

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN MARIANA ISLANDS

VOLUME 22 NUMBER 10



OCTOBER 20, 2000

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COMMONWEALTH

REGISTER

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# COMMONWEALTH REGISTER

VOLUME 22 NUMBER 10  
OCTOBER 20, 2000

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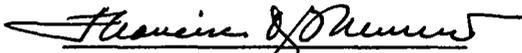
**BOARD OF PROFESSIONAL LICENSING**  
**Commonwealth of the Northern Mariana Islands**  
 P.O. Box 502078  
 Saipan, MP 96950  
 Tel. No.: (670) 234-5897  
 Fax No.: (670) 234-6040

**NOTICE OF PROPOSED AMENDMENTS TO THE  
 RULES OF PROFESSIONAL CONDUCT FOR  
 ENGINEERS, ARCHITECTS, LAND SURVEYORS  
 AND LANDSCAPE ARCHITECTS**

The Board of Professional Licensing hereby notifies the General Public that it proposes to amend its Rules and Regulations for Engineers, Architects, Land Surveyors and Landscape Architects. Interested persons may obtain copies of the proposed amendments from the Board of Professional Licensing Office, 2nd Floor of the ICC Building, Gualo Rai.

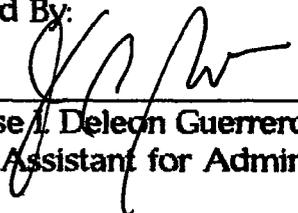
Anyone interested in commenting on the proposed amendments may do so within 30 days from the date of this notice is published in the Commonwealth Register.

Dated this 20th day of Sept., 2000.

  
 Francisco Q. Guerrero  
 Chairman

Filed By:   
 Soledad B. Sasamoto  
 Registrar of Corporations

10/18/00  
 Date

Received By:   
 Jose A. Deleon Guerrero  
 Special Assistant for Administration

10/18/00  
 Date

Pursuant to 1 CMC §2153 as amended by P.L. 10-50 the Rules and Regulations for Engineers, Architects, Land Surveyors and Landscape Architects attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 16th day of Oct, 2000.

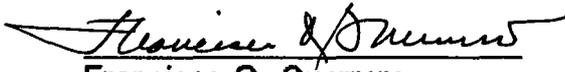
Herbert D. Soil  
 Attorney General  
  
 By: Elliott A. Sattler  
 Assistant Atty. General

**NUTISIA PUT I MAPROPOPONE SIHA NA AMENDASION GI  
REGULASION PARA ENGINEERS, ARCHITECTS, LAND  
SURVEYORS YAN LANDSCAPE ARCHITECTS**

I Board of Professional Licensing ginen este manana'e nutisia para i pupbliku henerat na ha propopone para u amenda i Regulasion para Engineers, Architects, Land Surveyor yan Landscape Architects. I maninteresao siha na petsona siña manmañule kopian este siha na amendasion gi Ofisinan Board of Professional Licensing, gaige gi mina' dos bibenda ICC Building giya Gualo Rai.

Hayi siha maninteresao mana' halom komento put i manmapropopone siha na amendasion, siña ha macho'gue gi tinige ya u masatmiti gi halom trenta (30) dias despues di mapupblika huyong este na nutisia gi Rehistran Commonwealth.

Ma fecha gi mina' 20th na dia guine na mes September, 2000.

  
Francisco Q. Guerrero  
Chairman

Ma File As:

  
Soledad B. Sasamoto  
Rehistradoran Kotporasion

10/18/01  
Fecha

Ma Resibi As:

/s/  
Jose I. Deleon Guerrero  
Special Assistant for Admin.

10/18/01  
Fecha

Sigun gi 1 CMC §2153 ni inamenda ni Lai Puppbliku 10-50 i areklamto yan regulasion ni checheton guine esta manmainan maolek yan ma apreba i fotma kumo liga yan sifisiente ni Oficialis Attorney General guine gi CNMI.

Ma fecha gi mina \_\_\_\_\_ guine names \_\_\_\_\_, 2000.

Herbert D. Soll  
Attorney General

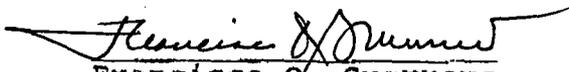
Ginen: \_\_\_\_\_  
Elliott A. Sattler  
Assistant Attorney General

ARONGORONGOL TOULAP REEL POMWOL LLIIWEL MELLÓL ALLEGHÚL MILLE  
PROFESIONAL CONDUCTOR REEL ENGINEERS, ARCHITECTS, SCHOOL AKKAPÉEL  
FALÚW, BWAL LANDSCAPE ARCHITECTS

Board of Professional Licensing eghal arongaar toulap bwe e fféer pomwol lliiwel reel Alleghul Engineers, Architects, School Akkapéel Falúw bwal Landscape Architects. Aramas ye e tipeli ebwe bweibwogh kopiya yaal pomwol lliiwel kkaal nge e bweibwogh mereel Bwulasiyol Board of Professional Licensing, 2nd floor mellól ICC Building iye e lo Amairaw.

Iyo e tipeli ebwe isisilong yaal aiyegh me ngare mánghemáng bwelle, reel pomwol lliiwel kkaal nge ebwe féerú schagh nge essóbw luuwulo eliigh(30) ral sángi ral la e toolong arong yeel llól Commonwealth Register.

Ral ye 20th llól maram ye September, 2000.

  
Francisco Q. Guerrero  
Chairman

Isaliyal:  
  
Soledad B. Sasamoto  
Registrar of Corporations

10/18/00  
Ral

Bwughiyal:  
18/  
Jose I. Deleon Guerrero  
Special Assistant for Administration

10/18/00  
Ral

Sángi aileewal 1 CMC SS2153 iye, a lliiwel mellól Alleghúl Toulap(Public Law)10-50, reel, allegh kkaal ngali Engineers, Architects, School Akkapéel Falúw bwal Landscape Architects ikka e appasch ighaal nge atakkal amweri me alúghúlugh lo mereel Bwulasiyol CNMI Attorney General.

Ral ye \_\_\_\_\_ llól maram ye \_\_\_\_\_, 2000.

Herbert D. Soll

Mereel: Elliott A. Sattler  
Assistant Atty. General



## **BOARD OF PROFESSIONAL LICENSING**

**Commonwealth of the Northern Mariana Islands**

P.O. Box 502078

Saipan, MP 96950

Tel. No.: (670) 234-5897

Fax No.: (670) 234-6040

## **BOARD OF PROFESSIONAL LICENSING**

### *Statutory Authority*

The Board of Professional Licensing promulgated these proposed amendments pursuant to the powers granted it by Section 3105 of 4 CMC, Div. 3 (P.L. 1-8 and 4-53).

### *Statement of Goals and and Objectives:*

The intent of the amendments is to update and be consistent with the national organizations in order for the Board to be more efficient and effective in protecting the health, welfare and safety of the people of the Commonwealth.

### *Brief Summary of the Proposed Amendments*

The proposed amendments is to update the regulations to be more consistent with the guidelines of the National Council of Examiners for Engineering and Surveying (NCEES) and the National Council of Architectural Registration Board (NCARB) consisting of the following: addition of a section for firm and its definition, Engineering Technology Degrees and its definition, Proctoring of Examinations for other Jurisdiction and its definition, General Provisions for Certificate of Authorization, Licensed individual Practicing under a firm, Land Surveyor's Seals and to amend the following: Schedules of Fees, Examination Results, Engineering Offerings for Engineers and Land Surveyors and the Business License detailed term.

### *For Further Information Contact:*

Florence C. Sablan , Board Administrator at 234-5897 or 235-5898 or fax at 234-6040.

REGULATIONS  
OF THE  
BOARD OF PROFESSIONAL LICENSING  
FOR  
ENGINEERS, ARCHITECTS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

PART I. GENERAL PROVISIONS

1.1 Purpose

The purpose of adopting these regulations is to clarify and implement Public Laws 1-8, 4-53, 5-43, and 11-99, to the end that the provisions thereunder may be best effectuated and the public interest most effectively served.

1.2 Authority

These regulations are adopted herewith pursuant to authority vested in the Board under P. L. 4-53.

1.3 Force and Effect

These regulations and the Rules of Professional Conduct adopted by the Board shall be binding upon all persons and entities licensed under the Laws of the Commonwealth and shall be applicable to all sole practitioners, partnerships, corporations, associations and joint ventures holding licenses, certificates of authorization and temporary permits. No person except those exempted by sections 3213 and 3215 of P. L. 11-99 shall practice engineering, architecture, land surveying or landscape architecture unless licensed hereunder.

1.4 Rules of Order

The latest edition of the Robert Rules of Order shall govern the normal proceedings of the Board.

PART II. DEFINITIONS

2.1 ABET - The letters "ABET" shall mean Accreditation Board for Engineering and Technology.

2.2 Advertise includes, but is not limited to, the issuance of any card, sign, or device to any person; the causing, permitting, or allowing of any sign or marking on or in any building, vehicle or structure or advertising through the media. Advertising through the "media" means newspapers, magazines, and telephone directories including all listings in the yellow pages or commercial broadcasting through radio or television or any other means of dissemination.

2.3 Approved Institution of Higher Education - The term "approved institution of higher education" shall mean institutions offering curricula leading to a Ph.D. or master's degree in engineering or architecture accredited by ABET, CACB, CEAB, NAAB, or as approved by the Board.

- 2.4 Approved School or College - The term "approved school or college" shall mean institutions offering curricula leading to first professional degrees in engineering, architecture, land surveying or landscape architecture and are accredited by ABET, CACB, CEAB, NAAB, or as approved by the Board.
- 2.5 A.R.E. - The letters "A.R.E." shall mean Architect Registration Examination prepared by NCARB.
- 2.6 Architect - The term "architect" shall mean a person who has been duly licensed by the Board to engage in the practice of architecture within the Commonwealth.
- 2.7 Base State - The term "base state" shall mean the jurisdiction in which an applicant took and passed the required examination and was initially licensed or the jurisdiction to which an applicant has transferred his base state status.
- 2.8 Board - The "board" shall mean the Commonwealth of the Northern Mariana Islands Board of Professional Licensing as established by Chapter 1 of 4 CMC, Division 3.
- 2.9 Branch - The term "branch" shall mean the various branches of the engineering profession, i.e. civil, structural, mechanical, electrical, etc.
- 2.10 CACB - The letters "CACB" shall mean the Canadian Architectural Certification Board.
- 2.11 CBRPELS - The letters "CBRPELS" shall mean the California Board of Registration for Professional Engineers and Land Surveyors.
- 2.12 CEAB - The letters "CEAB" shall mean the Canadian Engineering Accreditation Board.
- 2.13 Certificate of Authorization - The term "certificate of authorization" shall mean the documents issued by the Board to a sole practitioner, partnership, corporation, association or joint venture in the name of the firm and identifies the firm as legally entitled to practice engineering, architectural, land surveying or landscape architecture within the CNMI.
- 2.14 Chemical Engineering - That branch of engineering which embraces studies or activities relating to the development and application of processes in which chemical or physical changes of materials are involved.
- 2.15 Civil Engineering - That branch of engineering which embraces activities or studies in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways,

harbors, municipal improvements, railroads, highways, tunnels, airports and runways, purification of water, sewerage, refuse disposal, foundations, framed and homogeneous structures, buildings and bridges. It is concerned with investigation of the laws, phenomena forces of nature; preparation and /or submission of designs, plans, specifications and engineering reports; determination of materials physical qualities; economics of design and use of construction materials; appraisals, valuations and inspection of the construction of engineering structures.

