any investigation. .

4-3.3 BURDEN OF PROOF

- a) The applicant, licensee or registrant has the affirmative responsibility of establishing its individual qualifications by clear and convincing evidence.
- b) An applicant for a Casino license has the affirmative responsibility of establishing by clear and convincing evidence:
 - 1) Individual qualification;
 - 2) The qualification of each person who is required to be qualified under this Rules and Regulations; and
 - 3) The qualification of the facility in which the Casino is to be located.

4-3.4 APPROVAL AND DENIAL OF APPLICATIONS

- a) The Commission has the authority to grant or deny any application pursuant to the provisions of the Act and of this Rules and Regulations;
- b) After the Commission has granted an application for a Casino license or a conditional Casino license but before issuing such license, the Commission must: :
 - 1) Require the applicant to tender all license fees and taxes as required by law and the Rules and Regulations adopted pursuant to the Act;
 - 2) Require the applicant to push such bond as the Commission may require for the faithful performance of all requirements imposed by the law or regulation; the Commission will fix the amount of the bond or bonds to be required under this subsection in such amounts as it may deem appropriate, according to this title.

- c) Before granting any application other than for a Casino license, the Commission must:
 - 1. Limit or place such restrictions thereupon as the Commission may deem necessary in the public interest; and
 - 2. Require the applicant to tender all license fees as required by law and regulations adopted pursuant to the Act.

SUBCHAPTER 4. RULES CONCERNING PROCEEDINGS AGAINST APPLICANTS, LICENSEES AND REGISTRANTS

4-4.1 COMMENCEMENT OF COMPLAINT

Any proceeding against an applicant, licensee or registrant must be initiated and indicated by a written complaint; the complaint must include a statement set forth in an ordinary and concise language the charges and acts or omissions supporting such charges.

4-4.2 SERVICE OF COMPLAINT

Within fourteen (14) days of filing of the complaint, the Commission must serve a copy upon the applicant, licensee or registrant personally, by certified mail, by facsimile or by secured email to the address on the file with the Commission.

4-4.3 NOTICE OF DEFENSE

- a) Within fifteen (15) days after service of the complaint, the applicant, licensee or registrant may file with the Commission a notice of defense, in which he may:
 - 1) Request a hearing;
 - 2) Admit or deny the allegations in whole or in part;
 - 3) Present new matters or explanations by way of defense; or
 - 4) State any legal objection to the complaint.
- b) Within the time specified, the applicant or licensee may file one or more notices of defense upon any or all of the above grounds.

4-4.4 RIGHT TO HEARING; WAIVER

The applicant or licensee is entitled to an evidentiary hearing on the complaint if it files and serves the required notice of defense within the time allowed herein; such notice of defense is deemed a specific denial of all parts of the complaint which is not expressly admitted. Failure to file and serve a notice of defense within such time constitutes a waiver of the right of the hearing, but the Commission, in its discretion may nevertheless order a hearing. All affirmative defenses must be specifically stated, and unless objection is taken, as provided therein, all objections to the form of complaint is deemed waived.

4-4.5 NOTICE OF HEARING

The Commission will determine the time and place of hearing as soon as is reasonably practical after receiving the notice of defense. The Commission will deliver or send by certified mail, facsimile or secured email a notice to all parties at least ten (10) days prior to the hearing.

4-4.6 REVOCATION OF LICENSE OR REGISTRATION; HEARING

The Commission will not revoke or suspend any license unless it has first afforded the licensee opportunity for a hearing. Such hearing must be held in accordance with the provision of this Chapter, subchapter 2.

4-4.7 EMERGENCY ORDERS; HEARINGS; COMPLAINTS

Within five (5) days after the issuance of an emergency order pursuant to this regulation, the Commission will cause a complaint to be filed and served upon the person involved in accordance with the provisions of the regulation. Thereafter, the person against whom the emergency order has been issued and served is entitled to a hearing before the Commission. A person may request a hearing in accordance with the provisions of this Chapter, subchapter 3.

SUBCHAPTER 5. HEARING ON REGULATIONS

4-5.1 HEARING ON REGULATIONS

- a) The Commission must adopt, amend and repeal regulations in accordance with the provisions of the Administrative Procedure Act;
- b) Consistent with the requirements of the Act and the Administrative Procedure Act, the Commission may, in its discretion, conduct hearings concerning the adoption, amendment or repeal of its regulations.

- c) Any public hearing held in connection with the propose regulation shall be conducted in accordance with the Administrative Procedures Act.
- d) The Commission must provide at least fifteen (15) days notice of any public hearing conducted in connection with the proposed regulation. Such notice must be published in the Commonwealth Register or provided in a manner reasonably calculated to reach the interested public in accordance with 1 CMC § 9104.
- e) At the hearing held in connection with the propose regulations, all interested parties will be afforded the opportunity to attend and to appear before the Commission to submit oral agreement in support of or in opposition to the proposed regulations. Such participation does not include the right to present evidence or to cross-examine witnesses, which may permitted solely in the discretion of the Commission.
 - 1) The Commission may require notice in advance of the date of the proceedings of any individual's intent to participate.
 - 2) This section shall not be construed to establish a right of any individual to appear before the Commission in the event that the Commission may act at a subsequent date to adopt the proposed regulations.

SUBCHAPTER 6. DECLARATORY RULINGS

4-6.1 DECLARATORY RULINGS

- a) Any interested person may request that the Commission render a declaratory ruling with respect to the applicability to any person, property or state of facts of any provision of the Act or the Rules and Regulations.
- b) A request for a declaratory ruling must be initiated by a petition. The petition must include the following items with specificity:
 - 1) The nature of request and the reasons thereof;
 - 2) The facts of the circumstances underlying the request;
 - 3) Legal authority and argument in support of the request; and
 - 4) The remedy or result desired.
- c) If the Commission, in its discretion, decides to render a declaratory ruling, a hearing shall be afforded prior to the rendering of such ruling.

- 1) If disputed issues of fact exists which must be resolved in order to determine the rights, duties, obligations, privileges, benefits or other legal relation or specific parties, then a hearing must be conducted in accordance with this Chapter, subchapter 2.
 - 2) If no such disputed issues of fact exists as identified in the above mentioned (c)(1), the matter will proceed with the petition, and with any other papers requested of the parties, and oral argument, if permitted, by the Commission.
- d) In appropriate cases, the Commission may notify persons who may be interested in or affected by the subject of the declaratory ruling. In such cases, the Commission may afford these persons an opportunity to intervene as parties or to otherwise present their views in appropriate manner which is consistent with the rights of parties.

SUBCHAPTER 7 STATEMENTS OF COMPLIANCE

4-7.1 STATEMENT OF COMPLIANCE

- a) A hearing will be afforded prior to the Commission's determination to grant or deny the issuance of a Statement of Compliance. The matter shall proceed with the petition, in compliance with this Chapter's subsection 2-6.2 of the Rules and Regulations, any other papers requested of these parties, and oral argument, if permitted by the Commission.
- b) In appropriate cases, the Commission may notify persons who may be interested in or affected by the subject of the Statement of Compliance. In the case, the Commission may afford these persons an opportunity to intervene as parties or otherwise present their views in an appropriate manner which is consistent with the rights of the parties.

CHAPTER 5
INTERNAL CONTROL
ADMINISTRATIVE AND ACCOUNTING PROCEDURES
AND AUDIT REQUIREMENTS

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CHAPTER 5

INTERNAL CONTROLS

ADMINISTRATIVE AND ACCOUNTING PROCEDURES AND AUDIT REQUIREMENTS

5-1.1 SYSTEM OF CONTROLS AND PROCEDURES

- a) A Casino operator must submit to the Executive Director for the approval of the Commission;
 - 1) A description of the system of internal controls and administrative and accounting procedures proposed by the Casino operator in connection with the operation of the Casino; and
 - 2) Details of changes proposed to any such controls and procedures previously approved by the Commission.
- b) The submission must be made not later than ninety (90) days prior to the date for commencement of the operation of the Casino or the implementation of the proposed changes, provided that the Commission may for sufficient cause direct that a particular submission may be made not later than a date determined that is closer to the date for the commencement or implantation as aforesaid.

5-1.2 CONTENT OF SUBMISSION

A submission of the description of the system of internal controls and administrative and accounting procedure must contain both narrative and diagrammatic representation of the system to be utilized by the Casino operator, including, but not limited to:

- a) Accounting procedures, including the standardization of forms and definition of terms, not inconsistent with this Rules and Regulations, to be utilized in the gaming operation;
- b) Procedures, forms and, where appropriate, formula for or with respect to:
 - 1) Hold percentages and calculations thereof;
 - 2) Revenue drop;
 - 3) Expense and overhead schedules;
 - 4) Complimentary services;

- 5) Salary arrangements; and
- 6) Personnel practices.
- c) Job descriptions and the system of organizing personnel and chain of command authority such as to establish diversity of responsibility among employees engaged in Casino operations and identification of primary and secondary supervisory positions for areas of responsibility, which areas shall not be extensive as to be impractical for an individual to supervise effectively;
- d) Procedures for the conduct and playing of games;
- e) Procedures within a cashier's cage for the receipt, storage and disbursal of chips and cash, the cashing of checks, the redemption of chips and the recording of all transactions pertaining to gaming operations;
- f) Procedures for the collection and security of moneys at the gaming tables and other places in the Casino where games are conducted;
- g) Procedures and forms for the transfer of chips to and from the gaming tables and other places in the Casino where games are conducted from and to a cashier's cage;
- h) Procedures for the transfer of moneys from the gaming tables and other places in the Casino where games are conducted to other areas of the Casino for counting;
- i) Procedures and forms for the transfer of moneys or chips from and to any gaming area;
- j) Procedures and security for the counting and recording of revenue;
- k) Procedures and security for the transfer of moneys to and from a bank from and to the Casino;
- l) Procedures for the security, storage and recording of chips utilized in the gaming operations;
- m) Procedures and standards for the maintenance, security and storage of any gaming equipment;

- n) Procedures for the payment and recording of winnings associated with any games where such winnings are paid by cash or check;
- o) Procedures for the issue of chip purchase vouchers and the recording of transactions in connection therewith;
- p) Procedures for the cashing and recording of check transactions;
- q) Procedures for the establishment and use of deposit advance accounts;
- r) Procedures for the use and maintenance of security and surveillance facilities, including catwalk systems and closed circuit television systems;
- s) Procedures governing the utilization of security personnel within the Casino;
- t) Procedures for the control of keys used or for use in Casino operations;
- u) Procedures for the establishment and maintenance of the cash reserves and provide the standard and actual amount of cash reserves; and
- v) Other procedures as required by the Commission.

5-1.3 COMMISSION'S APPROVAL

- a) The Executive Director shall review each submission received as described in Section 5-1.2 above and advise the Commission;
 - 1) Whether it is in conformity with the requirements of this Rules and Regulations; and
 - 2) In a case referred to in Section 5-1.1(a)2, whether the system of controls and procedures provides satisfactory and effective control over the operations of the Casino; or
 - 3) In a case referred to in Section 5-1.1(a)2, whether the system of controls and procedures as previously approved as altered in accordance with the changes proposed provides satisfactory and effective control over the operations of the Casino.
- b) If the Executive Director considers that:

- 1) The submission is not in conformity with the requirements of this Rules and Regulations; and
 - 2) The system of controls and procedures does not provide satisfactory and effective control over the operations of the Casino, either as a system in the first instance or as a system as changed in accordance with proposed alterations, must first, before advising the Commission, inform the Casino accordingly and specify the steps to be taken for the submission to be in compliance with the requirements of this Rules and Regulations or for the system (in the first instance or as changed) to provide satisfactory and effective control over the operations of the Casino.
- c) The Casino operator, in order for his submission to proceed, shall take the steps to be taken as specified by the Executive Director.
- d) Where the Executive Director advises the Commission that the submission complies with the requirements of this regulation and that the system of controls and procedures provides satisfactory and effective control over the operations of the Casino, either in the first instance or as changed in accordance with proposed alteration, the Commission must approve the system or proposed changes accordingly.
- e) The Commission may require in a written notice for a Casino operator to alter any part of the system of controls and procedure by a date specified in the notice.
- 1) The notice must stipulate the alteration to be made.
 - 2) The alterations on the system of controls and procedures in connection with the operation of the Casino must be by the date specified in the notice.
- f) A Casino operator must not:
- 1) Conduct gaming in a Casino unless the system of controls and procedures as aforesaid has been;
 - (i) Approved by the Commission; and
 - (ii) Implemented by the Casino operator.
 - 2) Change the system that was approved by the Commission unless any changes proposed are first approved by the Commission.

- g) The provisions of Chapter 4, Subchapter 3.1 are applicable to this section.

5-1.4 BOOKS, ETC., TO BE KEPT ON PREMISES

- a) All books, records and documents relating to the operation of the Hotel/Casino complex or the Casino must be kept by the Casino operator on the Hotel/Casino complex premises.
- b) The Commission may by written notice:
 - 1) Exempt the Casino operator from compliance with Subsection (a) above either in respect of all books, records and documents or some of them as specified by it for reasons considered by it to be sufficient.
 - 2) Generally or specifically approve books, records and documents to be removed temporarily from the Hotel / Casino or Casino to another location.
- c) Subject to any other Act or law relating to the retention or destruction of books, records and documents, all books, records and documents as referred to in Subsection (a) above must be retained by the Casino operator for a period of seven (7) years after the completion of the transactions to which they relate, provided that the Executive Director may, on the application of the Casino operator, approve;
 - 1) The retention of books, records or documents in an alternative form or manner; or
 - 2) The destruction of any of the books, records or documents not considered to be essential at a time prior to the expiration of the period as aforesaid.

5-1.5 KEEPING OF BANK ACCOUNTS

A Casino operator must keep and maintain separate bank accounts as approved by the Commission in a bank in the Commonwealth of the Northern Mariana Islands for use for all banking transactions relating to the operations of the Hotel/Casino complex or the Casino. Upon execution of an appropriate waiver, consistent with "The Right to Financial Privacy Act," 12 U.S.C. § 3401 et seq. and 4 CMC § 6454, an applicant or licensee shall be deemed to have given to the Commission an unconditional and irrevocable grant of authority to inspect, on demand, and without notice to such applicant or licensee, the applicant's or licensee's bank accounts and bank records wherever said bank is located as well as a grant by an applicant or licensee to its bank of indemnification for the release of any such otherwise confidential information.