- 2.16 CLARB - The letters "CLARB" shall mean the Council of Landscape Architectural Registration Boards.
- 2.17 Commonwealth (CNMI) - The term "Commonwealth" shall mean the Commonwealth of the Northern Mariana Islands, and its public corporations.
- 2.18 Construction Inspection - The term "construction inspection" means making visits to the site by a licensed engineer, architect, or landscape architect, or qualified representatives, to inspect or observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. It is not required that they make exhaustive or continuous on-site inspections to check the quality or quantity of work nor is it intended that the engineer, architect, or landscape architect be responsible for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the work.
- 2.19 Consulting Engineer - The term "consulting engineer" shall mean a professional engineer whose principal occupation is the independent practice of engineering; one who provides services to clients as an independent fiduciary devoid of interests, affiliations and associations that might infer a conflict of interest; one who must exercise legal responsibility at a professional level without prejudice or bias.
- 2.20 Direct Supervision - The term "direct supervision" shall mean that degree of supervision by a person overseeing the work of another whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.
- 2.21 Design - The term "design" shall mean any analysis, calculation, sketch, plan, drawing, outline, scheme, model, contrivance or procedure which conveys the plan, location, arrangement, intent, purpose, appearance and nature of construction or alteration of existing or proposed buildings, structures, works, machines, processes, land areas or projects.
- 2.22 Directly In Charge of the Professional Work - The term "directly in charge of the professional work" shall mean personal preparation and/or direct supervision of the preparation and personal review of all instruments of professional service and shall include the legal authority

to bind the sole proprietor, partnership, corporation, association or joint venture in all matters relating to the professional work.

- 2.23 Electrical Engineering - That branch of engineering which embraces studies, design and activities relating to the general transmission, storage and utilization of electrical energy, including design of electrical gear, design of electrical, electronic and magnetic circuits and the technical control of their operation, including research, design, production, operation, organization and economic aspects of all the above.
- 2.24 Engineer - The term "engineer" shall mean a person who has been duly licensed by the Board to engage in the practice of engineering, including any of the branches thereof, as hereinafter defined.
- 2.25 Engineer Intern (Engineer-In-Training) - Engineer intern shall mean a person who has met the education and character requirements as set forth herein and have taken and passed the Fundamentals of Engineering Examination and has been duly licensed by the Board.
- 2.26 Firm - The term "firm" shall mean the business entity that offers engineering, architectural, land surveying or landscape architecture services to the public of their licensed personnel who are either employees, officers or partners of the company.
- 2.27 Gross Negligence - The term "gross negligence" is the performance of professional work by a licensee which demonstrates through errors and/or omissions indifference to and/or wanton disregard of accepted standards of care and/or legal obligation so far as other persons may be affected.
- 2.28 Incompetence - The term "incompetence" is the performance of professional work by a licensee which demonstrates through errors and/or omissions lack of ability to produce work in conformity with accepted professional standards.
- 2.29 Investigation - The term "investigation" shall mean careful research, examination, inquiry and study to reveal or determine scientific, aesthetic and technical information and facts for the planning, design, location, construction and alteration of existing and proposed structures, buildings, works, machines, processes, land areas and projects.
- 2.30 Jurisdiction - The term "jurisdiction" shall mean the state, commonwealth, territory or possession or country authorized by law to license engineers, architects, land surveyors or landscape architects.
- 2.31 Landscape Architect - The term "landscape architect" shall mean a person who has been duly licensed by the Board to engage in the practice of landscape architecture in the Commonwealth.

- 2.32 Land Surveyor - The term "land surveyor" shall mean a person who has been duly licensed by the Board to engage in the practice of land surveying in the Commonwealth.
- 2.33 Land Surveyor Intern (Land Surveyor in Training) - The term "land surveyor intern" shall mean a person who has met the educational requirement as set forth herein, and in either case has passed the examination on fundamentals of land surveying and has been duly licensed by the Board.
- 2.34 Lawful Experience - The term "lawful experience" shall be interpreted by the Board to mean experience in the appropriate profession or engineering branch under the supervision of a NCEES, NCARB, CACB or CEAB member board licensed engineer, architect, land surveyor or landscape architect in the District of Columbia, any state, commonwealth or territory of the United States and Canada.
- 2.35 Marine Engineering - That branch of engineering concerned with the design, construction, operation and repair of energy conversion devices and systems for marine applications. These systems include ship propulsion plants, cargo moving systems, refrigeration, air conditioning systems and control systems. Fluid and structural dynamics, heat transfer, mechanics, machine design and electrical engineering form the main base for marine engineering. In addition, marine engineers must have a fundamental knowledge of naval architecture.
- 2.36 Mechanical Engineering - That branch of engineering which deals with engineering problems relating to generation, transmission, and utilization of energy in the thermal or mechanical form and with engineering problems relating to the production of tools, machinery, and their products and to heating, air conditioning, ventilation, refrigeration and plumbing equipment and systems, including research, design, production, operation, organization, and economic aspects of all the above.
- 2.37 NAAB - The letters "NAAB" shall mean the National Architectural Accreditation Board.
- 2.38 Naval Architect - This discipline is concerned with the design, construction, operation and repair of marine vehicles. A naval architect conceives and develops a vehicle to meet the requirements of the owner, the ocean environment and any interface with other transportation systems. Fluid dynamics, structures mechanics, elements of ship architecture and ship static and dynamics form the main base. In addition, naval architects must have a fundamental knowledge of marine engineering.
- 2.39 NCARB - The letters "NCARB" shall mean the National Council of Architectural Registration Boards.

- 2.40 NCEES - The letters "NCEES" shall mean the National Council of Examiners for Engineering and Surveying.
- 2.41 Negligence - The term "negligence" is the performance of professional work by a licensee which demonstrates through errors and /or omissions a lack of due care in accordance with accepted professional standards.
- 2.42 Person - The term "person" shall include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, or any other person acting in a fiduciary or representative capacity, or any combination of individuals.
- 2.43 Practice of Architecture - The term "practice of architecture" as defined by 4 CMC 3211 (a)(2)(A) means the rendering or offering to render those services, hereinafter described, in connection with the design and construction, enlargement or alteration of a building or group of buildings and the space within and surrounding such buildings, which have as their principal purpose human occupancy or habitation; the service referred to include planning, providing preliminary studies, designs, drawings, specifications and other technical submissions, the administration of construction contracts, and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects; provided that the practice of architecture shall not include the practice of engineering as defined hereinafter.

A person is considered to practice or offer to practice architecture, within the meaning and intent of the law, who practices the profession of architecture or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be an architect through the use of some other title, implies that he or she is an architect or that he or she is licensed or holds himself or herself out as able to perform or does perform any architectural service or work or any other service designated by the practitioner which is recognized as architecture.

- 2.44 Practice of Engineering - The term "practice of engineering" as defined by 4 CMC 3211 (d)(2)(A) means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, expert technical testimony, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, teaching of advanced engineering subjects, engineering surveys and the inspection of construction for the purpose of assuring compliance with the drawings and specifications; any of which embraces such services of work; either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or

consumer products or equipment or a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

A person is considered to practice or offer to practice engineering, within the meaning and intent of the law, who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional engineer or through the use of some other title, implies that he or she is a professional engineer or that he or she is licensed or holds himself or herself out as able to perform or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering.

- 2.45 Practice of Landscape Architecture - The term "practice of landscape architecture" as defined by 4 CMC 3211 (e)(2)(A) means to perform professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and responsible supervision where the dominant purpose of such services is the preservation and enhancement of land uses and natural land features; the location and construction of aesthetically pleasing and functional approaches for structures, roadways, and walkways; and design for equestrian trails, plantings, landscape irrigation, landscape lighting, and landscape grading. This practice shall include the location, arrangements, and design of such tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities. A licensed landscape architect shall not practice or offer to practice architecture or any branch of engineering.

A person is considered to practice or offer to practice landscape architecture, within the meaning and intent of the law, who practices the profession of landscape architecture or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a landscape architect or through the use of some other title, implies that he or she is a landscape architect or that he or she is licensed or holds himself or herself out as able to perform or who does perform any landscape architecture service or work or any other service designated by the practitioner which is recognized as landscape architecture.

- 2.46 Practice of Land Surveying - The term "practice of land surveying" as defined by 4 CMC 3211 (f)(2)(A) means one who is a professional specialist in the technique of measuring land, educated in the basic principles of

mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence and all requisite to surveying of real property and uses these skills for providing professional services such as consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting reliable, scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, plan, report, description, or project.

Any person is considered to practice or offer to practice land surveying with the meaning and intent of the law who engages in land surveying or who by verbal claim, sign, letterhead, card or in any other way represents himself or herself to be a land surveyor or who represents himself or herself as able to perform or who does perform any land surveying service or work or any other service designated by the practitioner which is recognized as land surveying.

- 2.47 Probation - A condition placed upon an individual's practice that obligates they meet various conditions and further demonstrates that they have maintained a satisfactory performance in their practice over a specific period of time.
- 2.48 Reprimand - A formal criticism and/or admonishment directed to the licensee as a result of the violation noted.
- 2.49 Responsible Charge - The term "responsible charge" shall mean direct control and personal supervision of engineering, architecture, land surveying or landscape architecture work by a licensed engineer, architect, land surveyor or landscape architect.
- 2.50 Revocation - A termination of a license or certificate to practice. Such action should require that the licensee or corporation surrender any and all license and wallet card issued by the Board. In order for a licensee or corporation to reinstate a certificate and/or license that has been revoked, the licensee or corporation is required to apply as a new applicant.
- 2.51 Rules of Professional Conduct - The term "Rules of Professional Conduct for Engineers, Architects, Land Surveyors and Landscape Architects" shall mean those rules promulgated by the Board for conduct of the practice of engineering, architecture, land surveying and landscape architecture in the Commonwealth.
- 2.52 Signature - The term "signature" shall mean the reproducible original signing of one's own name. A facsimile or electronically digitized signature will not be acceptable. Rubber signature stamps shall not be acceptable.