5-1.6 ACCOUNTS TO BE KEPT

A Casino operator must:

- a) Keep correctly recorded accounting records that accurately explains the transactions and financial position of the operation of the Hotel/Casino complex or the Casino; and
- b) Keep its accounting records in such a manner as will enable;
 - (i) True and fair financial statements and accounts to be prepared from time to time;
 - (ii) That the Casino operator's financial statements and accounts to be conveniently and properly audited.

5-1.7 FINANCIAL STATEMENTS AND ACCOUNT

A Casino operator must prepare financial statements and accounts that is a true and fair view of its financial operations in respect to the Hotel/Casino complex or the Casino; the financial statements and accounts must include:

- a) Trading accounts, where applicable for the financial year;
- b) Profit and loss accounts for the financial year; and
- c) Balance sheet at the end of the financial year.

5-1.8 SUBMISSION OF REPORTS

- a) A Casino operator must submit to the Executive Director, at such times as are prescribed by the Commission, reports relating to the operations of the Hotel/Casino complex or the Casino.
- b) If Executive Director determines that any such report is not in compliance with required information, the Executive Director may instruct the Casino operator to submit information as necessary to be in compliance within a time determined by the Executive Director; the Casino operator must supply the additional information within the time determined..

5-1.9 AUDIT PROVISIONS

- a) A Casino operator must at his own expense cause his books, accounts, and financial statements relating to the operations of the Hotel/Casino or Casino to be audited by a person who:
 - 1) Is a certified public accountant; and
 - 2) Is approved by the Commission.
- b) The auditor must complete the audit within four (4) months of the close of the financial year and immediately upon completion thereof submit all reports to Casino operator and the Commission.

5-1.10 WIDER APPLICATION OF CERTAIN PROVISIONS OF THIS CHAPTER

- a) In this section, reference to “person other than the actual operator” is a reference to a Casino licensee or a lessee under a Casino lease or to each of them a Casino licensee and a lessee under a Casino lease, as the case requires, where there is a either a Casino lease or a Casino management agreement or both.
- b) The provision of Section 5-1.4 to 5-1.9 apply to and impose obligations and liabilities on a person other than the actual operator in respect of all matters relating to the operations of the Hotel/Casino complex or the Casino, according to its interest or association therewith to the same extent in all respects as they do in the case of the Casino operator under a Casino management agreement.



SAIPAN HIGHER EDUCATION FINANCIAL ASSISTANCE (S H E F A)
Office of the Mayor
Municipality of Saipan

BOARD MEMBERS

- Felicidad T. Ogomoro
- Jose C. Leon Guerrero
- Howard I. Macaranas
- Max "Timmo" Olopai
- Perry P. Tenorio
- Mayor Juan Borja Tudela
(ex officio)

NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED RULES
AND REGULATIONS FOR THE SAIPAN HIGHER EDUCATION
FINANCIAL ASSISTANCE (SHEFA)

I, Felicidad T. Ogomoro, Chairwoman of the Board of Directors of the Saipan Higher Education Financial Assistance (SHEFA) which is promulgating the rules and regulations of the Saipan Higher Education Financial Assistance pursuant to Saipan Local Law 13-21 for the Municipality of Saipan as published in the Commonwealth Register in Volume 30, Number 09 on September 25, 2008 at page 028739, by signature below hereby certify that the rules and regulations published therein are true, complete and correct copy of the Rules and Regulations previously published by the Board of Directors of the Saipan Higher Education Financial Assistance within the Office of the Mayor of Saipan, which after the expiration of appropriate time for public comment, have already been adopted without modification or amendment. I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 5, 2008, in Saipan, Commonwealth of the Northern Mariana Islands.

Felicidad T. Ogomoro
Chairwoman
Board of Directors

Saipan Higher Education Financial Assistance (SHEFA)

Filed & Recorded by:

Esther M. San Nicolas
Commonwealth Register

12-12-08
Date

Pursuant to 1 CMC Section 2153 as amended, the above certificate has been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Gregory Baka
Acting Attorney General

12 Dec 08
Date



Commonwealth of the Northern Mariana Islands
Office of the Attorney General
Division of Immigration

Melvin Grey, Director, Division of Immigration
P.O. Box 10007, Saipan, MP 96950-8907
tel: 670-236-0920 fax: 670-664-3190

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REVISIONS TO THE DIVISION OF IMMIGRATION RULES AND REGULATIONS**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS
Volume 30, Number 10, pp. 028801-028857 of October 25, 2008

**Immigration Rules and Regulations of the Office of the Attorney General, Division
of Immigration, Part 5, Subchapter 40**

ACTION TO ADOPT PROPOSED RULES AND REGULATIONS: The Office of the Attorney General, Division of Immigration, Commonwealth of the Northern Mariana Islands, HEREBY ADOPTS AS PERMANENT the Proposed Immigration Rules and Regulations which were published in the Commonwealth Register at Vol. 30, Number 10, pp. 028801, et seq. of October 25, 2008, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Office of the Attorney General, Immigration Division, announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that, as published, such adopted Rules and Regulations are a true, complete and correct copy of the referenced Proposed Immigration Rules and Regulations and that they are being adopted without modification or amendment, except as stated as follows, which changes are non-material:

1. Section 5-40.0-200 (c) has been amended to include U.S. permanent residents in the definition of "citizen." U.S. permanent residents are accorded the same status as U.S. citizens for most immigration purposes. This is a non-material change which simply clarifies and affirms the status quo.
2. Section 5-40.3-230 has been amended to make two-year permits available to the surviving spouses and children of deceased U.S. citizens and CNMI permanent residents should such permits be needed or required. The proposed regulations granted such permits to immediate relatives of U.S. citizens and permanent residents. This is a non-material change which simply clarifies that such permits are available to qualified immediate relatives even if the citizen or permanent resident is deceased.
3. Section 5-40.3-230 has been amended to allow abused spouses of U.S. citizens to self-renew Immediate Relative (IR) status with adequate documentation acceptable to the Director with respect to the alleged abuse. This is a non-material change which affects a very limited but highly vulnerable population for a very limited time.
4. Section 5-40.3-230 has been clarified so that a "decided" matter includes one that has been settled or dismissed. This is a non-material change which simply clarifies what was already intended in the proposed regulations.

5. Sections 5-40.3-320 and 3-240 have been clarified to include U.S. nationals. The proposed regulations intended to include U.S. nationals in the definition of "citizen" but the clarification spells it out as comments indicated would be useful. Minor technical changes have been made so that the definition of "citizen" is used consistently throughout. This is a non-material change.
6. Section 5-40.3-260 has been amended to specify the availability of a one-time extension of up to six months for persons eligible for two-year permits and holding valid permits upon payment of the entry permit fee and continued qualification pursuant to other provisions of the regulations. This a non-material change which simply accords those who renewed their permits prior to the availability of two year permits limited extra time to adjust status. This is a non-material change.
7. Among other things, these changes are non-material because they provide no limitations to the interests of those affected by the regulations.

PRIOR PUBLICATION: The prior publication is as stated above.

AUTHORITY: The Attorney General's Office, Division of Immigration, is required by the Legislature to adopt rules and regulations regarding those matters over which the Division of Immigration has jurisdiction.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC §9105(b), these adopted Rules and Regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

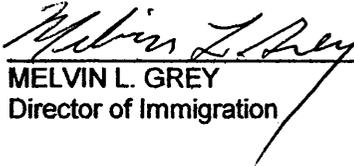
COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC §9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. The agency has responded to all written and oral submissions with a concise statement of the principal reasons for and against its incorporating therein its reasons for overruling the considerations urged against its adoption.

The following is the agency's concise statement in response to a filed comment that was not adopted: One commenter suggested that the immediate relatives of the Freely Associated States (FAS) citizens be included in the eligibility for a two-year permit. The agency declined to accept this change because FAS citizens are aliens admitted to the Commonwealth pursuant to an arrangement with the United States government, not the Commonwealth, and the options available after June 1, 2009, should be determined by the U.S. government. The Commonwealth currently accords these immediate relatives a one-year permit. Another commenter suggested that the income qualification for a sponsor of an alien spouse be different according to the citizenship of the sponsor. The agency declined to accept this change because there is no rational basis for making this distinction. This commenter also suggested that the waiver of the requirement of six months' validity remaining on a passport be mandatory for the holders of U.S. passports. The agency declined to accept this change because some holders of U.S. passports visit the Commonwealth with return arrangements through countries that require six months' remaining validity on a U.S. passport, and the Director's discretion in this matter will resolve problem situations.

ATTORNEY GENERAL APPROVAL for modified regulations: The Immigration Rules and Regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC §2153(e) (to review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law). The regulations, as adopted with the non-material changes are approved below by the Attorney General.

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 19th day of December 2008, at Saipan, Commonwealth of the Northern Mariana Islands.

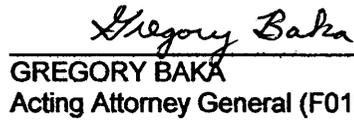
Certified and Ordered By:



MELVIN L. GREY
Director of Immigration

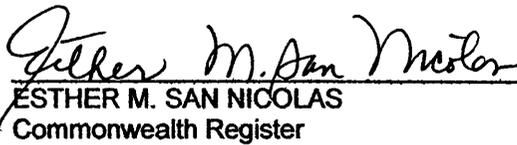
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtaining AG approval), the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated this 22nd day of December 2008.



GREGORY BAKA
Acting Attorney General (F0199)

Filed and Recorded By:



ESTHER M. SAN NICOLAS
Commonwealth Register

12.22.08

Date

N.M.I. ADMINISTRATIVE CODE

TITLE 5 CHAPTER 40 DIVISION OF IMMIGRATION

- PART 5 Subchapter 40.0 General
- PART 5 Subchapter 40.1 Citizens and Permanent Residents
- PART 5 Subchapter 40.2 Entry and Exit of Vessels and Aircraft
- PART 5 Subchapter 40.3 Entry and Deportation of Persons
- PART 5 Subchapter 40.4 Protection for Refugees
- PART 5 Subchapter 40.5 Transition

PART 5 Subchapter 40.0 General

- PART 5-40.0-100 PURPOSE
- PART 5-40.0-200 DEFINITIONS
- PART 5-40.0-300 ORGANIZATION AND PERSONNEL
- PART 5-40.0-400 CONDUCT OF PERSONNEL

PART 5-40.0-100 PURPOSE

§ 5-40.0-101 Replacement

The regulations in this subchapter shall replace in their entirety those immigration regulations previously adopted.

§ 5-40.0-105 Separation of functions

The regulations in this subchapter shall separate the functions of immigration from other Commonwealth government functions.

PART 5-40.0-200 DEFINITIONS

§ 5-40.0-201. Definitions.

As used in this chapter, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

- (a) "Alien" means a person who is not a citizen or national of the United States;

- (b) "Attorney General" means the Attorney General of the Commonwealth;
- (c) "Citizen" means a citizen, national or legal permanent resident of the United States;
- (d) "Class" means one of the nonimmigrant alien entry classes defined in §5-40.3-240, Entry Permit Classes;
- (e) "Commonwealth" means the Commonwealth of the Northern Mariana Islands;
- (f) "Crew" means a person employed in any capacity on board a vessel or aircraft;
- (g) "Deportation" means an order of a court of competent jurisdiction requiring that an alien be removed from the Commonwealth and repatriated to the country of origin. Deportation constitutes a lifetime ban on entry to the Commonwealth;
- (h) "Director" means the Director of Immigration, who is the official in charge of the Division of Immigration, and who is responsible to the Attorney General.
- (i) "Division" means the Division of Immigration which is responsible for all Commonwealth immigration functions, including all entry and exit of vessels and aircraft and all entry, exit, repatriation, and deportation of persons;
- (j) "Entry" means entry into the Commonwealth by air or by sea at an authorized port of entry;
- (k) "Entry permit" means documentation authorizing the entry into and the continued presence of a nonimmigrant alien in the Commonwealth, including but not limited to an entry permit document or card issued by the Division of Immigration, a Visitor Entry Permit form, a passport stamp, or a visa; The entry permit is issued for purposes of providing entry to and exit from the Commonwealth for qualified persons, as long as the person remains qualified under the particular requirements applicable to each class of entry permit as provided in Part 5-40.3-230;
- (l) "Exit" means exit from the Commonwealth by air or by sea;
- (m) "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau;
- (n) "Immediate relative" means a legally recognized spouse, and a child under the age of twenty-one (21) years, whether natural or adopted before the age of eighteen (18) years, and a stepchild if the marriage that created the stepchild relationship took place before the child's eighteenth birthday, and, in the case of a citizen, the parents, whether natural or adoptive of the citizen, provided that no alien shall derive immediate relative status from a child who is under the age of twenty-one (21) years;
- (o) "Nonimmigrant" means an alien who enters the Commonwealth pursuant to an entry permit issued by the Division while having a domicile or citizenship or nationality in a foreign country that the alien has no intention of abandoning, so indicated by any response made by the alien in applying for entry to the Commonwealth or so indicated by the entry class of the permit issued by the Division;

- (p) "Passport" means a travel document issued by the country of citizenship or nationality of a person that shows the bearer's origin, identity and nationality;
- (q) "Permanent resident" means an alien who is legally residing in the Commonwealth as a permanent resident pursuant to a grant of that status by operation of Commonwealth law prior to April 1981, or by operation of United States law. Citizens of the Freely Associated States are not permanent residents of the Commonwealth;
- (r) "Port of entry" means an entry or exit point, or both, in the Commonwealth as authorized by the Attorney General and as defined in § 5-40.2-100 of these regulations;
- (s) "Repatriation" means the return of an alien from the Commonwealth to the country of origin or to a third country that will accept the alien into their jurisdiction;
- (t) "Regulation" means a regulation promulgated by the Division of Immigration or the Attorney General pursuant to law and in compliance with 1 CMC §9901 et seq.;
- (u) "Visa" means a passport stamp, seal, or other marking or document evidencing a nonimmigrant entry permit.

PART 5-40.0-300 ORGANIZATION AND PERSONNEL

§ 5-40.0-301 Appointments.