- 2.53 Specifications - The term "specifications" shall mean the calling out of materials, equipment, standards, procedures, projects and methods to be used in the construction and alteration of buildings, structures, works, machines, processed, land areas and projects.
- 2.54 Structural Engineering - That branch of engineering which deals with investigation, design, selection, and construction supervision of the fore-resisting and load-supporting members, of structures, such as foundation walls, columns, slabs, beams, girders, trusses, and similar members where such investigation, design, selection, and inspection requires a knowledge of engineering laws, formulae and practice, a knowledge of the physical properties of construction materials, and a knowledge of the methods used in their assembly or erection. Building where structure measures more than 45 feet in height or more than three stories high must be designed by a structural engineer.
- 2.55 Suspension - A suspension terminates a certificate and/or license privileges for a limited time. The certificate and/or license may be reinstated after the licensee or corporation fulfilled conditions imposed by the Board.
- 2.56 Warning Letter - A letter issued to a licensee or corporation based upon a threshold determination that unacceptable conduct has occurred. A warning letter can be used when it is determined that a suspension or revocation is not appropriate, but some level of criticism is needed.

### PART III. APPLICATIONS

#### 3.1 Filing of Applications

A. All applications filed with the Board shall be complete, filed on the forms prepared by the Board and prepared in accordance with and contain all the information called for on the form.

B. Information on the application form must be typed or neatly lettered in ink. When space available on a form is not adequate to contain all the information required, supplementary sheets of 8 1/2 x 11 or 8 1/2 x 14, white paper shall be used.

C. To allow time for the Board to process the application for examination, receive verification of required information and order examination booklets, application must be filed with the Board at least ninety (90) days prior to the examination date established by NCEES, NCARB or CBRPELS.

D. Information on the application form must account for all time that has elapsed since the date of the applicant's firm employment. If the applicant was not employed in another type of work for a period of time, that must be indicated in the applicant's experience record.

E. Council record submitted to the Board by NCEES or NCARB shall be accepted in lieu to the information required on the application furnished by the Board. Application must still be signed and notarized under oath and a photograph attached, as required under Section 19 of the application.

F. All applications shall be accompanied by one endorsed passport-size photograph of the applicant. The photograph may be either black and white or color, not retouched, full-face taken within 30 days of the date of the application.

G. Applications submitted to the Board shall be signed and attested before a notary public.

H. The withholding of information, misrepresentation of fact or attesting to untrue statements shall be grounds for the denial or revocation of an application or license.

I. It is the responsibility of the applicant for all documents, references, certificates and or diplomas as required, to be submitted on time to the Board.

### 3.2 Kinds of Applications

A. Applicants for licensure as an Engineer Intern or Land Surveyor Intern shall be accepted from individuals who believe they are qualified by education and/or experience, and have taken and passed the Fundamentals of Engineering (FE) or the Fundamentals of Land Surveying (FLS) Examination.

B. Those who are senior students in an engineering school or college approved by the Board, leading to a baccalaureate degree may apply for licensure as an engineer intern and take the fundamentals examination during their senior year.

C. Applications for licensure as a professional engineer, architect, land surveyor or landscape architect shall be accepted from individuals who believe they are qualified by education and/or experience and examination, in accordance with requirements of the Laws of the Commonwealth, to be licensed to practice their profession in the Commonwealth.

D. No person shall be eligible for licensure by comity unless such person possesses the same qualifications and meets the same requirements as other applicants for a license in the same profession or branch.

### 3.3 Supporting Documents

A. Applications for licensure by comity shall include one (1) copy of the applicant's:

(a) college or university diploma or a transcript of all college courses taken;

(b) license and wallet size card issued by the jurisdiction where the applicant was first licensed by examination or the applicant's current base state if different from the jurisdiction of first license. Applicants for licensure who are NCEES or NCARB certificate or council holders shall be exempt from this requirement.

B. Applications for licensure by examination shall include a certified transcript forwarded to the Board by the college or university from which the applicant graduated.

### 3.4 Foreign Education and Experience

A. All foreign language documents submitted for review by the Board shall be accompanied by a certified translation in English by a competent authority.

B. Applicants who for political or other valid reasons are unable to obtain the required education or experience documents or verifications shall complete and submit to the Board a supplementary application form approved by NCEES or NCARB as appropriate.

C. All applicants must be able to speak, read and write in the English language as a requirement for licensing.

### 3.5 Interview

An applicant for examination or licensure shall appear before the Board for a personal interview, if necessary.

### 3.6 Reconsideration of Disapproved Application

A. An applicant whose application for a license has been disapproved by the Board may petition the Board for reconsideration of that disapproval only upon the following terms and conditions:

1. The petition for reconsideration shall be in the form of a letter, with attachments as necessary to provide documentation of the petitioner's reason for reconsideration where appropriate, filed with the Board within thirty (30) days of the date of the notice of disapproval.

2. A reconsideration shall be limited only to those cases where the petitioner demonstrates in his/her letter that the Board's disapproval should be reconsidered for one or more of the following reasons:

(a) mistake of fact or law;

- (b) new evidence effective on or before date of application which by due diligence could not have been submitted by the applicant before notice of disapproval;
- (c) any other evidence or reason justifying a petition for reconsideration.

3. Only one petition for reconsideration shall be accepted by the Board.

4. Upon receipt of the applicant's petition and accompanying documentation under the reasons set forth above, the Board in its discretion, may reconsider its disapproval and notify the applicant of its decision in writing.

PART IV. FEES

4.1 Method of Payment

Payment of fees shall be made by personal check, money order, cashier's check, traveler's check or cash. Checks shall be made payable to "CNMI Treasurer" and may be accepted by the Board Office. Cash payment for fees must be made at the CNMI Treasurer's office.

4.2 Application Fees

The receipt issued by the Treasurer upon payment of the application fee shall be attached to the application when submitted to the Board office. Applications will not be processed until the fee has been paid. Application fees are non-refundable.

4.3 Examination Fees

The receipt issued by the Treasurer upon payment of the examination application fee shall be attached to the application when submitted to the Board office. Examination application fees are non-refundable. Applicants who fail to appear for an examination without an excuse acceptable to the Board shall forfeit the examination fee. The applicant shall pay a new examination fee for any subsequent examination for which he or she applies.

4.4 Renewal Fees

A. License renewal fees must be paid on or before the license expiration date to avoid assessment of a delinquent fee.

B. Licensees whose fees are received after the renewal date shall be assessed a renewal fee and a delinquent fee for every month the licensee's fees are not received.

4.5 Schedule of Fees

Application Fees:

Initial Application	\$200.00
Re-consideration Application	100.00

Certificate of Authorization Application	300.00
Application for Examination	100.00

Examination Fees:

Fundamentals of Engineering (FE)	100.00
Principles and Practice of Engineering (PE)	150.00
Special Civil Seismic Examination	<u>250.00</u>
Structural I	150.00
Structural II	<u>450.00</u>
Fundamentals of Land Surveying (FLS)	<u>125.00</u>
Principles and Practice of Land Surveying (PLS)	<u>160.00</u>
CNMI Land Matters Exam	50.00
<u>Proctoring Fees</u>	<u>100.00</u>

NCARB ARE - Follow all NCARB's fee schedule for all divisions.

Licensure Fees:

E.I.T./L.S.I.T. License	100.00
Initial License	300.00
Certificate of Authorization	500.00
Temporary Permit	250.00

Renewal Fees:

Bi-Annual (Individual)	<u>200.00</u>
Delinquent (each month)	25.00
Certificate of Authority	300.00
Delinquent (each month)	25.00
Reinstatement	250.00
Replacement/Duplication of License	75.00

These examination fees will automatically change without notice once NCEES, NCARB, CBRPELS or their examination vendor raise fees.

PART V. REQUIREMENTS FOR LICENSURE

5.1 Character and Reputation

An applicant shall be of good moral and ethical character and reputation.

5.2 Qualifications for Licensure

A. Engineering

1. Engineer Intern (EIT)

(a) Applicant graduated from a university/college accredited by ABET or CEAB with four (4) years of engineering curriculum and has taken and passed the Fundamentals of Engineering Examination; or

(b) Applicant graduated from a university/college not accredited by ABET or CEAB with four (4) years of engineering curriculum, has four (4) years of full-time lawful engineering experience, and has taken and passed the Fundamentals of Engineering Examination; or

(c) Applicant has eight (8) years of full-time lawful engineering experience and has taken and passed the Fundamentals of Engineering Examination.

2. Professional Engineer (PE):

(a) Applicant graduated from a university/college accredited by ABET or CEAB with a master's degree in the engineering branch applying for, has two (2) years of full-time lawful experience in the engineering branch applying for, and has taken and passed both the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination for the engineering branch applying for; or

(b) Applicant graduated from a university/college accredited by ABET or CEAB with four (4) years of engineering curriculum in the engineering branch applying for, has four (4) years of full-time lawful experience in the engineering branch applying for, and has taken and passed both the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination for the engineering branch applying for; or

(c) Applicant graduated from a university/college not accredited by ABET or CEAB with four (4) years of engineering curriculum in the engineering branch applying for, has eight (8) years of full-time lawful experience in the engineering branch applying for, and has taken and passed both the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination for the engineering branch applying for; or

(d) Applicant has twelve (12) years of full-time lawful experience in the engineering branch applying for and has taken and passed both the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination for the engineering branch applying for.

B. Architecture

1. Architect:

(a) Applicant graduated from a university/college accredited by NAAB or CACB with a master's degree in architecture, has one (1) year of full-time lawful architectural experience and has taken and passed the Architect Registration Examination (ARE); or

(b) Applicant graduated from a university/college accredited by NAAB or CACB with five (5) years of architectural

curriculum, has two (2) years of full-time lawful architectural experience, and has taken and passed the Architect Registration Examination); or

(c) Applicant graduated from a university/college not accredited by NAAB or CACB with four years (4) of architectural curriculum, has eight (8) years of full-time lawful architectural experience, and has taken and passed the Architect Registration Examination; or

(d) Applicant has twelve (12) years of full-time lawful architectural experience and has taken and passed the Architect Registration Examination.

C. Land Surveying

1. Land Surveyor Intern (LSIT):

(a) Applicant graduated from a university/college accredited by ABET or CEAB and has completed four (4) years in general engineering with emphasis in land surveying curriculum and has taken and passed the Fundamentals in Land Surveying Examination; or

(b) Applicant graduated from a community college approved by the Board and has completed a civil engineering technology (survey option) curriculum of two years or more, has four (4) years of full-time lawful experience in land surveying, and has taken and passed the Fundamentals of Land Surveying Examination; or

(c) Applicant has eight (8) years of full-time lawful experience in land surveying and has taken and passed the Fundamentals of Land Surveying Examination; or

2. Professional Land Surveyor (PLS):

(a) Applicant graduated from a university/college accredited by ABET or CEAB and has completed four (4) years curriculum in general engineering with emphasis in land surveying, has four (4) years of full-time lawful land surveying experience and has taken and passed the Principles and Practice of Land Surveying Examination; or

(b) Applicant graduated from a community college approved by the Board or a university/college not accredited by ABET or CEAB, has completed a civil engineering technology (survey option) curriculum of two years or more, has eight (8) years of full-time lawful experience in land surveying, and has taken and passed the Principles and Practice of Land Surveying Examination; or

(c) Applicant has twelve (12) years of full-time lawful land surveying experience and has taken and passed the Principles and Practice of Land Surveying Examination.

D. Landscape Architecture

1. Landscape Architect:

(a) Applicant graduated from a university/college accredited by LAAB with four (4) years of landscape architectural curriculum, has four (4) years of full-time lawful experience in landscape architecture, and has taken and passed the Uniform National Examination (UNE); or

(b) Applicant graduated from a university/college not accredited by LAAB with four (4) years of landscape architectural curriculum, has eight (8) years of full-time lawful experience in landscape architecture, and has taken and passed the Uniform National Examination; or

(c) Applicant has twelve (12) years of full-time lawful experience in landscape architecture and has taken and passed the Uniform National Examination.

5.3 Engineering Technology Degrees

An approved four-year Bachelor of Technology (B.T.) engineering curriculum is not considered equal to an approved Bachelor of Science engineering curriculum.

5.4 Applicants with Degrees from Foreign Schools

Applicants who are graduates of a foreign college or university may have their college/university certified documents evaluated by an educational evaluation service approved by the Board, equating the degree toward a comparable U.S. degree. The Board has the discretion to approve the transcript evaluation or not. Any cost of evaluation shall be the responsibility of the applicant.

5.5 Experience

In evaluating experience which indicates to the Board that the applicant may be competent to practice engineering, architecture, land surveying or landscape architecture, the following will be considered:

1. Field and office training under the supervision of licensed engineers, architects, land surveyors or landscape architects.

2. Experience must be progressive on engineering, architecture, land surveying and landscape architecture projects to indicate that it is of increasing quality and requiring greater responsibility.

3. Only lawful experience of an engineering, architectural, land surveying or landscape architecture, as the case may be, which follows graduation is creditable.

4. Experience must not be obtained in violation of the statute, regulations or rules of professional conduct.

5. Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian section doing similar work.

6. Teaching experience to be creditable must be at an advanced level in a college or university offering an engineering, architectural, land surveying or landscape architecture curriculum, as the case may be, of four years or more that is approved by the Board.

7. Experience gained in engineering research and design projects by members of an engineering faculty where the curriculum is approved by the Board is creditable.

8. Successful completion of graduate study leading to a master's degree in engineering following a baccalaureate degree in engineering is creditable for one year experience. If a Ph.D. in engineering is completed under the same conditions, a total of two (2) years of experience is creditable. The two years credit includes the one year credited for the master's degree. If the Ph.D. is obtained without a master's degree or with a master's degree in a non-engineering curriculum, the total creditable experience may be up to two years.

9. Land Surveyors are required that a substantial portion of their experience be spent in charge of work related to property conveyance and/or boundary line determination and, that they demonstrate adequate experience in the technical field aspects of the profession.

10. Experience as a contractor in the execution of work designed by an engineer, architect or landscape architect or in employment considered as supervision of construction of such work shall not be considered as creditable experience.

11. Experience may not be anticipated. The required experience must have been gained prior to submittal of an application for examination.

## 5.6 References

A. References shall be individuals who are personally acquainted with the applicant and are able to issue judgements on the applicant's character and reputation, ability and experience.

B. Applicants for licensure shall submit the names and current addresses of five (5) references, three of the references must be licensed practitioners in the branch or profession in which licensure is requested. References must be able to provide information based upon first hand knowledge of the applicant's character, experience and professional qualifications.

C. At least three (3) character references must be given for engineer intern or land surveyor intern licensure.

D. Relatives of the applicant may not be used as reference.

E. No current member of the Board may be used as a reference.

F. Each applicant should inform the persons being used as references.

G. For a state board's verification, the Board shall accept only an official verification of licensure forwarded by the state board when sealed with the Board's seal and signed by a responsible board administrator, which issued the applicant's initial license attesting that it is current, valid, in good standing and was issued following the attainment of a passing score on a written examination of a nature and scope equal to examinations as set forth in Section 5.6 of this regulations.

H. The applicant shall be responsible for requesting the transmittal of council records from NCARB or NCEES to the Board and paying all fees associated with the transmittal.

I. It is the responsibility of the applicant to assure the return of a completed reference form to the Board by the persons giving the reference within a reasonable time. This includes educational transcripts and verification of a license in other jurisdictions. All reference materials must be complete before any Board action may be taken on an application.

J. The Board shall accept completed reference verification forms only when:

- (a) received from the U.S. Postal Service or other delivery services from the reference source directly;
- (b) hand-delivered to the Board office by the reference himself/herself and the form is signed and sealed by the reference himself/herself.

K. Verification submitted by or passing through the hands of the applicant shall not be accepted. Facsimile transmittal of verification or references shall not be accepted unless followed by the original copy delivered to the Board as set forth above.

L. In the event verification of an applicant's work experience by a knowledgeable reference is not available due to death of the reference, relocation to an unknown address, defunct organization, or inability of the postal service to make delivery of the verification form, the applicant shall submit evidence of his or her employment satisfactory to the Board.

M. Slow response or failure of a reference college/university to respond promptly may delay the Board's processing of an application. A delay may cause the applicant to fail to meet the requirements to sit for a scheduled examination until the necessary documents are provided. If a reference fails to respond the applicant may provide the Board with another reference.

N. Responses received from references regarding the applicant's qualifications shall be placed in files which are considered non-public records. The source and character of the information shall not be divulged except when required by law.

## 5.7 Examinations

### A. General Provisions

1. The application and experience record submitted by an applicant for licensure by examination is part of the examination. The grade given for the applicant's experience record is based not only on the amount of time devoted to professional work but also to the degree of responsibility and nature of the work.

2. The Board shall notify the applicant of the time, date and place of the examination along with any information the Board received from NCEES, NCARB or CBRPELS for distribution to the examinees at least thirty (30) days prior to the examination date.

3. The applicant shall notify the Board as to whether he or she will or will not sit for the examination within ten (10) days after receipt of notification from the Board that he or she has been qualified to sit for the exam. The Board shall assume that a candidate receives the notification no later than five (5) days from the date of mailing.

4. The Board shall adopt the recommendations of NCEES, NCARB or CBRPELS on passing scores for the grading of engineering, land surveying, architecture and landscape architecture examinations, respectively. The Board shall not conduct its own grading or develop its own grading curves.

5. The Fundamentals of Engineering (FE) Examination requirement may be waived to an applicant who has taken and passed the PE examination administered by another NCEES member board, is a licensed engineer in good standing, the requirements for licensure at the time the applicant was licensed are acceptable to this Board, and the applicant was waived from taking the FE by the state board where applicant was first licensed.

6. The examination requirement may be waived, upon approval by the Board, for an applicant who has taken and passed an examination administered by another NCEES or NCARB member board, is a licensed professional in good standing, and if the requirements for licensure at the time the applicant was licensed are acceptable to this Board.

7. Admittance to an examination shall not constitute approval by the Board of the applicant's character and reputation. Character and reputation shall be subject to review at any time.

8. Application to take the examination must be accompanied by the application fees.

B. Engineering Examinations

1. Classification of Engineering Examinations

The Board shall adopt and administer examinations prepared by NCEES as the standard examination of applicants for licensure as an engineer as follows:

(a) FE - Fundamentals of Engineering Examination for engineer intern applicants (8 hours); and

(b) PE - Principles and Practice of Engineering Examinations for professional engineer in the appropriate engineering branch (8 hours).

(c) SE - Structural Engineering Examinations (16 hours, Structural I - 8 hours and Structural II - 8 hours).

(d) All civil engineering applicants (comity or by examination) are required to take and pass the California Special Civil Seismic Examination before they could qualify for licensure. Grading shall conform to current practices of the California Board of Registration for Professional Engineers and Land Surveyors (CBRPELS).

2. Eligibility of Applicant for an Engineering Examination

(a) No applicant may sit for the FE, PE or SE examination until the Board has determined that all the required documentation has been received and approved and the applicant otherwise has met all the requirements for licensure except passage of the examination.

(b) An applicant for the PE or SE shall not be permitted to sit for the examination until he or she has taken and passed the Fundamentals of Engineering Examination.

(c) No applicant may sit for the California Special Civil Seismic Examination until he or she has taken and passed the NCEES PE (civil) examination.

(d) An applicant for licensure as an engineer intern shall become eligible to sit for the FE during his or her senior year of enrollment in an engineering curriculum leading to a baccalaureate degree at an approved university/college of engineering. Enrollment must be confirmed by the school university/college being attended by the applicant. Confirmation must be sent by the university/college directly to the Board.

C. Architecture Examinations

1. The Board shall adopt the Architect Registration Examination (ARE) prepared by NCARB as the standard examination of applicants for licensure as an architect.

2. Grading shall conform to current practices of NCARB.

3. Eligibility of Applicant for a Architectural Examination

No applicant may sit for the ARE until the Board has determined that all the required documentation has been received and approved and the applicant otherwise has met all the requirements for licensure except passage of the examination.

D. Land Surveying Examinations

1. Classification of Land Surveying Examinations

The Board shall adopt and administer examinations prepared by NCEES as the standard examination of applicants for licensure as a land surveyor as follows:

(a) FLS - Fundamentals of Land Surveying Examination for land surveyors intern applicant (8 hours); and

(b) PLS - Principles and Practice of Land Surveying Examination (6 hours)

(c) CNMI Land Matters Examination (4 hours) - Applicants for comity licensure as a land surveyor shall be required to pass this exam testing such applicant's knowledge of CNMI land matters, when such examination is in existence.