Full-time appointments to the Division shall be made through a competitive hiring process and shall comply with the rules and regulations of the Civil Service Commission or the regulations for excepted service employees, as appropriate. All civil service and excepted service employees and the Director of the Division are immigration officers as that term is used in these regulations.

§ 5-40.0-305 Director.

The Division shall be headed by the Director of Immigration who shall be appointed by and serve at the pleasure of the Attorney General. The Director shall be appointed by a letter of appointment signed by the Attorney General delivered to the Director and the Governor. The Director may, pursuant to budgetary authority, employ those personnel necessary to carry out the duties and responsibilities of the Division, including but not limited to Examiners, Inspectors, Investigators, Processors, and Registrars.

§ 5-40.0-310 Inspector.

(a) An Inspector is an employee of the Division who shall be appointed by memoranda of the Director with the written concurrence of the Attorney General. To become effective, the appointments must be followed by the execution of an oath of office.

(b) Inspectors shall perform all the duties of the Division as provided by law.

§ 5-40.0-315 Examiner.

(a) An Examiner is an employee of the Division who shall be a supervisory or a non-supervisory Inspector and provide further examination of persons excluded at the borders by an Inspector. An Examiner shall have the powers and duties described in sections 3 CMC §§ 4336-4338 as amended, specifically, and those of an Inspector generally.

(b) Examiners shall be designated by memoranda of the Director with notice to the Attorney General. The collateral duty of the position of Examiner does not entitle the Examiner to increased compensation and shall not be considered as a promotion or demotion. There shall be one Examiner available or otherwise on call-out for inspectors at each port of entry when clearing vessels and aircraft.

§ 5-40.0-320 Investigator.

Investigators may be employed by the Division or by the Attorney General's Investigative Unit (AGIU) and shall have the authority to investigate all violations of Commonwealth immigration law and criminal statutes implicated by investigations of violations of immigration law and those of an Inspector generally. The Division and Attorney General shall develop operating procedures for investigators which shall, at a minimum, address scope of investigative authority and procedures; firearms procedures; warrant procedures; and arrest and detention procedures. Investigators may be authorized pursuant to Commonwealth law to carry a firearm.

§ 5-40.0-325 Processor.

The Division may employ as necessary administrative staff for the processing of immigration documents. Processing staff are authorized to interview applicants and sponsors in connection with immigration-related applications and perform those duties of an Inspector generally.

§ 5-40.0-330 Registrar.

- (a) A Registrar is an employee of the Division who is an Inspector designated as a Registrar by the Director with notice to the Attorney General. Collateral duties in the position of Registrar do not entitle the Registrar to increased compensation and shall not be considered as a promotion or demotion.
- (b) Registrars shall register aliens in accordance with these regulations, provided however, that the function of registering foreign investors and foreign students shall be carried out by the Department of Commerce, and the function of registering foreign national workers shall be carried out by the Department of Labor.
- (c) There shall at all times be at least two Registrars from the Division of Immigration in the island of Saipan and one Registrar each in Rota and Tinian.

§ 5-40.0-335 Other personnel.

The Director may hire other personnel deemed necessary for the operation of the Division pursuant to Commonwealth law and regulation and budgetary appropriation.

PART 5-40.0-400 CONDUCT OF PERSONNEL

§5-40.0-401 Personnel Service System Rules and Regulations.

The Personnel Service System Rules and Regulations [NMIAC, title 10, subchapter 20.2], as finally adopted by the Civil Service Commission, shall apply to all employees of the Division. All subsequent amendments shall apply. The Code of Ethics, NMIAC, title 10, subchapter 20.2, part 400, subpart D, applies to every employee. The Director shall cause a copy of the Code of Ethics to be delivered to every employee.

§5-40.0-405 Dress.

An employee shall report to duty dressed appropriately for assigned duties as prescribed by a supervisor. The appropriate duty attire shall be considered as the official uniform, business attire, or casual attire as prescribed by a supervisor to be appropriate to address assigned duties. The official uniform consists of black shoes, dark socks, dark blue pants or skirt, black leather belt, light to dark blue shirt, a CNMI IMMIGRATION shoulder patch, name tags, dark blue baseball style cap with CNMI IMMIGRATION insignia or other means of identification, dark blue jacket with CNMI IMMIGRATION insignia or other means of identification, and badge. When a polo style uniform shirt is worn it shall minimally display a CNMI IMMIGRATION identification by an imprinted or embroidered badge or patch or lettering. Those items issued by the government cannot be substituted. In cool temperatures, dark blue jackets may be worn. Clothing shall be clean and ironed. Shoes shall be shined. The employee must be clean-shaven and neat. Variations may be substituted as deemed appropriate by a supervisor.

§5-40.0-410 Punctuality.

- (a) An employee shall arrive at his or her assigned station on time for his or her shift in uniform or approved attire and prepared to work. Failure to do so may result in disciplinary action.
- (b) If an employee is unable to arrive on time or is unable to attend work, the employee shall notify the on duty supervisor in advance. If the supervisor and acting supervisor are unavailable, the employee shall notify the Deputy Director or the Director. Failure to do so may result in disciplinary action.

§5-40.0-415 Chain of Command.

- (a) An employee shall adhere to the directions of the duty supervisor or the acting supervisor.
- (b) Requests or grievances shall be brought within the chain of command in order to provide for an orderly, non-partisan resolution of problems within the office. An

employee shall not pursue a grievance with a higher rank supervisory official until he or she has done so with a first-line supervisor.

- (c) The one exception to the rule is that informal grievances may be brought to a personnel officer in order to seek advice.

PART 5 Subchapter 40.1 Citizens and Permanent Residents

PART 5-40.1-100 Citizens.

Persons made eligible for U.S. citizenship by U.S. Public Law 94-241 (48 U.S.C. §1801), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, became United States citizens on November 4, 1986; persons born in the Commonwealth after January 9, 1978 are citizens; and persons made citizens by operation of the laws of the United States are citizens.

PART 5-40.1-200 Permanent Residents.

Persons are permanent residents of the Commonwealth who are aliens and who were granted permanent resident status in the District of the Northern Mariana Islands by the Administration of the Trust Territory of the Pacific Islands prior to January 9, 1978 or who were granted permanent resident status pursuant to Commonwealth law prior to April 1981. Persons who qualify as permanent residents of the United States may also reside in the Commonwealth as permanent residents of the Commonwealth.

PART 5-40.1-300 Marriage Fraud.

[RESERVED]

PART 5 Subchapter 40.2 Entry and Exit of Vessels and Aircraft

PART 5-40.2-100 Ports of Entry

PART 5-40.2-200 Entry

PART 5-40.2-300 Exit

PART 5-40.2-400 Fees

PART 5-40.2-100 PORTS OF ENTRY

§5-40.2-101 Designation.

The Attorney General designates ports of entry for arriving citizens and aliens pursuant to 3 CMC §4367.

§5-40.2-105 Saipan and the Northern Islands.

There are hereby designated two (2) ports of entry for Saipan and the islands of the Commonwealth north of Saipan:

- (a) Saipan International Airport (at As Lito Field) for air carriers; and
- (b) Charlie Dock (Tanapag Harbor) for sea carriers, including pleasure craft.

§5-40.2-110 Tinian.

There are hereby designated two (2) ports of entry for the islands of Tinian and Aguigan:

- (a) Tinian Airport for air carriers; and
- (b) Tinian Harbor for sea carriers, including pleasure craft.

§5-40.2-115. Rota.

There are hereby designated three (3) ports of entry for the Island of Rota:

- (a) Rota International Airport for air carriers;
- (b) West Dock (Sasanlago Harbor), for sea carriers, including pleasure craft; and
- (c) East Dock (Sasanhaya Harbor), for sea carriers, including pleasure craft.

§5-40.2-120 Exclusive ports of entry.

- (a) The ports of entry designated in §5-40.2-100 shall be the exclusive entry points for the Commonwealth.
- (b) Any person who enters or attempts to enter the Commonwealth at a place other than these ports of entry may be charged with a crime under 3 CMC §4361 and is subject to exclusion.

- (c) Any carrier, master, commanding officer, purser, person in charge, agent, owner or consignee of any vessel or aircraft who knowingly brings or attempts to bring or aid, abet or assist in bringing any person into the Commonwealth at other than these ports of entry may be punished by a civil penalty of not more than five thousand dollars (\$5,000) for each occurrence.
- (d) Departure for entry or attempted entry into the immigration jurisdiction of any other sovereign including the United States, without prior notification and approval by the Division, is unlawful and may be punished according to statute.

PART 5-40.2-200 ENTRY

§5-40.2-201 Permission to Enter.

- (a) No vessel or aircraft, unless military, shall enter the Commonwealth without first having received permission from the Director or a designee.
- (b) A vessel or aircraft master or pilot may file a request for permission for a vessel or aircraft to enter the Commonwealth.
- (c) Request for permission to enter shall contain the following information:
 - (1) Vessels:
 - (i) Name of vessel;
 - (ii) Place of registry and registration number;
 - (iii) Name, nationality and address of operator;
 - (iv) Radio call sign;
 - (v) Length, breadth and depth of vessel;
 - (vi) Gross tonnage;
 - (vii) Last port of call;
 - (viii) Date of last entry;
 - (ix) Purpose of entry;
 - (x) Approximate duration of stay;
 - (xi) Port of next destination;
 - (xii) Name and address of agent; and

(xiii) Estimated time of arrival.

(2) Aircraft:

- (i) Type and serial number of aircraft;
- (ii) Name, nationality and address of senior pilot;
- (iii) Name, nationality and address of owner;
- (iv) Plan of flight route;
- (v) Landing weight;
- (vi) Date of last entry;
- (vii) Port of next destination;
- (viii) Name and address of agent;
- (ix) Purpose of entry; and
- (x) Estimated time of arrival.

§5-40.2-205 Multiple Entry Permission.

Aircraft may obtain multiple entry permission upon submission of the type and serial number of the aircraft, the name, nationality and address of the owner, the purpose of entry, the name, address and phone number of the agent, and roster of all flight staff. This multiple entry permission shall remain in effect for one year and is specifically conditioned on the local agent providing at least seven days in advance to the Division an estimated passenger forecast and the port of last call for the aircraft.

§5-40.2-210 Entry Without Permission.

Non-commercial pleasure vessels or aircraft may arrive at the ports of entry without prior permission to enter if:

- (1) They immediately notify the port authority of their entry and their lack of permission to enter from the Director or a designee.
- (2) The total number of crew and passengers is less than ten persons,
- (3) The master or pilot immediately reports to port authority to request immigration clearance,

(4) The master or pilot fills out the form entitled "Application for Vessel or Aircraft to Enter the Northern Marianas," and

(5) No member of the crew leaves the vessel or aircraft until directed to do so by an Inspector.

§5-40.2-215 Emergency Entry.

Upon request, an Immigration Inspector may authorize the emergency entry of a vessel or aircraft to a Commonwealth port in the event of distress, weather, mechanical, or medical emergency. Post-entry authorization may be granted where circumstances do not permit pre-entry authorization. No vessel or aircraft which has entered a Commonwealth port by reason of an emergency shall be permitted to depart the Commonwealth until a written report of the emergency incident, bearing the subscription of the master of such vessel or senior pilot of such aircraft, is filed with and evaluated by an Immigration Inspector with the concurrence of the Director. If the emergency is not verified by such report, the entry shall be considered as being unlawful. The period of stay authorized by an emergency entry shall be limited to that length of time until the emergency circumstances have been resolved. The owners, agents, crew, passenger and master of any such vessel or aircraft shall be liable for the costs of inspectors providing services at hours other than working hours in accordance with § 5-40.2-401(a).

§5-40.2-220 List of Crew and Passengers.

The master or pilot of every vessel or aircraft arriving in the Commonwealth from a port outside the Commonwealth shall furnish a list of the crew and passengers aboard before the commencement of inspection.

Air carriers shall provide an electronic listing of incoming crew and passengers to the Division's Airport Operations prior to the arrival of an aircraft. If for technical reasons an electronic manifest cannot be provided, then a paper copy of the list must be provided.

PART 5-40.2-300 EXIT

§5-40.2-301 Revocation.

The privilege of a vessel or aircraft to enter the Commonwealth may be revoked or suspended at any time by the Director. Grounds for revocation or suspension include violation of any section of the regulations in this subchapter or violations of section 22 of Public Law No. 3-105 [3 CMC § 4345].

§5-40.2-305 Suspension.

An aircraft or vessel's privilege to enter shall be suspended by the Director if the aircraft or vessel abandons any of its crew in the Commonwealth. The period of suspension shall be at the discretion of the Director.

PART 5-40.2-400 FEES

§5-40.2-401 Compensation for Services Rendered.

- (a) All air and sea carriers and other persons whose operations require the service of immigration officers of the Commonwealth at other than established working hours shall pay the overtime costs of such officers providing said services.
- (1) "Other than established working hours" include work performed in excess of eight hours on a weekday or forty hours a week and the twenty-four hour period for Saturday and the twenty-four hour period for Sunday. The rate of compensation for overtime or for employees required to work during other than established working hours is one and one-half times the employee's basic pay. An employee required to work on a legal holiday shall be compensated at two times the base salary rate. Overtime pay shall include overtime compensation as well as applicable employer contributions for retirement and Medicare.
 - (2) There shall be a minimum charge of two (2) hours overtime for each arrival requiring the services of immigration officers. An employee who is required to work overtime of less than two hours is credited with a minimum of two hours overtime work. Any fraction of an hour in excess of the two hour minimum shall be compensated at the full hour rate. Compensation for services shall commence thirty minutes prior to the scheduled arrival time of a carrier. It shall terminate thirty minutes after the officer's services are terminated at the post of duty.
 - (3) Sea carriers, non-scheduled aircraft, individuals, and others for which overtime services can be specifically assigned shall be charged for the actual overtime incurred by the immigration officer(s) providing such services.
 - (4) Overtime charges and holiday charges shall be waived when services are rendered to a carrier operating under emergency conditions or for emergency purposes.
 - (5) For scheduled and extra section flights to Saipan, Tinian, or Rota, immigration services provided during overtime hours shall be presumed to be performed for two or more airlines during one continuous tour of overtime duty. The total charge for these services shall be prorated to the aircraft arriving between 4:00 p.m. to 6:30 a.m. weekdays, and the twenty-four hour period of a Saturday, Sunday or holiday. The total charge shall be assessed pursuant to Customs Service Regulation § 1302.22(e)(1) [NMIAC § 7010.1-720].
 - (6) Overtime charges of the Division will be included and billed using a standard rate that also includes the overtime charges of the Customs and Quarantine Division and assessed pursuant to Customs Service Regulation § 1302.22(e)(1) [NMIAC § 70-10.1-720].
 - (7) At the end of the fiscal year, the Director of Finance will compute actual costs in accordance with the percentage allocation formula set forth in Customs

Service Regulation §1302.22(e)(1) [NMIAC § 70-10.1-720].