2. Eligibility of Applicant for a Land Surveying Examination
  - (a) No applicant may sit for the FLS or PLS examination until the Board has determined that all the required documentation has been received and approved and the applicant has otherwise met all the requirements for licensure except passage of the examination.
  - (b) An applicant for the PLS shall not be permitted to sit for the examination until he or she has taken and passed the FLS.

E. Examination Dates and Locations

Examination dates are determined by the Board based on recommendations by NCEES, NCARB or CBRPELS, respectively. The location of each examination is determined by the Board and is based upon the availability of acceptable examination space.

1. Engineering and Land Surveying Examinations

An applicant to sit for the Fundamentals of Engineering Examination, the Fundamentals of Land Surveying Examination, the Principles and Practice of Engineering Examination or the Principles and Practice of Land Surveying Examination shall file an application no later than January 01, before the examination which is regularly conducted by the Board in April, or not later than July 01, before the examination which is regularly conducted by the Board in October. The application must be accompanied by the application fee.

2. Architectural Examination

An applicant to sit for the computerized Architect Registration Examination (ARE) shall file an application at least 90 days before he or she plan to take the examination. Applicants approved by the Board to take the ARE will be able to take all divisions of the exam year round at the test site. The divisions may be taken in any order. You do not have to take all divisions at one time. The application must be accompanied by the application fee.

3. California Special Civil Seismic Examination

An applicant to sit for the California Special Civil Seismic Examination shall file an application no later than January 01, before the examination which is regularly conducted by the Board in April, or not later than July 01, before an examination which is conducted by the Board in October.

E. Proctoring Examinations for Other Jurisdictions

Proctoring examinations for other jurisdictions is at the discretion of the Board. A proctoring fee will be charged based on the fee established by the Board.

G. Language

All examinations shall be in English. The examinations shall not be translated into another language either orally or in writing.

H. Study Information

The Board shall not make available or distribute any study information. Each examination candidate shall be responsible of providing his or her own preparation material.

I. Instructions for Examinees

Instructions provided prior to each examination will declare an examination to be open or closed book. When an applicant sits for an open-book examination, any books, bound materials of any sort, and calculators or computers which are self-powered and non-printing may be used. None of this material may be loaned or exchanged between or among examinees.

J. Failure to Sit for Examination

A qualified applicant shall be given two (2) consecutive opportunities to take the examination. In the event the applicant fails to sit for the examination without cause acceptable to the Board, the application will be considered null and void and the applicant shall file new application and qualify to sit for a subsequent examination. The first scheduled examination following approval of an applicant to sit for the examination shall be considered the applicant's first opportunity. Failure of an applicant to attend an examination for which he/she has been scheduled to attend does not count as a failure of the examination.

K. Examination Results

Examination results will be reported only as pass or fail to each examinee in writing.

L. Review of Failed Examinations

Review of failed examinations shall be in accordance with the policies of NCEES, NCARB, CBRPELS or the exam vendors contracted by these organizations.

M. Examination for Record Purposes

1. An engineer, architect or land surveyor licensed by the Board may take the examination(s) in his or her profession or branch for record purposes upon payments of the examination fees.

2. Failure to pass an examination will in no way affect the current license.

N. Examination Offerings for Engineers and Land Surveyors

A candidate who has failed to successfully complete the examination and wishes to retake it must submit a written request for re-examination, accompanied by the appropriate fees, no later than sixty (60) days prior

to the scheduled exam date. A candidate may retake the examination as many times as necessary, but must submit a new application as required in Part III, accompanied by the appropriate fees, every third year following his or her initial examination session.

0. Examination Offerings for Architects

Applicants approved by the Board to take the ARE will be able to take all divisions of the exam year round at the test site. The divisions may be taken in any order. You do not have to take all divisions at one time. If you failed a division, you must wait a minimum of six months before retaking it. You must make arrangements directly with the test center to retake a division.

PART VI. LICENSURE CLASSIFICATION

6.1 Engineering

A. An applicant approved for licensure as an engineer shall be licensed as an:

1. Engineer Intern; or
2. Professional Engineer

B. Professional Engineers shall be licensed in one of the recognized NCEES branches of engineering.

6.2 Architecture

An applicant approved for licensure as an architect shall be licensed as an Architect.

6.3 Land Surveying

A. An applicant approved for licensure as a land surveyor shall be licensed as a:

1. Land Surveyor Intern; or
2. Professional Land Surveyor

6.4 Landscape Architecture

An applicant approved for licensure as a landscape architect shall be licensed as a Landscape Architect.

VII. CERTIFICATE OF AUTHORIZATION

7.1 General Provisions

A. Pursuant to 4 CMC, Div. 3, Section 3220, a corporation or partnership may engage in the practice of professional engineering, architecture, land surveying or landscape architecture in the Commonwealth; provided, that each person connected with the corporation or partnership who is directly in charge of the professional work is duly licensed hereunder, and provided further that the name of each such person has or have been filed with the Board by the corporation or partnership.

B. All firms, regardless of the location of the business, must have a Certificate of Authorization (COA) in order to practice or offer to practice engineering, architecture, land surveying or landscape architecture in the CNMI.

C. All firms must have a valid Certificate of Authorization before advertising to offer the practice of engineering, architecture, land surveying or landscape architecture in the CNMI.

D. Each firm is responsible with and for the conduct or acts of the employees or officers to any engineering, architectural, land surveying or landscape architecture services performed or to be executed in the CNMI. No individual practicing engineering, architecture, land surveying or landscape architecture is relieved from the responsibility for his or her conduct or acts performed by reason of his or her employment or relationship with such firm.

## 7.2 Licensure Requirements

A. Application for a Certificate of Authorization (Form C-64) shall be completed and prepared in accordance with, signed by an authorized partner or officer and should contain the following information:

1. That the person whose name is being filed is duly licensed and possess a valid license in the CNMI in the appropriate profession;
2. That such person is designated as being directly in charge of the professional work performed by the firm;
3. That such person is a full-time employee, partner of a partnership or officer of a corporation;
4. That such person has been delegated the legal authority to bind the firm in all matters relating to the professional work;
5. That should there be any change in the status of any person on file, whether as to a valid license, direct charge of the professional work, full-time employment, partnership or principalship or legal authority to bind the firm, the firm shall so notify the office of the Board in writing within fifteen (15) days of such change, and, if necessary, also within said fifteen day period, file the name of another qualified person.

B. The application shall include a copy of the following documents:

1. A Certificate of Registration for a corporation not incorporated in the CNMI (also known as a foreign corporation); or
2. A Certificate of Incorporation for a corporation formed in the CNMI; or

3. A file stamped Partnership Registration statement; and
4. A business license for the appropriate professional business activity issued by the Business License Office of the Division of Revenue and Taxation, Department of Finance.

C. A licensed engineer, architect, land surveyor or landscape architect must not perform work for a firm practicing or offering to practice engineering, architecture, land surveying or landscape architecture unless that firm has been issued a valid CNMI Certificate of Authorization by the Board.

#### PART VIII CERTIFICATES OR LICENSES

##### 8.1 Issuance of Certificates or Licenses

Upon completion of all requirements for licensure, the Board shall issue a certificate or license to applicant. The certificate or license shall identify the applicant as an engineer intern, a professional engineer, architect, land surveyor intern, a professional land surveyor or a landscape architect, as the case may be.

##### 8.2 License Number

Each licensee shall be assigned a license number at the time licensure is approved by the Board. Numbers are issued consecutively and separately for professional engineers, architects, land surveyors and landscape architects in the order in which applications are approved.

##### 8.3 Certificate/License

The certificate or license shall be in the form required by law and as otherwise approved by the Board.

##### 8.4 Engineering Branch

The license or certificate for a professional engineer or engineering firm shall designate the branch in which such person or firm is licensed to practice.

##### 8.5 Display

Every person licensed as an individual and every partnership, corporation, association and joint venture maintaining an office or other place of business for the practice or his/her or its profession, shall display his/her or its original license or certificate together with evidence of current validation in a conspicuous manner, in his/her or its principal office or place of business.

##### 8.6 Replacement of License or Certificate

Upon submittal of a request accompanied by affidavit attesting to loss, destruction or mutilation of the original license or certificate, a license or certificate shall be furnished upon payment of the prescribed fee.

#### 8.7 Prohibited Act

It is expressly prohibited, and is a violation of these regulations for any licensee to use his/her license to apply a seal or stamp approval to any plans or work over which he/she does not have proper control or supervision. Furthermore, no licensee may use his/her authorization for any plans or work performed by any other person or entity unless the licensee is a full time employee of such person or entity, or a partner or officer of such entity and such acts of the licensee must be in full compliance with the law, rules and regulations.

### PART IX. SEALS

#### 9.1 Board Seal

The official seal of the Board shall consist of a imposed latte stone with star surrounded by the words "CNMI Board of Professional Licensing".

#### 9.2 Seal of Licensure

A. The seal shall be a rubber stamp, an electronically digitized seal or a metal impression seal. The licensee is require to use the following design:

Two circles - a smaller one, 1-1/8" to 1-1/4" in diameter, with a larger one, 1-1/2" to 1/5/8" in diameter. The name of the licensee and the words "Commonwealth of the Northern Mariana Islands" shall appear in the outer annular space and the words "Professional Engineer", "Architect", "Professional Land Surveyor", or "Landscape Architect" together with the license number, shall appear in the center space.

B. In the case of an engineer, the license shall also indicate the branch of engineering below the word "Professional". There must be a separate stamp for each engineering branch they are licensed to practice.

C. When ever the seal is applied, the licensee's original signature and date of the signature shall be written adjacent to or across the seal. A facsimile signature or electronically digitized signature will not be acceptable.

D. The seal shall be signed and dated by the licensee in such a manner that the seal, signature and date will be legible when reproduced.

E. Authorized use of the prescribed seal is an individual act, therefore, the licensee shall personally inscribe the seal. The licensee is responsible for its security at all times. The licensee shall permit no other person or entity to use the prescribed seal.

### 9.3 Seal on Documents

A. The seal and signature of the licensee shall be placed on all final engineering, architectural, land surveying or landscape architectural specifications, land surveys and plats whenever presented to a client or any public agency to certify that the work thereon was done by the licensee or under his or her direct supervision.

B. Working drawings, unfinished documents, in-progress drawings or documents may or may not have a seal or signature. A working drawing or document must, however, contain a statement to the effect "Preliminary, Not for Construction, Recording Purposes, or Implementation".

C. The seal or stamp shall be prima facie evidence that the work was prepared by or under the direct supervision or control of the licensee named on the seal and the licensee accepts full responsibility and liability for the professional work represented.