§5-40.2-405 Non-performance of Requested Service.

If employees have reported to work in order to provide requested overtime services, but services are not performed by reason of circumstances beyond the control of the employees concerned, compensation shall be in accordance with subsection (a)(1) of this section.

§5-40.2-415 Notice of Rate Change.

The Secretary of Finance, pursuant to the authority granted under 4 CMC § 2553, may change the rate and basis for allocation used for billing overtime services upon ninety days public notice.

§5-40.2-420 Interest Charge.

Interest charge of fifteen percent (15%) per annum shall be imposed on all unpaid charges required by this section.

§5-40.2-425 Waiver.

Basic landing fees may be waived in the public interest at the discretion of the Director for pleasure craft arriving for sport fishing events, cultural events sponsored by the Commonwealth government or other Pacific Island governments, and other public participation events.

§5-40.2-430 Clearance During Journey.

- (a) Clearance services may be provided during the journey of a vessel or aircraft upon request.
- (b) The charges shall be according to § 5-40.2-401.
- (c) All necessary transportation shall be furnished by the master, owner or agent. The master, owner, or agent shall provide to the Inspector a per diem at the prevailing government rate or adequate hotel accommodations if the vessel departure is delayed and the Inspector is required to wait for more than three hours between 10:00 p.m. and 5:00 a.m. or for more than six hours between 6:00 a.m. and 10:00 p.m. for the departure.
- (d) During the voyage, accommodations provided to passengers must be provided to the Inspector.
- (e) The master, owner or agent shall assume responsibility for necessary medical expenses incurred while away from the primary duty station in order to provide clearance during a journey.

§5-40.2-435 Billing.

- (a) Charges shall be billed monthly;
- (b) Late payment shall be charged at fifteen percent (15%) per annum;
- (c) All bills not paid within ninety (90) days shall be reported to the Attorney General for civil suit and to revoke a carrier's entry privilege.

PART 5 Subchapter 40.3 Entry and Deportation of Persons

- PART 5-40.3-100 BORDER MANAGEMENT SYSTEM
- PART 5-40.3-200 ENTRY
- PART 5-40.3-300 EXCLUSION AT PORT OF ENTRY
- PART 5-40.3-400 DEPORTATION

PART 5-40.3-100 BORDER MANAGEMENT SYSTEM (BMS)

§ 5-40.3-101 Scope.

The Division shall maintain a Border Management System which shall record the entry and exit of all persons at the Commonwealth's ports of entry irrespective of citizenship. A current digital file shall be established for each alien containing, at a minimum, the passport information, application form information, and a photograph.

§ 5-40.3-105 Availability of Records.

Information contained in Border Management System records is confidential and may be disclosed only for purposes of performing the immigration duties of the Division and the duties of the Department of Commerce and the Department of Labor with respect to persons who enter the Commonwealth pursuant to the certifications issued by those authorities. Information contained in the Border Management System records may be disclosed to representatives of other law enforcement agencies, to the Administrative Hearing Office of the Department of Labor, pursuant to a subpoena issued by a court, or in accordance with a proper Open Government Act request.

PART 5-40.3-200 ENTRY

§ 5-40.3-201 Valid Passport.

All persons seeking entry to the Commonwealth shall present to the Inspector a passport issued by their country of citizenship valid for at least six (6) months from the date of

entry to the Commonwealth. The six (6) month requirement may be waived for citizens. The six (6) month requirement may also be waived for those holding passports issued by countries which have established a consular office in the Commonwealth that has the authority to renew or issue new travel documents to assist in the repatriation of those holding these passports. No entry permit shall be issued nor entry permitted for an alien for a period of time longer than the validity of a passport.

§5-40.3-205 Minor Child Traveling Unaccompanied by Parent(s).

Before boarding an aircraft or vessel destined to the Commonwealth or before the issuance of a Visitor Entry Permit or other Entry Permit, a minor child traveling to the Commonwealth, who is not traveling with his or her parent(s), must present to the Division, through personal presentation to a Commonwealth immigration officer, by facsimile or through a travel agency or a carrier, or by way of an official government document issued by competent authority in the country of departure, information that shows the following information;

- (1) Full name of minor child
- (2) Gender of minor child
- (3) Birth date of minor child;
- (4) Passport number of minor child;
- (5) Full name of the parent(s) of minor child;
- (6) Birth date of parent(s) of minor child;
- (7) Passport number of parent(s) of minor child;
- (8) Document such as birth certificate showing parent and child connection;
- (9) Purpose and length of visit to the Commonwealth;
- (10) Flight itinerary for the minor and accompanying adult;
- (11) Contact information for parent or contact in the Commonwealth;
- (12) Name of accompanying adult;
- (13) Gender of accompanying adult;
- (14) Birth date of accompanying adult;
- (15) Passport number of accompanying adult;
- (16) Relationship of accompanying adult to minor child;
- (16) If the child is not coming to be with the parent(s) in the Commonwealth then a letter showing a power of attorney must be presented that authorizes

the adult traveling with the minor to care for and authorize medical of other services for the minor;

- (18) Any other documentation or information requested by the Director.
- (19) An affidavit attesting to the truthfulness of the information provided, in the format prescribed by the Director;

§ 5-40.3-210 Landing card.

All aliens, except citizens of the Freely Associated States and permanent residents of the Commonwealth, shall complete and present to the Inspector a landing card upon any arrival in the Commonwealth.

§ 5-40.3-215 Examination.

An Examiner or Inspector shall have the authority to question all persons entering the Commonwealth about the following subjects:

- (a) The person's name, country of citizenship, additional countries of citizenship, address in the Commonwealth, purpose of trip, intended length of stay, prior visits to the Commonwealth and any adverse legal proceedings in this jurisdiction;
- (b) Prior convictions, exclusions, or orders of deportation from other jurisdictions, or any violations of law for which they have not been arrested;
- (c) The point of embarkation for the trip to the Commonwealth;
- (d) Financial resources for the duration of stay;
- (e) Any inconsistencies in a passport, other identity document, or other document relevant to admission to the Commonwealth;
- (f) With respect to certifications from the Department of Commerce or the Department of Labor, any information required for those certifications.

§ 5-40.3-220 Special Conditions Relating to Sponsors.

(a) A sponsor of an alien has obligations and responsibilities that continue throughout the time the alien is within the Commonwealth. This requires that the Division and other Commonwealth agencies have jurisdiction over the sponsor as long as the alien is present. All persons seeking to sponsor aliens, whether as temporary visitors or for a longer term, must maintain residence within the Commonwealth, provided however, this requirement does not apply to a sponsor who is out of the Commonwealth on orders from any branch of the military service of the United States or a National Guard of any State, or Reserve Unit, but who entered the service from the Commonwealth and who intends to return to the Commonwealth upon completion of the tour of duty. Sponsors living outside the CNMI do not qualify.

(b) The Division may refuse to allow a person or business to be a sponsor if that person or business fails to comply with Commonwealth immigration laws, sponsors a person

who violates those laws, or otherwise fails to meet and maintain the qualifications of a sponsor as stated by law or these regulations. The burden is at all times on the sponsor to prove eligibility and qualifications to become or continue being a sponsor.

(c) The Division may refuse to allow a person or business to be a sponsor if that person or business has been barred from employing foreign national workers in the Commonwealth, provided however, an individual so barred may sponsor an immediate relative.

(d) The Division may refuse to allow a person to be a sponsor of an alien applying in an entry class other than as an immediate relative if the sponsor fails to demonstrate sufficient income to ensure that all expenses of the alien (together with any other aliens sponsored) will be paid and the alien does not become a burden on the public services of the Commonwealth. To be eligible as a sponsor of an alien in these entry classes, the sponsor must demonstrate income over the immediately preceding four months at a rate that will provide a gross annual income of at least \$20,000.00 or the sponsor must demonstrate an average bank balance of \$3,000 for the immediately preceding three months. The Director may waive this income requirement in the interests of the Commonwealth.

(e) The Division may refuse to allow a person to be a sponsor of an alien applying in an entry class as an immediate relative if the sponsor fails to demonstrate income over the immediately preceding four months at a rate that will provide a gross annual income totaling 40 hours per week for 52 weeks at the prevailing minimum wage. The Director may waive this income requirement in the interests of the Commonwealth.

§ 5-40.3-230 Applications for Entry Permit

Applications for entry permits shall be made on forms provided by the Director and submitted to the Division. Information on and supporting documentation for an application is submitted under penalty of perjury. Fees are non-refundable. Application may be made by mail. Checks must be made out to the Treasurer of the CNMI.

Applications for a two-year permit will be accepted, at the discretion of the Director, for entry permit class 240(d) immediate relatives of citizens, U.S. nationals, and permanent residents, 240(g) and 240(o) foreign investors, 240(h) foreign students; and 240(k) foreign workers upon the Director's finding that a two-year permit is in the interests of the Commonwealth. The Director shall make available automatic two-year permits for permanent residents (as defined in § 5-40.0-201(x)), and for the immediate relatives of deceased citizens, U.S. nationals, and permanent residents should permitting be needed or required for any reason.

Consistent with U.S. law (the Violence Against Women Act), physically or psychologically abused spouses of citizens may apply for a two-year permit as an immediate relative of a citizen without sponsorship by the allegedly abusing spouse, at the discretion of the Director, upon presentation of reliable documentation sufficient to establish the alleged abuse.

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, settled, or dismissed, the alien may apply for an entry permit, renewal or change of status if the alien prevailed in the matter.

§ 5-40.3-240 Entry permit classes for nonimmigrant aliens.

The entry of nonimmigrant aliens into the Commonwealth shall be granted in accordance with this section. No entry shall be made except pursuant to an entry permit issued in one of the following classes:

(a) Regular-term Business Entry Permit

The Regular-Term Business Entry Permit allows the holder to stay in the Commonwealth for one visit of not more than a ninety (90) day stay or multiple visits totaling not more than one hundred twenty (120) days within one twelve (12) month period. The applicant must be present in the Commonwealth to apply for the permit and must present a certificate of eligibility for a business entry permit issued by the Department of Commerce.

A holder of this class of entry permit may engage in any lawful business or commercial activity in the Commonwealth as permitted by the Department of Commerce.

A holder of this class of entry permit may not work or be employed in the Commonwealth other than by an employer in which the permit holder maintains a substantial ownership interest.

(b) Government Employment Entry Permit

An alien hired as a Commonwealth government employee in accordance with 3 CMC §4532 or §4972, an alien hired as a Federal government employee, or an alien performing services under a contract (either directly or indirectly) with the Commonwealth or Federal governments, who meets other applicable requirements to enter the Commonwealth as set out in these regulations, may enter and remain in the Commonwealth for one (1) year. The application must include a copy of the contract which has been approved by the government agency.

This class of entry permit is renewable.

An immediate relative of a government employee or government contractor employee may be admitted subject to the requirements of subsection (e) of this section.

Holders of this class of entry permit may engage in any work in the Commonwealth that is covered by the government employment or contract.

(c) Visitor Entry Permit

A Visitor Entry Permit is required for entry by an alien who is seeking to enter the Commonwealth as a tourist. Visitor entry permits shall be issued upon arrival, or upon application, as designated by the Division, and initially shall be valid for thirty (30) days or less.

A one-time extension may be obtained at the discretion of the Director or a designee for an additional sixty (60) days (for a total of ninety (90) consecutive days) upon payment of a fee to the Division.

The Director may impose conditions regarding the length of stay authorized

No Visitor Entry Permit shall be issued within thirty (30) days of the expiration of any previous Visitor Entry Permit that included an extension of up to sixty (60) days when the visitor remained in the Commonwealth for the majority of the previously extended time. There must be a thirty day break between the last extended permit and any new issuance. A Visitor Entry Permit may not be issued for an intending visitor who has already had up to one hundred eighty days (180) days as a visitor in the Commonwealth in the last 12 months. An exception to this limitation may be granted by the Director for humanitarian reasons such as attending to the serious illness of an immediate relative (as defined above) if it is determined to be in the best interest of the Commonwealth.

Holders of a Visitor Entry Permit may not work or be employed in the Commonwealth.

(d) Immediate Relative of Citizen, U.S. National or Permanent Resident Entry Permit

Immediate relatives of persons who are citizens, U.S. nationals, or permanent residents of the Commonwealth may enter and remain in the Commonwealth for one year so long as the immediate relative status is in effect, the citizen, U.S. national, or permanent resident meets the qualifications as a sponsor of the alien, and all other qualifications are met. The application for an Immediate Relative Entry Permit shall be filed not earlier than 60 days following the marriage and during the period in which the alien has a lawful immigration status in the Commonwealth.

In the event a marriage is terminated by judicial decree, the alien has a grace period of 60 days to either change to a different lawful immigration status or depart the Commonwealth.

This class of entry permit may be renewed.

This permit also allows an alien under the age of eighteen (18) years, who is the subject of a petition for adoption to be filed in the Commonwealth Superior Court by a citizen or permanent resident, to remain within the Commonwealth for a period of one year to satisfy the residency requirements for adoption. This permit may be renewed. Upon renewal the applicant must provide evidence of filing of the adoption action.

This section does not apply to immediate relatives of holders of passports from the Freely Associated States; persons from the Freely Associated States are aliens under Commonwealth law.

Holders of this class of entry permit may be employed in the Commonwealth in the same manner as a citizen.

(e) Immediate Relative of Alien Entry Permit

An immediate relative of an alien may enter and remain in the Commonwealth under an Entry Permit for the same term as the sponsoring alien's Entry Permit if the immediate relative satisfies the applicable requirements under these regulations, the sponsoring alien meets the requirements to be a sponsor, and the sponsoring alien posts a cash bond with the Director in the amount of twice the cost of return travel to the point of origin at the time of application.

An alien may not obtain an entry permit under this section solely by virtue of his or her relationship with an alien who holds an entry permit as an immediate relative of a citizen or permanent resident. In no case shall a permit issued under this subsection be valid after the expiration or termination of the permit of the sponsoring alien.

This class of entry permit may be renewed.

This class of entry permit has the following sub-classifications:

- GF: Immediate relative of a diplomat
- GG: Immediate relative of a foreign investor
- GK: Immediate relative of a foreign national worker
- GL: Immediate relative of a minister or religious leader
- GM: Immediate relative of a missionary
- GN: Immediate relative of a long-term business permit holder
- GO: Immediate relative of a retiree investor
- GT: Immediate relative of the holder of a passport issued by a Freely Associated State

If the sponsoring alien is the holder of a passport from a Freely Associated State, the permit shall be valid for a period of one year and shall be renewable as long as the sponsoring alien continues to maintain citizenship in a Freely Associated State and continues to reside in the Commonwealth. If the sponsoring alien has been out of the Commonwealth for more than a year, the Director shall not renew the entry permit of the immediate relative absent a showing of reasonable cause for the extended absence from the Commonwealth such as military service or medical treatment.

Holders of this class of entry permit may not work or be employed in the Commonwealth, provided however, that an immediate relative of the holder of a passport from a Freely Associated State may work in the Commonwealth.

(f) Diplomat or Consular Entry Permit

An alien who is appointed as a principal resident or official staff representing a foreign government recognized by the United States and their immediate relatives may enter and remain in the Commonwealth for the duration of the appointment. Up to three (3)

staff members of the resident representative may also enter and remain for the duration of the appointment of the resident representative.

An immediate relative of the holder of this class of entry permit may be issued an immediate relative entry permit for the same duration as the holder's permit, provided that such persons who are children are under the age of 21 years unless the child is physically or mentally challenged and is dependent upon the resident representative for care and support.

There shall be no fee for this permit.

(g) Foreign Investor Entry Permit

An alien who presents a certificate of foreign investment issued by the Department of Commerce and meets the other applicable immigration requirements in these regulations may be issued a Foreign Investor Entry Permit. An alien who has been issued a certificate of foreign investment by the Department of Commerce may enter and remain in the Commonwealth as long as the Department's certificate remains in effect.

A holder of this class of entry permit may not work or be employed in the Commonwealth except within the business or activity that constitutes the foreign investment and that has been approved by the Department of Commerce.

(h) Foreign Student Entry Permit

An alien who presents a certificate of admission to an educational institution or school established by Commonwealth law or licensed to operate by the Department of Commerce and who meets the other applicable immigration requirements in these regulations may be issued a Foreign Student Entry Permit. An alien who is a holder of this class of entry permit may enter and remain in the Commonwealth as long as the alien is qualified to study and is a full-time student in the Commonwealth, and the educational institution or school remains qualified under Commonwealth law or a license issued by the Department of Commerce.

This class of entry permit does not include enrollees or students in preschool or kindergarten programs.

A holder of this class of entry permit may not work or be employed in the Commonwealth except for participation in an on-campus work-study program intended to defray the cost of tuition or living expenses; work for a licensed business not more than 10 hours a week in the student's field of study; or participation in paid activities constituting academic research or training in the student's field of study.

(i) Foreign Press Entry Permit

An alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the Commonwealth solely to engage in such vocation, and who meets the other applicable immigration requirements in these

regulations, and the immediate relatives of such representative, may be issued a Foreign Press Entry Permit.

This entry permit shall be valid for a maximum of 90 days.

This class of entry permit is renewable.

(j) Distinguished Merit Entry Permit

An alien who is of distinguished merit and ability in a scientific, technical, academic, or artistic field of endeavor, and who is coming temporarily to the Commonwealth of the Northern Mariana Islands to perform temporary service of an exceptional nature requiring such merit and ability, and who meets the other applicable immigration requirements in these regulations, may be issued a Distinguished Merit Entry Permit.

This class of entry permit shall be valid for a maximum of 180 days.

A holder of this class of entry permit may legally engage in any work in the Commonwealth, including operating a business, so long as at least fifty percent of the work performed is in the permit holder's field in which he or she has achieved distinction.

(k) Private Sector Employment Entry Permit

An alien who presents a certificate of eligibility to work in the private sector in the Commonwealth issued by the Department of Labor and who meets the other applicable immigration requirements in these regulations may be issued a Foreign Worker Entry Permit. An alien who has been issued a certificate of eligibility by the Department of Labor may enter and remain in the Commonwealth as long as the Department's certificate remains in effect and the person is qualified to work and employed in the Commonwealth. Persons entering for religious occupations pursuant to 3 CMC §4927 after October 1, 2008 shall be included in this class.

(l) Minister of Religion Entry Permit

An alien who has a vocation of minister of religion or its equivalent, and seeks entry to the Commonwealth to be employed at a bona fide non-profit religious undertaking in the Commonwealth that has no current minister or its equivalent for the purposes of carrying on the vocation of minister of religion or its equivalent, may be issued a Minister of Religion Entry Permit.

For purposes of this section, a "bona fide non-profit religious undertaking" means a religious organization legally established or incorporated in the Commonwealth that is exempt from Commonwealth taxation or U.S. taxation as an organization described in 26 U.S. C. §501(c)(3).

For purposes of this section, a "vocation of minister or its equivalent" means that the person has been an active, registered, or recognized member of the religious organization for the two continuous years immediately preceding entry to the Commonwealth and seeks entry for the primary purpose of serving as a minister, priest, cleric, preacher, rector, parson, reverend, nun, monk, or equivalent position that

directs the religious affairs of a bona fide non-profit religious undertaking that currently has no minister or its equivalent.

An immediate relative of the holder of this class of entry permit may be issued an immediate relative entry permit for the same duration as the holder's permit, provided that such person is not an excludable alien.

(m) Missionary Entry Permit

Prior to October 1, 2008, an alien who is a bona fide missionary who is in the Commonwealth solely for the purpose of engaging in religious doctrine teaching and not receiving compensation at the level of a living standard of monetary compensation, may be issued a Missionary Entry Permit. The missionary must be petitioned for by a bonafide religious organization showing that the missionary's services are needed by a denomination having a bonafide organization in the Commonwealth. Missionary work is limited to teaching religious doctrine in a church, classroom, or in a home visit setting.

(n) Long-term Business Entry Permit

The Long-Term Business Entry Permit allows an alien to remain in the Commonwealth for up to two (2) years. The applicant must present a certificate of eligibility for a long-term business entry permit issued by the Department of Commerce.

A holder of this class of entry permit may engage in any lawful business or commercial activity in the Commonwealth as permitted by the Department of Commerce.

A holder of this class of entry permit may not work or be employed in the Commonwealth except to be employed in the business for which the Department of Commerce approved the entry permit.

An immediate relative of the holder of this class of entry permit may be issued an immediate relative entry permit for the same duration as the holder's permit, provided that such persons are not excludable aliens.

(o) Retiree Investor Entry Permit

An alien who is at least 55 years of age on the date of arrival in the Commonwealth, who presents a certificate of foreign retiree investment issued by the Department of Commerce, and who meets the other applicable immigration requirements in these regulations, may be issued a Retiree Investor Entry Permit.

The holder of a Retiree Investor Entry Permit may be employed for less than 20 hours a week in the Commonwealth.

An immediate relative of the holder of this class of entry permit may be issued an immediate relative entry permit for the same duration as the holder, provided that such

person is not an excludable alien. Upon application, the Director may waive restrictions applicable to an immediate relative who is a dependent child who is physically or mentally challenged and whose care and support is provided by the holder of the retiree investor entry permit.

(p) Temporary Work Entry Permit

At the discretion of the Attorney General, an alien who is a victim or witness in a civil or criminal proceeding, or a person who has applied for refugee protection pursuant to §5-40.4-100 of these regulations, may be issued a Temporary Work Entry Permit for up to one year while the relevant proceeding is pending. This entry permit is temporary and does not extend beyond the time required for the proceeding and reasonable arrangements thereafter as determined by the Attorney General.

This class of entry permit may be renewed while the relevant proceeding is pending.

A holder of this class of entry permit may be employed in the Commonwealth and is not subject to 3 CMC §4401 et seq., the “Commonwealth Employment Act.”

(q) Comity Entry Permit

A Comity Entry Permit allows aliens to enter who hold passports issued by countries which, pursuant to a determination of the Attorney General, provide a comparable entry permit to U.S. citizens, to remain in the Commonwealth for a period up to ninety (90) days. The Attorney General shall publish in the Commonwealth Register a list of countries for which Comity Entry Permits may be issued. Aliens present in the Commonwealth pursuant to a Comity Entry Permit may freely depart and return to the Commonwealth during the ninety (90) day period. No application fee or other charge shall be required for issuance of the Comity Entry Permit.

A Comity Entry Permit may not be issued within thirty (30) days of the expiration of any other permit, nor may Comity Entry Permit be extended or renewed, except that one Visitor Entry Permit may be issued as an extension of a Comity Entry Permit pursuant to §5-40.3-220(c). An exception may be granted if it is determined to be in the best interest of the Commonwealth.

A holder of this class of entry permit may not work or be employed in the Commonwealth; such activities constitute grounds for immediate revocation.

(r) Treaty Entry Permit

An alien, other than the holder of a passport issued by a Freely Associated State or a permanent resident of the Commonwealth, entering the Commonwealth pursuant to U.S. treaty obligations shall be issued a Treaty Entry Permit. The terms of entry shall be those terms provided in the applicable treaty.

A holder of this class of entry permit may work and be employed in the Commonwealth and is not subject to 3 CMC §4401 et seq., the “Commonwealth Employment Act.”

(s) Medical Entry Permit

An alien who seeks to enter the Commonwealth for medical treatment pursuant to the provisions of P.L. 15-60 and who meets other applicable requirements of these regulations shall be issued a Medical Entry Permit which shall extend for the length of time necessary for the medical treatment and any recuperation.

A holders of this class of entry permit may not work or be employed in the Commonwealth.

(t) Holders of passports issued by a Freely Associated State

An alien who is the holder of a passport issued by a Freely Associated State may enter the Commonwealth upon presentation of a valid passport. No entry permit is required.

(u) Employees on temporary assignment

An alien who is employed by a foreign corporate entity that has an affiliate in the Commonwealth may be issued an entry permit for up to 180 days.

A holder of this class of entry permit is not subject to 3 CMC §4401 et seq., the "Commonwealth Employment Act."

(v) Employment for less than twenty-one (21) days

An alien who seeks to enter the Commonwealth for a period of less than twenty-one (21) days for employment in artistic, cultural, educational, or scientific presentations, performances, professional sports events, or professional studies may be issued an entry permit for up to 21 days. Extensions for an additional ten (10) days may be granted at the discretion of the Director.

A holder of this class of entry permit is not subject to 3 CMC §4401 et seq., the "Commonwealth Employment Act."

(w) Transit.

An alien in immediate and continuous transit through the Commonwealth may remain in the Commonwealth for as long as is required to meet a connecting flight. An alien in continuous transit may not be allowed outside of the airport facility while waiting for the connecting flight.

(x) Crew.

An alien who is serving as crew in any capacity required for normal operation and service on board a vessel (other than a fishing vessel having its home or an operating base in the Commonwealth) or aircraft, who intends to land temporarily and solely in pursuant of the calling as a crew and to depart from the Commonwealth with the vessel or aircraft on which he arrived or some other vessel or aircraft, may remain in the Commonwealth until the time of scheduled departure. No entry permit is required provided that the alien crew member is sponsored by a marine or airways

transportation company qualified to do business in the Commonwealth and a letter identifying the crew member and itinerary has been submitted to the Director. Exclusion provisions and limitations on length of stay and movement may be applied.

(y) Professionals seeking employment:

An alien who is a professional, such as a doctor, engineer, or teacher, who seeks to enter the Commonwealth for purposes of interviewing for or otherwise qualifying for employment in their field of expertise may be issued an entry permit for up to sixty (60) days. An extension for an additional thirty (30) days may be granted at the discretion of the Director. The alien must present a letter from the prospective employer supporting the purpose for entering the Commonwealth.

A holder of this class of entry permit may adjust status to another entry permit class while within the Commonwealth.

§ 5-40.3-245 Denial of entry permit

The denial of an entry permit shall be in writing stating the reasons for the denial. This writing shall be provided to the applicant.

The denial of an entry permit may be appealed to the Attorney General within fifteen days of notice of denial. The Attorney General in his discretion may rely solely on the documents submitted or may supplement them with additional information. The alien shall be granted the opportunity to be heard made available in section 16 of Public Law No. 3-105 [3 CMC 4338]. The Attorney General may affirm, modify, or reverse the denial.

§ 5-40.3-250 Revocation of entry permit.

The Director may revoke any entry permit issued pursuant to these regulations upon a finding that the alien to whom the permit was issued no longer satisfies the criteria for the permit category; the permit was obtained by fraud, deceit, material misrepresentation, or in violation of CNMI law; or the sponsor of the alien has become ineligible under or has failed to satisfy the requirements of § 5-40.3-220(b).

The alien shall be served with a written notice of revocation. The notice shall include a summary of the Director's finding. The alien shall have all rights of appeal provided by 1 CMC 9101 et seq.

§ 5-40.3-255 Annual Registration.

The holders of entry permits in the following classes must appear annually, on or within 30 days of the expiration date of the entry permit before a Registrar at the Division to register their status in the Commonwealth as required by section 24 of Public Law No. 3-105 [3 CMC 4351] and to pay the registration fee:

240(b) Employee of the CNMI or federal government

240(d) Immediate relative of a citizen or permanent resident

240(e) Immediate relative of an alien

240(f) Diplomatic or consular employees

240(l) Minister of religion

240(m) Missionary

The annual registration for foreign students (entry permit class 240 (h)), foreign investors, and foreign business persons (entry permit classes 240(a),(g), (n), (o)) is the responsibility of the Department of Commerce; and registration for foreign workers (entry permit class 240(k)) is the responsibility of the Department of Labor.

Any alien holding an entry permit in classes 240(c) (tourist), 240 (i) (foreign press), 240(j) (distinguished merit), 240(p) (temporary work), 240(q) (comity), 240(r) (treaty), 240(s) (medical), 240(u) (temporary assignment), or 240(x) (crew) who intends to remain in the Commonwealth for more than ninety (90) days shall register with the Division within ninety (90) days of their arrival.