D. Licensees shall approve and seal only those design documents and surveys which are safe for public health, property and welfare in conformity with accepted engineering, architectural and land surveying standards.

E. It shall be unlawful for anyone to seal or stamp any document with such seal or stamp after the license has expired or has been revoked or suspended unless such license has been renewed or reinstated.

F. Pursuant to Section 3219 (e) of 4 CMC, Div. 3, no official of the Commonwealth who is or may hereafter be charged with the enforcement or laws or ordinances relating to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped with the seal of a licensed architect holding a valid license or with the seal of a licensed engineer holding a valid license on which has been indicated that he or she has qualified in the structural engineering branch, unless the building or structure, for which the plans or specifications are submitted is exempted; and no map or survey prepared after the effective date of this chapter shall be filed with any official of the Commonwealth unless stamped with the seal of a land surveyor holding a valid license.

G. The licensee's seal and signature shall be placed on all original drawings, tracings, and other reproducible documents so that the seal and signature is reproduced each time copies are made.

H. When the document contains more than one sheet, the first or title page shall be sealed and signed by all involved in the work or those who controlled the work and are responsible for it. In addition, each drawing shall be sealed and signed by the licensee responsible for each sheet. When a firm performs the work, each drawing shall be sealed and signed by

the licensee who actually did the work. The principal in responsible charge shall sign the seal on the first or title page.

I. When a licensee in another jurisdiction has a temporary permit to practice in the Commonwealth, he or she shall use his or her jurisdiction's seal and affix his or her signature and the CNMI temporary permit number on all work they controlled and are responsible for.

- 3 When a CNMI licensee certifies the work of an out-of-state licensor, the CNMI licensee shall have complete dominion control of the design, shall maintain possession of the sealed and signed reproducible drawings including complete sealed and signed calculations indicating all changes in the original design and shall be wholly responsible for the work.

#### 9.4 Design Certification

A. All design work prepared by or under the supervision of a licensed Professional engineer, architect, land surveyor or landscape architect shall be stamped with the authorized seal or stamp, and under such seal or stamp the licensee thereof shall state the following and sign his or her name:

THIS WORK WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

-----  
Signature

B. A licensed engineer, architect, land surveyor or landscape architect who signs plans, specifications, reports or documents shall not be responsible for damage caused by subsequent changes to or uses of those plans, specifications, reports or documents, where the subsequent changes or uses, including changes or uses made by state or local government agencies, are not authorized or approved by the licensed engineer, architect, land surveyor or landscape architect who originally signed the plans, specifications, reports or documents, provided that the engineering, architectural, land surveying or landscape architectural service rendered by the engineer, architect, land surveyor or landscape architect signed the plans, specifications, reports or documents was not also a proximate cause of the damage.

#### 9.5 Construction Inspection

A. In addition to the foregoing requirements, all documents submitted for building or construction permits shall bear the authorized seal or stamped of the duly licensed professional engineer, architect or landscape architect charged with inspection of the construction pursuant to these regulations and under such seal or stamp the legal holder thereof shall state the following and sign his or her name:

CONSTRUCTION INSPECTION OF PROJECT WILL BE UNDER MY SUPERVISION

-----  
Signature

B. When an engineer, architect or landscape architect has responsibility for the design and construction, the certification shall be in the following form:

THIS WORK WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CONSTRUCTION INSPECTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION.

-----  
Signature

C. Any licensed engineer, architect or landscape architect sealing or stamping plans, specifications, reports or documents shall not be imposed a legal duty or responsibility to be in charge of the construction inspection work on the construction which are the subject of the plans, specifications, reports or documents. However, nothing in this section shall preclude an engineer, architect or landscape architect and a client from entering into a contractual agreement which includes a mutually acceptable arrangement for the provision of construction supervision services.

D. In the event the licensed engineer, architect or landscape architect whose seal or stamp and signature appears in connection with the foregoing statement concerning construction inspection, shall be removed, replaced or otherwise unable to discharge his or her duties; such licensed engineer, architect or landscape architect shall so notify the Board with fifteen (15) days, and such notification shall include the name, if known, of the licensed engineer, architect or landscape architect charged with continuing the construction inspection.

9.6 Construction Management Services

A licensed engineer or architect may also practice, either in public or private capacity, construction management services, including, but not limited to, construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

9.7 Engineer's Seal

A. The seal and signature of a licensed professional engineer shall be affixed to each drawing, specification, report, calculation or other documents in its final form which involves the practice of engineering as defined herein.

B. The seal and signature of an engineer, licensed in the appropriate branch, is required for each portion of documents involving a separate branch of engineering except as provided below:

1. All portions of documents for single family detached dwellings may be sealed and signed by a civil or structural engineer or an architect.

2. Documents for the structural portion of buildings no greater than three (3) stories high may be sealed and signed by a civil engineer.

C. Documents for multi-family dwelling and residential subdivisions shall be sealed and signed by engineers licensed in the appropriate branches as well as an architect.

D. Documents for pre-engineered structures sealed and signed by an engineer licensed in another jurisdiction shall also be reviewed and sealed and signed by a civil or structural engineer licensed in the CNMI.

#### 9.8 Architect's Seal

A. The seal and signature of an architect shall be affixed to each drawing, specification, report, calculation or other documents in its final form which involves work with respect to any building which has as its principal purpose human occupancy or habitation, or which involves any other aspect of the practice of architecture as defined herein.

B. The seal of an architect shall be placed on documents for multi-family dwelling units and subdivisions as well as the seals and signatures of engineers in the appropriate branches.

#### 9.9 Land Surveyor's Seals

A. The seal and signature of a land surveyor shall be placed on each drawing, plan, property metes and bound descriptions, computation sheets, reports and other documents in its final form which involve the practice of land surveying as defined herein.

B. No seal shall be placed on drawings, plans, property metes and bound descriptions, computation sheets, reports and other documents in its final form which involve the practice of land surveying if performed by officers or employees of the CNMI government.

C. All documents prepared and certified by a land surveyor shall be stamped with a statement under the seal stating: "I (name of land surveyor), hereby certify that this map was prepared by me or under my direct supervision, and that it is based upon a field survey made in (insert date), in conformance with all applicable laws and regulations".

The signature of the land surveyor and date shall be affixed directly under the statement.

#### PART X. TEMPORARY LICENSES

##### 10.1 Requirements

A. The Board may grant a temporary license to a person who is not a resident of the Commonwealth or who has no established place of business and who desires to practice on a limited basis architecture, engineering, land surveying or landscape architecture in the CNMI, provided such person is legally qualified and licensed in his or her jurisdiction and that his or her qualifications for obtaining the license meet those required for licensure by this Board.

B. A temporary license shall be granted for each specific job which length of time not to exceed one (1) year and shall provide that there is no right to practice architecture, engineering, land surveying or landscape architecture with respect to any other works not set forth in the temporary license.

C. Consecutive temporary licenses may be issued but only for the purpose of completing the specific job for which the original temporary license was issued.

#### PART XI. RENEWALS AND REINSTATEMENTS

##### 11.1 Renewals

A. Certificates or licenses shall be renewed on a biannual basis. Renewal of all certificates or licenses shall be every two years following their issuance or renewal.

B. Failure of a licensure to renew on or before the expiration date shall render the license or certificate null and void.

C. A renewal notice shall be mailed by the Board to the last known address of each individual holding a license and to each firm holding a Certificate of Authorization indicating the date of expiration of the license or certificate and the renewal fee amount due.

D. Each licensee, firm or holder of a temporary license is responsible to immediately notify the Board of any changes to his/her or its mailing address.

E. Temporary licenses shall not be renewable.

F. Renewal fees may be paid any time prior to the biannual renewal date but must be paid on or before the expiration date to avoid penalty for late renewal. Responsibility for the timely payment of the renewal fee rests solely with the licensee.

## 11.2 Reinstatement

A. Each licensee or firm whose license or certificate has expired and lapsed for more than one year by failure to renew must file a new application and receive Board approval for reinstatement.

B. A licensee who provides the Board with an affidavit that he or she is no longer practicing in the CNMI before the expiration date of his or her license may retain the license for later use upon reinstatement and payment of a reinstatement fee.

## PART XII. PROFESSIONAL CONDUCT

### 12.1 Rules of Professional Conduct

The Board has prepared and adopted Rules of Professional Conduct for engineers, architects, land surveyors and landscape architects practicing in the Commonwealth.

### 12.2 Knowledge of the Rules

All persons licensed to practice engineering, architecture, land surveying and landscape architecture in the CNMI are charged with having knowledge of the existence of the Rules of Professional Conduct as well as amendments from time to time which shall be made known in writing to every licensee and applicant for licensure.

### 12.3 Convictions

Any individual or firm who has been fined, received a reprimand; had a license or certificate revoked, suspended, denied; convicted of a crime related to the engineering, architectural, land surveying or landscape architect profession by another jurisdiction; or who for reasons or causes which this Board finds would constitute a violation of the law or any provision of these rules and regulations governing the practice of engineering, architecture, land surveying or landscape architecture in the CNMI, shall be subject to a fine, reprimand, revocation or suspension by this Board of the license or certificate to practice in the CNMI. It is the duty of each licensee to report a conviction to the Board within ten (10) days following entry of such conviction, notwithstanding any appeal.

### 12.4 Enforcement

The attorney general of the CNMI has the authority to enforce the provisions of CMC, Div. 3, and to assist the Board in ensuring compliance with these regulations. The attorney general serves as legal advisor to the Board and renders such legal assistance as may be necessary in carrying out these provisions.