Parents and legal guardians of aliens who are children and wards under the age of twenty-one (21) year are responsible for the registration of such children and wards.

§ 5-40.3-260 Renewal or extension of permits.

Entry permits may be renewed or extended only pursuant to the provisions of these regulations. Applications for renewals or extensions shall be submitted to the Division, except that renewals or extensions for foreign students, foreign investors, and foreign business persons are the responsibility of the Department of Commerce; and renewals and extensions for foreign national workers are the responsibility of the Department of Labor. A one-time extension of up to six months may be made available for persons holding valid permits who are eligible for a two-year permit upon payment of the entry permit fee and qualification pursuant to these regulations.

§ 5-40.3-265 Permit cards.

- (a) Issuance. Entry permit cards shall be issued to aliens as soon as practicable upon entry. Initial entry permit cards shall be issued to foreign national workers at the orientation session required under 3 CMC §4351.
- (b) Possession of Cards. Except for persons entering under subsections 240 (c), (f), (g), (h), or (l) or (m), all aliens shall maintain their entry permit in their personal possession during working hours and when entering or exiting the Commonwealth.

§ 5-40.3-270 Fees.

The following fees apply to entry permits:

Vessel or aircraft permission to land	\$100.00
Foreign Worker Entry Permit	\$25.00
Foreign Student Entry Permit	\$100.00

Foreign Investor Entry Permit	\$500.00
Foreign Investor, Immediate Relative	\$500.00
Foreign Investor, Processing Fee (in the event the application is submitted less than seven (7) days in advance of arrival in the Commonwealth)	\$100.00
All other entry permits	\$100.00

The following fees apply to extensions of entry permits for classes 240(c) (tourist), 240 (i) (foreign press), 240(j) (distinguished merit), 240(p) (temporary work), 240(q) (comity), 240(r) (treaty), 240(s) (medical), 240(u) (temporary assignment), or 240(x) (crew)

Extension of entry permit	\$100.00
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The following fees apply to entry classes 240(d) Immediate relative of a citizen or permanent resident; 240(e) Immediate relative of an alien; 240(f) Diplomatic or consular employees; 240(l) Minister of religion; 240(m) Missionary. (All other classes either have no fees or the fees are payable to the Commonwealth education, commerce, and labor authorities.)

Annual registration with the Division	\$25.00
Renewal with the Division	\$100.00

The following other fees apply:

Duplicate copies of permits	\$25.00
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PART 5-40.3-300 EXCLUSION AT PORT OF ENTRY

The following grounds shall be considered a basis for the exclusion of aliens from the Commonwealth at the port of entry:

§ 5-40.3-301 Economic Grounds.

(a) Persons who have no demonstrable means of support, including:

- (1) Paupers, professional beggars and vagrants;
- (2) Persons who either have no return ticket or do not have sufficient funds to support a stay for the duration of the entry permit; and
- (3) Persons who by reason of poverty, insanity, disease, drug addiction, or disability are likely become a charge to the public.

(b) Entry may be allowed, at the discretion of the Director, if relatives or friends or a

third party in the Commonwealth post sufficient cash with the Division to ensure the alien's support and repatriation costs for the duration of the entry permit. The full amount of cash deposited with the Division shall be kept in a trust account until the departure of the alien.

§ 5-40.3-305 Threat to Public Health.

Any dangerous contagious disease designated by the U.S. Public Health Service and listed at 42 CFR § 34.2(b) shall be considered a threat to public health, and any alien suffering from a listed disease shall be excludable.

Any physical condition designated as a threat to public health in the Commonwealth by the Secretary of Public Health shall be a basis for exclusion.

§ 5-40.3-310 Threat to Public Safety.

- (a) Persons may be excluded at the port of entry upon request or advice from the United States Department of Homeland Security for any reason authorized under the regulations issued by that Department.
- (b) Persons with a criminal record may be excluded at the port of entry.
- (c) Persons previously deported from the Commonwealth may be excluded at the port of entry.
- (d) Persons with a documented history of violence or destructive behavior regardless of whether convicted of a crime.

§ 5-40.3-315 Discontinuance of Issuance of Entry Permits.

- (a) Discontinuance. The Attorney General may discontinue issuance of entry permits to the holders of passports issued by any country, or the residents of any state, province, subsection, division or subdivision thereof, if the Attorney General determines:
 - (1) That the government of such country is unable to provide adequate information regarding backgrounds of persons embarking from that location;
 - (2) That the Commonwealth is unable to promptly and accurately assess the backgrounds of such persons; or
 - (3) That admission of such persons poses an unacceptable risk to the security, health and welfare of the Commonwealth.
- (b) Publication of Notice. Determinations made pursuant to subsection (a) may take effect immediately, but shall in every case be published in the next printed edition of the Commonwealth Register and shall be subject to biannual review and renewal. The discontinuance of entry permits may be terminated by future order of the Attorney General, may be renewed indefinitely, or may be for a set period of

time.

- (c) Preliminary Waiver. The Attorney General may issue a preliminary waiver, on a case-by-case basis, of the exclusion of a person from an excluded country, state, province, subsection, division or subdivision, provided that the person has satisfied all other requirements for entry under the applicable laws and regulations, and has provided evidence that the following additional conditions have been satisfied prior to embarkation:
- (1) Except as set forth in subsection (c)(2), if the person is coming to the Commonwealth for purposes of tourism, or under a short-term business entry permit, regular-term business entry permit, immediate relative of a citizen entry permit, immediate relative of an alien entry permit, foreign student entry permit, foreign press entry permit, distinguished merit entry permit, foreign national worker permit, minister of religion permit, religious missionary permit, or retiree investor entry permit the person shall:
 - (i) Provide a cash bond or have his or her sponsor provide a bond issued by an approved bond company for the sum of five thousand dollars, such amounts to be used to offset any expense reasonably incurred by the Commonwealth should the person be convicted of any crime or should the person violate any condition of entry; and
 - (ii) If the person is embarking from an excluded country which the Attorney General determines has repeatedly caused undue delays or refused to accept the return of persons of its citizenship or its nationals, subjects or residents, such person must bear an original, written statement, bearing the official seal of the relevant immigration or government authority in the excluded country, declaring that such country will unconditionally accept the return of the person without delay, such letter to be signed by a person authorized to expedite entry into that country and including the title and official contact information of said signatory.
 - (2) If the person coming to the Commonwealth is a medical professional seeking to enter the Commonwealth for the purpose of rendering medical services or is the immediate relative of said medical professional, is the immediate relative of a citizen currently residing in the Commonwealth whose purpose for coming to the Commonwealth is to reside permanently with said citizen, or is an official government representative traveling to the Commonwealth for the sole purpose of conducting official government business or is the immediate relative of said government representative, such person must obtain a certification to that effect from the Attorney General.
 - (3) A signed letter issued by and bearing the seal of the Attorney General, and imposing any additional conditions as the Attorney General may see fit, shall be delivered to the applicant and shall evidence the issuance or denial of a waiver under this subsection.

(d) Exempt Aliens. The following aliens shall be exempt from the requirements of this section:

- (1) United States permanent residents who present a valid, un-expired form I-551 - permanent resident card, form I-551-alien registration receipt card, or a valid un-expired passport containing a valid un-expired temporary residence stamp (“processed for I-551 temporary evidence of lawful admission”);
- (2) Any alien who holds the equivalent of U.S. lawful permanent resident status, or holds status as a temporary resident authorized to work in and unconditionally return to a country that is listed on the visitor entry permit exempt list pursuant to § 5-40.3-315(c);
- (3) Any alien with a valid United States entry visa which is valid for at least 60 days from the date of entry into the Commonwealth provided that the United States visa permits reentry back into the United States after entry and departure from the Commonwealth;
- (4) Any alien legally in the Commonwealth on the effective date of this section, provided such alien remains continuously in legal status. Such aliens may freely depart and return to the Commonwealth subject to compliance with other applicable law and regulation;
- (5) Children of an alien legally traveling to or residing in the Commonwealth who will be under the age of twelve (12) on the date of departure from the Commonwealth; or
- (6) Any alien accompanying an alien who is ordered excluded, and the welfare of the excluded alien is dependent upon the accompanying alien, or the welfare of the accompanying alien is dependent upon the excluded alien.

§ 5-40.3-320 Order of exclusion.

Any decision to exclude an alien under § 5-40.3-301 economic grounds, § 5-40.3-305 threat to public health, or § 5-40.3-310 threat to public safety shall be issued to the alien in a written order.

§ 5-40.3-325 Record of Examination.

An Examiner shall prepare a summary of the essential information obtained in any interview that is the basis of an order of exclusion. The exclusion decision of the Examiner shall be written in a separate section. Both the summary and the decision shall be affixed to the order of exclusion.

§ 5-40.3-330 Appeal to the Attorney General.

An excluded alien may appeal an order of exclusion to the Attorney General or the designee who may review the order *de novo*. The decision of the Attorney General shall be final. Any alien excluded pursuant to this part shall be notified of the rights under Part 5-40.4 of these regulations with respect to protection of refugees.

PART 5 Subchapter 40.4 Protection for Refugees

PART 5-40.4-100	Applicability
PART 5-40.4-200	Procedural Mechanisms
PART 5-40.4-300	Substantive Law
PART 5-40.4-400	Appeals
PART 5-40.4-500	Other Provisions

PART 5-40.4-100 Applicability

§ 5-40.4-101 Introduction. The regulations in this part implement the protections specified in Public Law 13-61.

§ 5-40.4-102 Eligible Applicants. Only an alien who has been ordered deported by the Commonwealth Superior Court pursuant to 3 CMC §4341, or has been denied entry at a Commonwealth port of entry pursuant to 3 CMC §4331, et seq., and prior to removal from the Commonwealth the individual expresses fear of persecution or torture in the designated country of removal is eligible under this Part 5-40.4. An alien shall not be entitled under any circumstances to submit an application or other assertion of entitlement to refugee protection unless that individual is subject to an order of deportation by a court of competent jurisdiction, is being denied entry to the Commonwealth at a port of entry, or is an immediate relative of an alien on an application pursuant to § 5-40.3-230(e).

PART 5-40.4-200 Procedural Mechanisms

§ 5-40.4-206 Office for Refugee Protection Office. There is hereby created an Office for Refugee Protection (“ORP”) within the Office of the Attorney General. The Attorney General shall staff the Office with one or more personnel as necessary and available in order to perform the duties set forth in the regulations in this part, and to otherwise implement Public Law 13-61.

§ 5-40.4-207 Hearings. Eligible applicants shall be afforded a protection hearing conducted by the ORP, unless it is determined by the Attorney General or a designee that the expression of fear is manifestly unfounded in view of the applicable refugee protection standards set forth herein.

§ 5-40.4-209 Advisory.

(a) Right to Protection.

(1) An alien who has been ordered deported by the Commonwealth Superior Court or excluded at the port of entry shall be:

(i) advised that he or she may obtain a protection hearing if he or she has a

fear of persecution or torture in the designated country of removal that is not manifestly unfounded;

(ii) advised of the right to representation at their own expense; and

(iii) provided with contact information for the Commonwealth Bar Association and other organizations approved by the Attorney General which have indicated availability to assist aliens with their claims.

(2) This advisement will be given in writing by way of a pre-printed form, or verbally, either by the Attorney General or a designee. Verbal advisements shall be duly recorded, electronically or with a written acknowledgment from the alien. Reasonable efforts will be made to ensure that the alien understands the substance of this advisement, including without limitation translation of the advisement into an appropriate language, and providing assistance for those with reading difficulties.

(b) Other Rights and Obligations. Unless the Attorney General or a designee has determined that the claim is manifestly unfounded, the Attorney General or a designee shall provide the alien with appropriate application forms and instructions on how to fill out the forms.

§ 5-40.4-210 Determinations of Manifestly Unfounded Claims.

(a) Interview. Interviews shall be conducted by the Attorney General or by a designee who shall have received specialized training in protection law, relevant country conditions, and in conducting protection-oriented interviews. If requested by either party, an interpreter qualified pursuant to § 5-40.4-215(c) shall be provided. Interviews to determine whether a claim is manifestly unfounded shall be recorded electronically.

(b) Decision. The decision whether a claim is manifestly unfounded shall be made by the Attorney General or by a designee who has received specialized training in protection law and relevant country conditions. "Manifestly unfounded" shall mean that the claim is clearly fraudulent or not related to the criteria for the granting of refugee protection. The basis for finding that a claim is manifestly unfounded shall be set out in a written report. Neither mandatory bars to protection under § 5-40.4-218(b) nor internal relocation alternatives shall be considered in making the "manifestly unfounded" determination.

(c) Review. The applicant may, upon written request filed prior to departing the Commonwealth, obtain review by an Administrative Protection Judge of a determination that a refugee claim is manifestly unfounded. The initial decision-maker shall advise the applicant of this right upon delivery of the determination. The judge may rely solely on the written record or may request additional information or conduct a hearing. The decision of the judge shall be final and unreviewable, not subject to further judicial or administrative proceedings. The applicant shall have the right to remain in the Commonwealth pending a decision of the judge, but may be required to remain in detention.

§ 5-40.4-211 Application.

(a) Initial Application.

(1) Upon receiving the application form and instructions, the alien shall have ten business days to file the completed application and any supporting documents with the ORP, at which time the alien shall have formally entered protection hearing proceedings. This period may be extended at the discretion of the Administrative Protection Judge upon a showing of good cause for failure to apply within the requisite time period. The initial application must:

(i) give the applicant's true identity;

(ii) list all persons seeking status as immediate relatives under § 5-40.3-240(d) and (e); and

(iii) state the basis for seeking refugee protection.

(2) Failure to include the information in subsections (a)(1)(i) and (a)(1)(iii) may be grounds for denying a claim.

(b) Amended Application. The application may be amended once, provided it is submitted with any supporting documents to the ORP not less than ten business days prior to the scheduled date of the protection hearing. Failure to submit the initial or amended application by the date due may be grounds for denying a claim. Supporting evidence submitted less than ten business days prior to the protection hearing may only be admitted by leave of the Administrative Protection Judge.

(c) Evidence. Any documents or other evidence submitted by the Attorney General or a designee shall be submitted not less five business days prior to the scheduled date of the protection hearing. Evidence submitted less than five business days prior to the protection hearing may only be admitted by leave of the Administrative Protection Judge.

(c) Scheduling of Protection Hearing. On the same day that the alien submits an initial application, or as soon as possible thereafter, the ORP shall set a date for the protection hearing, allowing a reasonable amount of time for the alien to amend the application as needed to fully and fairly present his or her case. The ORP shall immediately notify the applicant of the date of the protection hearing. The date of the protection hearing may be extended for good cause, in the discretion of the ORP.

(d) Failure to Appear. Failure to appear for a scheduled hearing shall be considered abandonment of the application and the application shall be denied, except upon a finding by the Administrative Protection Judge of exceptional circumstances or failure to provide proper notice of the scheduled interview.

§ 5-40.4-212 Detention.

- (a) Excluded Persons. If appropriate, and pending a determination on the applicant's request for refugee protection, the Attorney General or a designee may decide to detain the alien or may allow their temporary admission, under such conditions as will ensure the applicant's availability for further proceedings. For purposes of Commonwealth immigration laws, applicants granted parole under this provision shall be considered to be temporarily admitted to the Commonwealth consistent with 3 CMC § 4337.
- (b) Deported Persons. The decision to detain applicants who have been ordered deported but who are awaiting a determination on the applicant's request for refugee protection shall be in the discretion of the Attorney General or a designee, under such conditions as will ensure the person's appearance for further proceedings, or as determined by the Superior Court in accordance with the Commonwealth Entry and Deportation Act, 3 CMC §§ 4301, et seq.

§ 5-40.4-213 Fingerprinting and Background Security Checks. The Division shall obtain each applicant's name, photograph, date of birth, fingerprints and other information that Division deems relevant in order to perform a background security check or to otherwise adjudicate the application for protection and administer the immigration laws.

- (a) Excluded Persons. In the case of an alien excluded at a port of entry, such individual shall not be released from the custody of the Division until this information has been obtained to the satisfaction of the Director unless so ordered by a court of competent jurisdiction.
- (b) Cooperation Required. Failure to cooperate with the Division in providing identity and other background information, or to comply with all instructions of the Division or the Attorney General or a designee relating to the collection of this information, shall be grounds for denial of the protections described herein, and for arrest and removal from the Commonwealth consistent with Commonwealth immigration law. The Attorney General or a designee may waive any of these requirements under exceptional circumstances, for humanitarian reasons.
- (c) Conditional Grants. In the event that an individual is deemed to qualify for refugee protection but a background check has not yet been completed to the satisfaction of the Attorney General or a designee, the Administrative Protection Judge may conditionally grant protection pending completion of the background check. Any such conditional grant of protection shall be temporary and for no specific duration of time. The Attorney General or a designee may reassess a conditional grant of protection, or issue a final determination as to the protection requested, at any time.

§ 5-40.4-214 Administrative Protection Judge.

- (a) Appointment. The term "Administrative Protection Judge" means an attorney who has received specialized training in conducting protection hearings, and whom the Attorney General appoints as an administrative protection judge. An

Administrative Protection Judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe. The Attorney General delegates to the Administrative Protection Judge the authority under 3 CMC § 4344(d) and the regulations in this part to conduct protection hearings and to decide whether refugee protection is mandated in a particular case.

- (b) Protection Consultant. The Administrative Protection Judge will work with the “protection consultant” in conducting protection hearings and making protection determinations under 3 CMC § 4344(d) during the first two years that these regulations are in effect.
- (c) Certification. The Administrative Protection Judge may certify a case to the Attorney General for review and disposition.

§ 5-40.4-215 Protection Hearing.

- (a) Right to Counsel. The applicant has a right to counsel or other form of representation, provided said other form of representation has been previously approved by the Attorney General, at no expense to the government. Any attorney or representative appearing at any proceeding under the regulations in this part shall file a notice of appearance. Service of process, notice, or any other documents upon the person filing a notice of appearance herein shall be deemed service upon the applicant provided the applicant has duly acknowledged the notice of appearance.
- (b) Appearance. The applicant must bring to the protection hearing any person then present in the Commonwealth for whom immediate relative status is sought pursuant to § 5-40.3-240 (d) or (e), unless the applicant demonstrates good cause for a failure to appear. The Administrative Protection Judge may question persons seeking immediate relative status. Such questioning may take place outside the presence of the applicant.
- (c) Interpreters. An applicant who is unable to proceed with the hearing in English will be provided a qualified interpreter. The applicant may also provide his or her own interpreter in addition to the appointed interpreter as a cross-check on the accuracy of the translation.
 - (1) General qualifications. An appointed interpreter must be at least eighteen years of age, and may not be the applicant’s representative or attorney of record, a witness testifying on the applicant’s behalf, a relative of the applicant, a person having a financial or other personal interest in the outcome of the applicant’s case, or an employee or representative of the country or countries concerning which the applicant has expressed a fear of return.
 - (2) Specific qualifications. In addition to the general qualifications, before allowing an appointed interpreter to provide interpreting services to an applicant during a protection hearing, the Administrative Protection Judge must find the interpreter qualified pursuant to the requirements set forth by the ORP.

- (3) Interpreter's oath. Before allowing an interpreter to provide interpreting services in a protection hearing, the Administrative Protection Judge shall administer an oath to the interpreter establishing that the interpreter:
- (i) will translate fully and accurately to the best of their ability;
 - (ii) will keep confidential all information (including the identity of the applicant) obtained during the protection hearing; and
 - (iii) meets the qualifications set forth for interpreters as set forth by the ORP.
- (d) Record. The protection hearing will be recorded so that a record of the proceeding will be preserved. The only recording equipment permitted in the proceeding will be the equipment used by the Administrative Protection Judge to create the official record. No other photographic, video, electronic, or similar recording device will be permitted to record any part of the proceeding. The ORP shall, in the event of an appeal, make a copy of the recording available to the applicant.
- (e) Confidentiality of Proceedings. The protection hearing shall not be open to the public, unless:
- (1) The applicant states for the record that he or she wishes to waive a closed hearing or submits a written statement indicating the same; and
 - (2) The Attorney General or a designee does not oppose the waiver.
- (f) Oath. Testimony of witnesses appearing at the hearing shall be under oath or affirmation, declaring, under penalty of perjury under 6 CMC § 3306, that he or she will testify truthfully.
- (g) Evidence. The Commonwealth Rules of Evidence do not apply in a protection hearing, but may be cited by either party as persuasive authority with respect to the procedure to be employed by the Administrative Protection Judge or the weight that the judge should attach to certain evidence. The judge may make any procedural decisions necessary for the fair and orderly discharge of these proceedings. In the judge's discretion, telephonic or video testimony may be allowed for witnesses who cannot reasonably attend, provided the requesting party bears the expense of providing such testimony. If the judge denies the admission of such testimony, or any other evidence, the reason for the disallowance shall be stated on the record. Nothing in this section is intended to limit the authority of the judge to control the scope of evidence admissible in the protection hearing.
- (h) Procedure. The purpose of the hearing shall be to elicit relevant and useful information bearing on the applicant's eligibility for protection. While the burden of proof rests with the applicant, the Administrative Protection Judge should endeavor to ascertain and evaluate the relevant facts and, as necessary, introduce evidence regarding current country conditions. The judge conducting the

protection hearing:

- (1) shall verify the applicant's identity and ask questions about basic biographical information;
- (2) shall ask the applicant about the reasons for requesting protection;
- (3) shall ask the applicant questions to determine whether he or she meets the legal requirements for protection and whether any grounds for mandatory denial exist; and
- (4) may conduct any other examination of any witness as may be appropriate in the judge's discretion.

(i) Opportunity to Present Evidence.

- (1) Applicant. The applicant shall have the fair opportunity to present the applicant's full case, including the right to present relevant documentary evidence timely submitted, in any form, as well as oral testimony of witnesses or of the applicant, including expert evidence concerning country conditions. Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation, printed legibly or typed, and a certification signed by the translator. Such certification must include a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities.
- (2) Government. The assistant attorney general appearing on behalf of the Commonwealth government (hereinafter, in this context, the "government") shall have the right to appear and to present evidence, to call and cross-examine witnesses, and to cross-examine the individual applicant.
- (3) Reliance on information compiled by other sources. In deciding whether an applicant has established eligibility for the refugee protection described herein, the Administrative Protection Judge may rely on credible material published by the Department of Homeland Security, Department of State, international organizations, private voluntary agencies, or academic institutions.
- (4) Limitations. Nothing in this section shall be construed to entitle the applicant to conduct discovery directed toward the records, officers, agents or employees of the Commonwealth or United States governments. Applicants may seek documents available through an Open Government Act request pursuant to 1 CMC §§ 9901, et seq.

§ 5-40.4-216 Confidentiality.

- (a) Right of Privacy. All information contained in or pertaining to any application for protection under these regulations that reasonably indicates or infers that the particular individual has requested protection shall not be disclosed without

written consent of the applicant, except as permitted by this section or at the discretion of the Attorney General.

(b) Limitations. This section shall not apply to any disclosure to:

- (1) Any Commonwealth or United States government official or contractor having a need to examine information in connection with:
 - (i) the adjudication of applications for protection under these regulations;
 - (ii) the defense or prosecution of any legal action arising from or relating to the adjudication of, or failure to adjudicate, an application for protection under these regulations;
 - (iii) the defense or prosecution of any legal action of which an application for protection under these regulations is a part; or
 - (iv) any Commonwealth or United States government law enforcement activity concerning any criminal or civil matter; or
- (2) Any Commonwealth, or federal court concerning any legal action arising from:
 - (i) the adjudication of, or failure to adjudicate, an application for protection under these regulations; or
 - (ii) the proceedings of which an application for protection under these regulations is a part.

§ 5-40.4-217 Decision.

- (a) A written decision shall be issued within a reasonable time after the protection hearing. Prior to concluding the hearing, the Administrative Protection Judge shall give written notice to the applicant of the date and time to appear to receive the decision, and if the applicant is not in detention, he or she shall be required to return to the ORP to receive the decision. If the ORP has decided that the applicant is not eligible for protection, the applicant shall have an opportunity to appeal the decision to the Attorney General under § 5-40.4-410 within fifteen (15) business days from the date on which the applicant receives the decision. The government may likewise appeal the decision within that fifteen-day period. If there is no appeal, the Administrative Protection Judge's decision shall become final and not subject to further judicial or administrative review.
- (b) In the case of a denial or protection, the applicant shall be removed from the Commonwealth according to applicable law. In the case of a grant of protection, the applicant shall not be removed to the country where the applicant would more likely than not be persecuted or tortured, subject to § 5-40.4-100.

§ 5-40.4-218 Approval or denial of application.

(a) General. Subject to subsection (b), an application for refugee protection or CAT protection shall be granted if the applicant's eligibility is established pursuant to §5-40.4-100. For purposes of this subsection, the term "CAT protection" means protection pursuant to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

(b) Mandatory Denials.

(1) Scope.

(i) An application for refugee or CAT protection shall be denied if:

- (A) the applicant ordered, incited, assisted or participated in the persecution of others on account of race, religion, nationality, membership in a particular social group, or political opinion;
- (B) the applicant has been convicted of a crime and the Administrative Protection Judge determines that the applicant constitutes a danger to the community;
- (C) there are reasonable grounds for a finding that the applicant has committed a serious nonpolitical crime outside the Commonwealth, prior to arrival of the alien in the Commonwealth;
- (D) there are reasonable grounds for a finding that the individual is a danger to the safety or security of the Commonwealth or the United States. Such grounds shall include but not be limited to persons who have engaged in terrorist activity, as that term is defined by 8 USC § 1182(a)(3)(B)(iii).

(ii) If the evidence indicates the applicability of one or more grounds for denial of protection enumerated in this subsection, the applicant shall have the burden of proving by a preponderance of the evidence that such grounds do not apply.

(2) Effect of mandatory denial.

- (i) Refugee protection. An applicant who qualifies for refugee protection but is denied such protection as the result of a mandatory denial pursuant to subsection (b)(1) shall be removed forthwith pursuant to Commonwealth exclusion and deportation law, unless the applicant also qualifies for CAT protection, in which case removal will be pursuant to subsection (b)(2)(ii).
- (ii) CAT deferral. An applicant who qualifies for CAT protection but is denied such protection as the result of a mandatory denial pursuant to subsection (b)(1) shall be granted deferral of removal to the country where he or she is more likely than not to be tortured.

(A) Effect. Deferral of removal under this subsection:

1. Does not confer upon the alien any lawful immigration status in the Commonwealth;
2. Will not necessarily result in the alien being released from the custody of the Attorney General or a designee;
3. Is effective only until terminated; and
4. Is subject to review and termination if the Administrative Protection Judge or the Attorney General determines that it is not likely that the alien would be tortured in the country to which removal has been deferred, or if the alien requests that deferral be terminated.

(B) Termination of CAT deferral.

1. At any time while a CAT deferral is in effect under this subsection, the government may move the Administrative Protection Judge to conduct a hearing to determine whether the CAT deferral should be terminated, or the judge may sua sponte conduct such a hearing. The judge shall grant the government's motion to reopen if the motion is accompanied by evidence that is relevant to assessing the likelihood that the alien would be tortured in the country to which removal has been deferred and that such evidence was not presented at the previous hearing, regardless of the previous availability of the evidence. The judge shall provide notice to the alien and the government of such hearing and shall allow both parties the opportunity to submit supplemental evidence for use in the determination of whether it is more likely than not that the alien will be subject to torture in the country of removal.
2. The Administrative Protection Judge shall make a de novo determination based on the record in the initial proceeding and any new evidence provided as to whether it is more likely than not that the alien will be tortured in the country of removal. This determination shall be made under the standards for eligibility set forth in § 5-40.4-100. The burden remains with the alien to establish that it is more likely than not that he or she will be tortured in the country to which removal has been deferred.
3. If the Administrative Protection Judge determines that the alien is more likely than not to be tortured in the country to which removal has been deferred, the CAT deferral shall remain in place. If the judge determines that the alien has not established that he or she is more likely than not to be tortured in the country to which removal has been deferred, the CAT deferral shall be terminated, and the alien may be removed to that country. Appeal of the judge's decision shall lie with the Attorney General in accordance with the procedures set forth in § 5-40.4-400.
4. At any time while removal is deferred, the alien may request to the

Administrative Protection Judge in writing that such deferral be terminated. The judge shall honor such request if it appears, based on the written submissions of the alien and of the government, or based on a hearing conducted by the judge for this purpose, that the request is knowing and voluntary.