PART XIII. DISCIPLINARY ACTION; REPRIMAND, SUSPENSION OR  
REVOCATION; REFUSAL TO ISSUE, RESTORE OR RENEW OF LICENSE OR  
CERTIFICATE

13.1 Disciplinary Action

A. The Board shall have the power to impose administrative penalty and/or reprimand; revoke or suspend; refuse to issue, restore or renew, the license or certificate of any person who is found guilty of one or more of the following violations as prescribed by Section 3218 of 4 CMC, Div. 3:

1. Any fraud or deceit in obtaining or attempting to obtain or renew the license or the certificate of authorization; or
2. Gross negligence, incompetency, or misconduct in the practice of his or her profession; or
3. Conviction of or pleading guilty to a crime related to their profession either in the CNMI or in another state or jurisdiction. A certified copy of the judgement of the court of such conviction or plea shall be presumptive evidence of such conviction or plea for the purpose of any hearing under this part. A plea of *nolo contendere* or its equivalent accepted by the court shall be considered as a conviction; or
4. Signing, affixing the licensee's seal, or permitting the licensee's seal or signature to be affixed to any specifications, reports, drawings, plans, design information, construction documents, or calculations, or revisions thereof, which have not been prepared by the licensee responsible or his or her direct personal supervision; or
5. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to mislead, deceive, defraud, or harm the public; or
6. Practicing, offers to practice, or holding him or herself out as authorized and qualified to practice engineering, architecture, land surveying or landscape architecture, except as provided in Sections 3213 and 3215; or
7. Using the title "engineer", "engineering", "architect", "architecture", "architectural", "land surveyor", "land surveying", "landscape architect", or "landscape architecture", any title, sign, card, or device to indicate that such person is practicing such profession without having first being licensed in accordance with this Chapter; or

8. Using or attempts to use as his or her own the seal or the license or certificate of another; or

9. Falsely impersonating any duly licensed engineer, architect, land surveyor or landscape architect; or

10. Using or attempts to use an expired, suspended, or revoked license or certificate; or

11. Any firm which advertises or offers to furnish engineering, architecture, land surveying or landscape architecture services in the making of plans or specifications or in the construction of any building or other structure, project, or utility in the Commonwealth, without having completed Section 3220, or otherwise complied with the requirements of this Act.

B. The Board may also take disciplinary action against a licensee who is found guilty of the following:

1. Any act or omission which fails to meet the generally accepted standards of engineering, architecture, land surveying or landscape architecture practice; or

2. Violation of, or aiding or abetting in the violation of the provisions of the law, any rules or regulations adopted by the Board, or any order of the Board issued in conformance with the provisions hereof; or

3. Use of false, deceptive, or misleading advertising; or

4. Performing services beyond one's competency, training, or education; or

5. Failure to report to the Board any licensee or firm known to have violated the law, rules and regulations, or any order of the Board; or

6. Failure to report to the Board any malpractice claim against such licensee or any firm, that is settled or in which judgement is rendered, within sixty (60) days of the effective date of such settlement or judgement, if such claim concerned professional services performed or supervised by such licensee.

C. Upon conviction in a court of law any person or firm who violates any of the provisions of the law or the rules and regulations promulgated hereunder, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

## 13.2 Disciplinary Proceedings

### A. Complaint

Proceedings to levy a fine upon a licensee, or to reprimand, suspend, refuse to renew or to revoke a license or a certificate of authorization may be initiated by any person who may file charges against the licensee.

1. All charges filed must be made in writing by the person or persons making them and shall be filed with the Board.
2. All charges shall be made on forms provided by the Board. The person or persons making the complaint shall sign the complaint.

### B. Probable Cause

When a complaint is received by the Board in which a licensee is charged with a violation, it is referred to an investigative committee designated by the Board consisting of at least one board member and the Board's legal counsel. The member of the Board in the investigative committee cannot vote at the disciplinary hearing. The investigative committee makes a recommendation to the Board for a determination if probable cause exists for taking further action or for issuing a summons and complaint.

### C. Summons and Complaint

1. In the event the Board determines that probable cause exists, the Board's legal counsel is requested to prepare a summons and complaint.
2. The summons and complaint shall show the time, place, and nature of the hearing, a statement of legal authority and jurisdiction under which the hearing is to be held, a reference to the particular section of the statute, rules, or regulations involved, and a short and plain statement of the matters asserted. The summons and complaint shall indicate that at any hearing the accused licensee or firm shall have the right to appear in person or by counsel or both to cross-examine witnesses in his/her or its defense and to produce evidence and witnesses for his/her or its own defense.
3. The summons and complaint shall be personally served or sent by registered mail at least thirty (30) days before the date fixed for the hearing to the licensee's or firm's last known address.
4. If the accused licensee or firm fails or refuses to appear, the Board may proceed to hear and determine the validity of the charges.

D. Until an investigation is completed and administrative charges are filed against the licensee or firm, or the matter is referred to the attorney general for criminal prosecution, any and all matters related to the allegation(s) including the name(s) of the party filing such charges,

shall be confidential and exempt from disclosure to the public pursuant to applicable law including, but not limited to P. L. 8-41, the Open Government Act of 1992.

E. The Board shall conduct all hearings pursuant to 1 CMC, Section 9109, Administrative Procedures - Conduct of Hearings.

F. The members of the Board presiding at hearings may:

1. administer oaths and affirmations;
2. issue subpoenas to compel the attendance of witnesses and the production of records and documents;
3. rule on offers of proof and receive relevant evidence;
4. take depositions or have depositions taken when the ends of justice would be served;
5. regulate the course of the hearing;
6. hold conferences for the settlement or simplification of the issues by consent of the parties;
7. dispose of procedural requests or similar matters; and
8. make or recommend orders or decisions in accordance with the law, rules, or regulations.

G. It shall require a unanimous majority vote of the members of the Board present at the hearing in order to find the accused guilty of the charges preferred, and if found guilty the Board may, in its discretion, either suspend or revoke the license or certificate of the accused.

H. The Board shall upon concluding the hearing, issue findings, decisions and orders within 30 days.

#### PART XIV. REINSTATEMENT

##### 14.1 Reinstatement of Licensure After Revocation

A. Upon petition of an individual or firm, the Board may reissue a license or certificate of authorization provided that a majority of the members of the Board votes in favor of such issuance. The petition must clearly and concisely set forth reasons for requesting reinstatement.

B. For reason(s) the Board deems sufficient, an expired or revoked license or certificate may be reinstated.

#### XV. ADVERTISING PRACTICES

##### 15.1 Advertising

It is in violation of these regulations for any individual or firm to advertise as an engineer, architect, land surveyor, or landscape architect unless such individual or firm holds a license or certificate of authorization.

PART XVI. BOARD RECORDS

16.1 Retention of Records

Applications received by the Board may be approved, disapproved or deferred pending receipt of additional information. All approved applications shall be stored and maintained by the Board. Applications deferred for any reason shall be retained in the files until a final decision has been rendered by the Board. Application from either an individual or firm in which a violation of the CNMI law was evident shall be retained indefinitely by the Board.

16.2 Disposal of Records

A. Applications which are disapproved or denied by the Board will be destroyed after two (2) years. An applicant whose application has been disapproved or denied may request that the Board return the completed form and any or all supporting documents. The Board will return only those documents submitted by the applicant.

B. The following is the schedule of retention time for applications submitted to the Board:

Disapproved	2 years
Examination, inactive	2 years
Expired license	2 years

PART XVII. SEVERABILITY

If any provision of these regulations, or the application of any such provision, to any person or firm or under any circumstances shall be held invalid by a court or competent jurisdiction, the remaining provisions of these regulations and the application of such remaining provisions to persons or firms or under any circumstances other than those to which it is held invalid, shall not be affected thereby, and to such extent, the provisions of these regulations are and shall be severable.

CIVIL SERVICE COMMISSION  
NOTICE OF ADOPTION OF THE AMENDMENT TO THE  
PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

CERTIFICATION

I, Vicente M. Sablan, Chairman of the Civil Service Commission, which is promulgating the amendments for the Personnel Service System Rules and Regulations, published in the Commonwealth Register, Vol. 22, No. 08, on August 18, 2000, at page 17356, by signature below hereby certify that as published such regulations are true, complete, and correct copy of the amendments of the Personnel Service System, Rules and Regulations proposed by the Civil Service Commission which, after the expiration of the appropriate time for public comment, have been adopted without modification or amendment. I further request that this Notice of Certification of Adoption be immediately published in the Commonwealth Register.

The amendment makes a distinction between exempt and non exempt employees and to comply with Fair Labor Standard Act (FLSA) in regards to disciplinary suspension of less than five working days for exempt employees.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 29<sup>th</sup> day of September, 2000, at Saipan, Commonwealth of the Northern Mariana Islands.

Date: 9/29/00

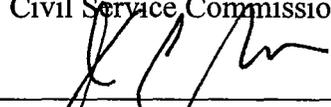
Submitted by: \_\_\_\_\_



Vicente M. Sablan  
Chairman  
Civil Service Commission

Date: 10/18/00

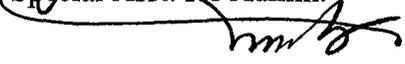
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Jose L. Deleon Guerrero  
Special Asst. for Admin.

Date: 10/18/00

Filed by: \_\_\_\_\_



Soledad B. Sasamoto  
Registrar of Corporation

KUMISION SETBISIUN SIBIT  
NUTISIA PUT INADAPTAN AMENDASION GI  
AREKLAMENTO YAN REGULASION SISTEMAN SETBISIUN SIBIT

SETTIFIKASION

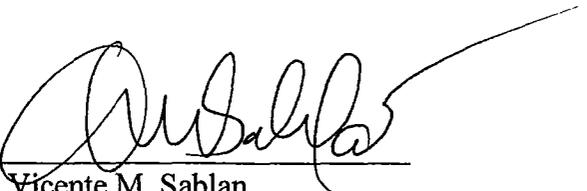
Guaho, Vicente M. Sablan, Chairman Kumision Setbisiun Sibit, ni chumogue' i amendasion gi Areklamento yan Regulasion Sistemman Setbisiun Petsonat ni mapupblika gi Rehistran Commonwealth, Baluma 22, No. 08, Agosto 18, 2000, pahina 17356, ginen i fitma-ku gi sampapa hu settifika' na manmapupblika siha na regulasion manmagehet, kumplidu yan dinanche na kopian amendasion gi Areklamento yan Regulasion Sistemman Setbisiun Petsona yan priniponen Kumision Setbisiun Sibit, anai makpo i tetminu para muna'halom komentu ginen pupbliku, ya manma adapta sin modifikasion osino amendasion. Lökkue' hu rekuesta yan dirihi este na Nutisia yan Settifikasion Inadapta, ensegidas u mapupblika gi Rehistran Commonwealth.

I amendasion para u destenngue' enta'lo i ti mansaonao yan mansaonao siha na empleao siha yan u akonfotma yan i Fair Labor Standard Act (FLSA) put disciplinary suspension ti u mas di singko (5) dias ha'anen cho'cho' para i ti mansaonao siha na empleao.

Hu deklara gi papa penan chatmanhula' na i manmoffona magahet yan dinanche ya este na deklarasion machogue' gi mina' 29<sup>th</sup> na dia, Septiembre, 2000, giya Saipan Commonwealth i Sangkattan Siha Na Islas Marianas.