§ 5-40.4-219 Removal to Third Country.

- (a) Applicability. This section applies to any alien subject to an order of deportation under 3 CMC § 4341 or to a determination of excludability under 3 CMC § 4322 whom the Commonwealth intends to remove to a country not designated during the deportation or exclusion proceedings (“undesigned country”).
- (b) Notice. The Commonwealth shall provide the alien with written notice that it intends to remove the alien to an undesigned country. The notice shall also advise that the alien may request refugee protection from removal to the undesigned country pursuant to the regulations in this part.
- (c) Referral for Manifestly Unfounded Determination. If the alien requests refugee protection from the undesigned country within seven calendar days of receiving the notice described in subsection (b), the alien shall be immediately referred to the Attorney General or a designee for an interview to determine whether the alien’s asserted fear of removal is manifestly unfounded in accordance with § 5-40.4-210.
- (d) Decision. The Commonwealth shall not remove the alien to an undesigned country for at least seven days following the Commonwealth’s service of the notice upon the alien. If the alien requests refugee protection from removal to the undesigned country during that period, the Commonwealth shall not remove the alien to that country until there has been a final determination that the refugee protection claim is manifestly unfounded or, if the claim is finally determined not to be manifestly unfounded, that the alien is not eligible for refugee protection from removal to the undesigned country.

PART 5-40.4-300 Substantive law.

§ 5-40.4-310 Substantive law. The following substantive law shall be applied at the protection hearing. U.S. law and the law of other jurisdictions applying the treaty protections set forth above may be consulted as persuasive authority, but are not binding on the decision-maker.

- (a) Refugee Protection. The burden of proof is on the applicant for refugee protection under the regulations in this part to establish that his or her life or freedom would be threatened in the proposed country of removal on account of race, religion, nationality, membership in a particular social group, or political opinion. The testimony of the applicant, if credible, may be sufficient to sustain the burden of proof without corroboration. The evidence shall be evaluated as follows:
 - (1) Past threat to life or freedom.

- (i) If the applicant is determined to have suffered past persecution in the proposed country of removal on account of race, religion, nationality, membership in a particular social group, or political opinion, it shall be presumed that the applicant's life or freedom would be threatened in the future in that country on the basis of the original claim. This presumption may be rebutted if the Administrative Protection Judge finds by a preponderance of the evidence that:
 - (A) There has been a fundamental change in circumstances such that the applicant's life or freedom would not be threatened on account of any of the five grounds mentioned in this paragraph upon the applicant's removal to that country; or
 - (B) The applicant could avoid a future threat to his or her life or freedom by relocating to another part of the proposed country of removal and, under all the circumstances, it would be reasonable to expect the applicant to do so.
 - (ii) In cases in which the applicant has established past persecution, the government shall bear the burden of establishing by a preponderance of the evidence the requirements of subsection (a)(1)(i)(A) or (a)(1)(i)(B).
 - (iii) If the applicant's fear of future threat to life or freedom is unrelated to the past persecution, the applicant bears the burden of establishing that it is more likely than not that he or she would suffer such harm.
- (2) Future threat to life or freedom. An applicant who has not suffered past persecution may demonstrate that his or her life or freedom would be threatened in the future in a country if he or she can establish that it is more likely than not that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion upon removal to that country. Such an applicant cannot demonstrate that his or her life or freedom would be threatened if the Administrative Protection Judge finds that the applicant could avoid a future threat to his or her life or freedom by relocating to another part of the proposed country of removal and, under all the circumstances, it would be reasonable to expect the applicant to do so. In evaluating whether it is more likely than not that the applicant's life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the judge shall not require the applicant to provide evidence that he or she would be singled out individually for such persecution if:
- (i) The applicant establishes that in that country there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and
 - (ii) The applicant establishes his or her own inclusion in and identification

with such group of persons such that it is more likely than not that his or her life or freedom would be threatened upon return to that country.

(3) Reasonableness of internal relocation. For purposes of determinations under paragraphs (a)(1)(i)(B) and (a)(2) of this subsection, adjudicators should consider, among other things, whether the applicant would face other serious harm in the place of suggested relocation; any ongoing civil strife within the country; the quality of the administrative, economic, or judicial infrastructure in the place of proposed relocation; geographical limitations on the applicant's ability to relocate; and social and cultural constraints, such as age, gender, health, and social and familial ties. These factors may or may not be relevant, depending on all the circumstances of the case, and are not necessarily determinative of whether it would be reasonable for the applicant to relocate.

(i) In cases in which the applicant has not established past persecution, the applicant shall bear the burden of establishing that it would not be reasonable for him or her to relocate, unless the persecutor is a government or is government-sponsored.

(ii) In cases in which the persecutor is a government or is government-sponsored, or the applicant has established persecution in the past, it shall be presumed that internal relocation would not be reasonable, unless the government establishes by a preponderance of the evidence that under all the circumstances it would be reasonable for the applicant to relocate.

(b) CAT Protection and CAT Deferral. The burden of proof is on the applicant for CAT protection to establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal. The testimony of the applicant, if credible, may be sufficient to sustain the burden of proof without corroboration.

(1) "Torture" defined.

(i) Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

(ii) Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture.

(iii) Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. Lawful sanctions include judicially

imposed sanctions and other enforcement actions authorized by law, including the death penalty, but do not include sanctions that defeat the object and purpose of the Convention Against Torture to prohibit torture.

- (iv) In order to constitute torture, mental pain or suffering must be prolonged mental harm caused by or resulting from:
 - (A) The intentional infliction or threatened infliction of severe physical pain or suffering;
 - (B) The administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
 - (C) The threat of imminent death; or
 - (D) The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the sense or personality.
- (v) In order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering. An act that results in unanticipated or unintended severity of pain and suffering is not torture.
- (vi) In order to constitute torture an act must be directed against a person in the offender's custody or physical control.
- (vii) Acquiescence of a public official requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.
- (viii) Noncompliance with applicable legal procedural standards does not *per se* constitute torture.

- (2) Consideration of evidence. In assessing whether it is more likely than not that an applicant would be tortured in the proposed country of removal, all evidence relevant to the possibility of future torture shall be considered, including, but not limited to:
 - (i) Evidence of past torture inflicted upon the applicant;
 - (ii) Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
 - (iii) Evidence of gross, flagrant or mass violations of human rights within the country of removal, where applicable; and
 - (iv) Other relevant information regarding conditions in the country of removal.
- (3) Order of review. In considering an application for CAT protection, the Administrative Protection Judge shall first determine whether the applicant is more likely than not to be tortured in the country of removal. If the judge determines that the applicant is more likely than not to be tortured in the country of removal, the applicant is entitled to CAT protection. An applicant entitled to such protection shall be granted all privileges provided for such individuals under subpart C of this part, unless the applicant is subject to mandatory denial of protection under § 5-40.4-218(b).
- (4) Effect of mandatory denial. If an applicant otherwise entitled to CAT protection is subject to a mandatory denial under § 5-40.4-218(b), the applicant's removal shall be deferred under § 5-40.4-218(b)(2)(ii), and will be referred to as a CAT deferral.

PART 5-40.4-400 Appeals.

§ 5-40.4-410 Appeals. Either the applicant or the government may appeal a decision to grant, deny or terminate refugee protection to the Attorney General or a designee within fifteen business days of service upon the applicant. If no appeal is made to the Attorney General within this time, the decision shall become final and unreviewable administratively or judicially. The applicant shall be entitled to remain in the Commonwealth pending the outcome of the appeal but may be required to remain in detention.

- (a) Notice of Appeal. An appeal pursuant to this section is taken by filing a written notice with the Attorney General or a designee, which is signed by the appealing party or his or her counsel, and which states the relief requested. The appealing party, or his or her counsel or representative, may also include a concise statement of the grounds for the appeal.

- (b) Certification of Record. Upon timely receipt of a notice of appeal, the Attorney General or a designee shall request that the ORP promptly certify and transmit to the Attorney General the entire record, including the original recording of proceedings, if any.
- (c) Form of Appeal. The appeal and all attachments must be in English, or accompanied by a certified English translation.
- (d) Procedure for Review. Upon review, the Attorney General may take any of the following actions:
 - (1) Restrict review to the existing record;
 - (2) Permit or request legal briefs or supplement the record with new evidence;
 - (3) Hear oral argument; or
 - (3) Hear the matter de novo.
- (e) Decision. Upon completion of review, the Attorney General shall affirm, reverse, or modify the findings, order, or decision of the Administrative Protection Judge in writing within ten business days, or as soon thereafter as reasonably practical. The Attorney General may remand under appropriate instructions all or part of the matter to the judge for further proceedings, e.g., the taking of additional evidence and the making of new or modified findings by reason of the additional evidence.
- (f) Finality. The decision of the Attorney General shall be final and unreviewable, not subject to further judicial or administrative review. A case may only be reopened upon a motion from the government or sua sponte by an Administrative Protection Judge pursuant to § 5-40.4-218(b)(2)(B), or upon a motion by the applicant establishing prima facie eligibility due to a fundamental change of circumstances.

§ 5-40.4-420 Reconsideration of Grant of Protection. A grant of protection is for an indefinite period, but does not bestow upon an applicant a right to remain permanently in the Commonwealth. The ORP may reopen a case, either sua sponte or upon motion from the government, and re-evaluate a grant of CAT or refugee protection. Such re-evaluation may be performed either on a systematic, periodic basis (i.e., every two years, etc.), or in a specific instance if country conditions have changed in a fundamental and durable way that affects the likelihood that the grantee will be persecuted or tortured, if another country is identified in which the applicant can reside free from persecution or torture, if the applicant has committed certain crimes or engaged in other activity that

triggers a mandatory denial set forth in § 5-40.4-218(b), if the ORP determines that the applicant engaged in misrepresentation of a material fact in connection with his or her application, or if the ORP determines that there are serious reasons for believing that the alien no longer requires protection under PL 13-61.

- (a) Procedure. Except with respect to conditional grants of protection pursuant to § 5-40.4-213(c), the Attorney General or a designee will not terminate CAT or refugee protection pursuant to this section unless the individual has been provided notice, in person or by mail to the last known address, as well as the opportunity for a hearing before an Administrative Protection Judge, at which time the Attorney General or a designee must show by a preponderance of the evidence that the individual no longer qualifies for such protection.
- (b) Appeals. An alien or the government may file an appeal to the Attorney General of any decision under this section, pursuant to § 5-40.4-400, within fifteen business days of service of the decision upon the applicant. If no appeal is made to the Attorney General within this time, the decision shall become final and unreviewable administratively or judicially.
- (c) Effect of Termination of Refugee or CAT Protection. In the event that an order terminating refugee or CAT protection is issued by the ORP, and no appeal is taken or the termination order is affirmed on appeal, the individual whose protection is terminated shall be required to depart the Commonwealth forthwith pursuant to Commonwealth immigration laws.

PART 5-40.4-500 Other provisions.

§ 5-40.4-510 Employment Authorization. Applicants requesting refugee protection do not have a right to work in Commonwealth and shall not be given the opportunity to apply for employment authorization at the time they request protection. They may, however, request temporary work authorization before a final decision, meaning all appeals have been exhausted, is made on their case if ninety calendar days have passed since the initial request for protection and no final decision has been made, or if they have been granted a conditional grant of protection pursuant to § 5-40.4-213(c). The temporary work authorization process shall be governed by the Department of Labor, and the Department's regulations in that respect shall apply..

§ 5-40.4-520 Right to Travel. Applicants (with immediate relatives) must obtain advance permission from the Division and the ORP before leaving the Commonwealth if they wish to return. Failure to obtain such permission creates a presumption that the applicant has abandoned his or her request with the ORP, and he or she may not be permitted to return to Commonwealth. If an applicant

obtains permission to depart and returns to his or her country of feared persecution or torture, he or she shall be presumed to have abandoned his or her request, unless he or she can show compelling reasons for the return.

§ 5-40.4-530 Protection for Immediate Relatives. Immediate relatives of an applicant whose request for refugee protection or CAT protection is granted (“grantee”) will automatically receive the same status, provided that the immediate relative is present in Commonwealth, was included on the initial application, and is not barred from relief pursuant to § 5-40.4-218(b). A grantee must establish a qualifying relationship to any immediate relative by a preponderance of the evidence. Immediate relatives outside the Commonwealth are not entitled to protection. “Grantee” shall not refer to individuals granted deferral of removal pursuant to § 5-40.4-218(b)(2)(ii). In light of the temporary nature of such deferral of removal, applications will be handled on a case-by-case basis.

§ 5-40.4-535 Identification Documents. A grantee and immediate relatives who are accorded protection shall be issued identification documents by the Division evidencing status.

§ 5-40.4-545 Right to Travel. Grantees (along with any immediate relative) must obtain advance written permission from the Division before leaving Commonwealth in order to return. Failure to obtain such permission creates a presumption that the grantee has abandoned his or her protection in Commonwealth, and he or she may not be permitted to return. If a grantee obtains permission to depart and returns to his or her country of feared persecution or torture, he or she shall be presumed to have abandoned his or her protection in Commonwealth, unless he or she can show compelling reasons for the return.

§ 5-40.4-550 Right to Assistance. Nothing in this part shall prevent a person from applying for or receiving public benefits, including but not limited to health care, public education, or living assistance, for which they may be eligible under law to the same extent as other aliens lawfully residing in the Commonwealth.

PART 5 Subchapter 40.5 Transition

- PART 5-40.5-100 Transition for Commonwealth educational authorities.
- PART 5-40.2-200 Procedural Mechanisms
- PART 5-40.4-300 Substantive Law
- PART 5-40.4-400 Appeals
- PART 5-40.4-500 Other Provisions

PART 5-40.5-100: Transition for Department of Commerce

The Department of Commerce may implement regulations governing the certification of foreign investors, foreign business persons, and foreign students as eligible to enter the Commonwealth. In the event that the Department of Commerce does not implement regulations prior to the effective date of these regulations, the provisions of the prior immigration regulations with respect to the entry of foreign investors, foreign business persons, and foreign students shall continue in full force and effect until the effective date of such final regulations.

PART 5.40.5-200: Effective Date

These regulations shall become effective on January 1, 2009.