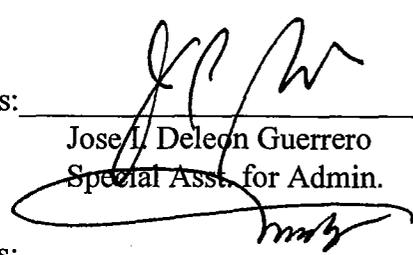
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Sinatmiti as:

  
Vicente M. Sablan  
Chairman  
Kumision Setbisiun Sibit

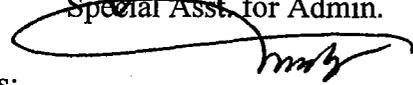
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Jose L. Deleon Guerrero  
Special Asst. for Admin.

Fecha: 10/18/00

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Rehistradoran Kotporasion

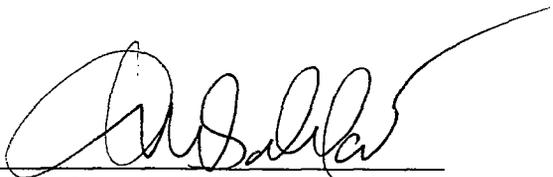
CIVIL SERVICE COMMISSION  
ARONGORONGOL TOULAP REEL ADOPTION REEL LLIWEL KKAAL MELLÓL AUTOL  
ALLÉGHÚL PERSONNEL SYSTEM SERVICE

CERTIFICATION

Ghaang, Vicente M. Sablan, Chairman mellól Civil Service Commission, iye i féerú lliiwel kka llól autol Alléghúl Personnel System Service, iwe e towow llól Commonwealth Register, Vol. 22 No 08, maram ye Ghúúw 18, 2000, peighil ye 17356, sáangi igha i makkeitiw itey faal nge allégh kka e atotowow nge e ellet, scheschel me kopyal lliiwel kka llól autol Personnel Service System me allégh kka Civil Service e pomwoli ebwe ayoora, mwiril takalóól ótol atotolongol mángemáng ngare aiyegh mereer toulap nge a adopt ló igha esóór fféer sefaál me lliiwel. I bwal tingór me afal bwe Arongorong yeel me Certification reel adoption nge ebwe kkáyil toolong llól Commonwealth Register.

Lliiwel kkaal nge ebwe abwáári schóól angaang ikka rese toolong me tabweey Fair Labor Standard Act (FLSA) reel mwóghútúghútúl disciplinary suspension iye essóbw luuw ló limiráll reel ghai ótol angaang ngáliir schóól angaang ikka rese bwal fitilong.

I akkapal bwe faal mwuttaal ruturut bwe meta kka e lo mmwal nge e ellet me wel nge declaration yeel nge e fféer llól ráalil ye 29<sup>th</sup> llól maram ye Maan, wóol Seipél, Commonwealth Metawal Wóól Faluwal Marianas.

  
\_\_\_\_\_  
Vicente M. Sablan  
Chairman  
Civil Service Commission

Ral: 10/18/00

Bwughiyal:   
\_\_\_\_\_  
Jose L. Deleon Guerrero  
Special Asst. for Admin.

Ral: 10/18/00

Isaliyal:   
\_\_\_\_\_  
Soledad B. Sasamoto  
Registrar of Corporations



# COMMONWEALTH HEALTH CENTER

Office of the Secretary

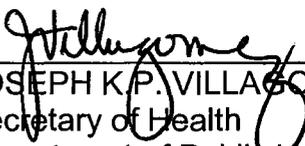
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC HEALTH SERVICES

## PUBLIC NOTICE

### NOTICE OF ADOPTION OF THE RULES AND REGULATIONS GOVERNING THE MAINTENANCE AND RELEASE OF PATIENT HEALTH CARE INFORMATION

NOTICE IS HEREBY GIVEN that the Secretary of the Department of Public Health of the CNMI in accordance with the authority vested in him pursuant to 1 CMC §2603(f) and §2605 adopts the amendments to the Rules and Regulations Governing the Maintenance and Release of Patient Health Care Information. These Regulations were originally published in the May 19, 2000 Commonwealth Register, Volume 22, Number 5, pages 17211-17228. Comments were received in response to the publication of the proposed Regulations, and after considering these comments, modifications were made by the Department. Accordingly, the revised Regulations are reprinted here in full. Copies of the Rules and Regulations Governing the Maintenance and Release of Patient Health Care Information may be obtained from the Office of the Secretary of the Department of Public Health, located on the ground floor of the Commonwealth Health Center.

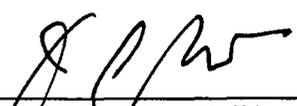
By signature below, the Secretary of Health hereby certifies that the Rules and Regulations Governing the Maintenance and Release of Patient Health Care Information published herein are a true, complete, and correct copy of the Rules and Regulations now adopted by the Department of Public Health. The Secretary further requests and directs that this certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and the Office of the Governor to the Rules and Regulations.

  
JOSEPH K.P. VILLAGOMEZ  
Secretary of Health  
Department of Public Health

Date: 10/10/2000

  
Filed By: \_\_\_\_\_  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

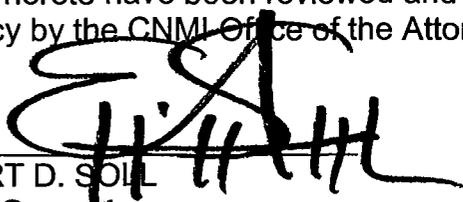
Date: 10/18/00

Received By:   
JOSE I. DELEON GUERRERO  
Special Assistant for Administration

Date: 10/18/00

Certification by Office of the Attorney General

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

  
for HERBERT D. SOIL  
Attorney General

Date: 10/16/00

# Rules and Regulation Governing the Maintenance and Release of Patient Health Care Information

## I. Definitions

1.1. "Audit" means an assessment, evaluation, determination, or investigation of the Department of Public Health by a person not employed by or affiliated with the Department of Public Health to determine compliance with:

- (a) statutory, regulatory, fiscal, medical, or scientific standards;
- (b) a private or public program of payments to the Department of Public Health; or
- (c) requirements for licensing, accreditation, or certification.

1.2. "Department of Public Health" includes the Commonwealth Health Center, the Tinian Health Center, the Rota Health Center, the Division of Public Health, and the Community Guidance Center.

1.3. "Directory Information" means information disclosing the presence, and for the purpose of identification, the name, residence, sex, and the general health condition of a particular patient who is an in-patient or who is currently receiving emergency health care at the Commonwealth Health Center.

1.4. "General Health Condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

1.5. "Health Care" means any care, service, or procedure provided by the Department of Public Health:

- (a) to diagnose, treat, or maintain a patient's physical, psychological or mental condition; or
- (b) that affects the structure or any function of the human body.

1.6. "Health Care Information" means information whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care.

1.7. "Health Care Provider" means a person who is licensed, certified, or otherwise authorized by the laws of the CNMI to provide health care in the ordinary course of business or practice of a profession.

1.8. "Institutional Review Board" means a board, committee, or other group formally designated by an institution or authorized under federal or CNMI law to review, approve the initiation of, or conduct periodic review of research programs to ensure the protection of the rights and welfare of human research subjects.

1.9. "Legally Authorized Representative" means

- (a) a parent or legal guardian if the patient is a minor;
- (b) a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs;
- (c) an agent of the patient authorized under a durable power of attorney for health care;
- (d) a guardian ad litem appointed for the patient;
- (e) an administrator for the estate of the patient or a personal representative designated by the patient if the patient is deceased.

1.10. "Maintain" as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

1.11. "Medical Records" means all records pertaining to the history, diagnosis, treatment, or prognosis of a patient.

1.12. "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

1.13. "Person" means an individual, corporation, business, trust, estate, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

1.14. "Third Party Payor" means an insurer authorized to transact business in the CNMI, including a health care service contractor or health maintenance organization, or employee welfare benefit plan, or a state or federal health benefit plan.

II. Disclosure by Department of Public Health; Restrictions on Disclosure of Medical Records for Mental Health Treatment, Alcohol and Substance Abuse Treatment, and HIV Testing.

(1) Except as authorized in Section V, "Discovery Request or Compulsory Process" or Section VI, "Disclosure Without Patient's Authorization" the Department of Public Health, or an agent or employee of the Department of Public Health, shall not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the specifics of that authorization. The Department of Public Health shall chart all disclosures of health care information, except to third party payors, and such chartings shall become part of the health care information.

(2) Notwithstanding Section V, "Discovery Request or Compulsory Process" or Section VI, "Disclosure Without Patient's Authorization", the Department of Public Health shall not disclose medical records for mental health treatment, alcohol and substance abuse treatment, and HIV testing to any person other than the patient without receiving proof that the requesting party has complied with the following procedures:

(a) For records pertaining to any mental health treatment, care, or counseling, the person requesting the medical records shall:

(i) obtain the patient's written consent for release of the records; or

(ii) obtain a court order for the release of the records, after the court has afforded the patient the opportunity to object to the release of such records as required by the Patient's Rights Act at 3 CMC §2561.

These restrictions on the release of mental health records shall not apply to the patient's attorney.

(b) For records pertaining to any alcohol and substance abuse treatment, care, or counseling, the person requesting the medical records must comply with the requirements established under the federal requirements for confidentiality of patient records, codified at 42 U.S.C. §290ee-3 and §290dd-3, and regulations promulgated thereunder at 42 CFR §2.1-§2.67.

(c) For records pertaining to HIV testing and diagnosis of AIDS, disclosure shall not be made without either the patient's written consent or a court order, except with respect to disclosures to Department of Public Health employees on an as needed basis.

### III. Patient Authorization of Disclosure

(1) A patient, or a patient's legally authorized representative, may authorize the Department of Public Health to disclose the patient's health care information. The Department of Public Health shall honor an authorization and, if requested, provide a copy of the recorded health information unless the Department of Public Health denies the patient access to health information under Section VIII "Patient Request – Denial of Examination and Copying."

(2) The Department of Public Health may charge a reasonable fee for providing the health care information and shall not be required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to the Department of Public Health shall:

- (a) be in writing, dated, and signed by the patient, or the patient's legally authorized representative;
- (b) identify the nature of the information to be disclosed;
- (c) identify the name, address, and institutional affiliation of the person to whom the information is to be disclosed;
- (d) identify the patient.

(4) The Department of Public Health shall retain each authorization in conjunction with any health care information from which disclosures are made. This requirement shall not apply to disclosures to third party payors.

(5) Except for authorizations given pursuant to an agreement with a treatment or monitoring program or to provide information to third party payors, an authorization may not permit the release of health care information relating to future health care that the patient receives more than six months after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form.

### IV. Patient's Revocation of Authorization for Disclosure

A patient, or patient's legally authorized representative, may revoke in writing a disclosure authorization to the Department of Public Health at any time unless disclosure is required to effectuate payments for health care that has been provided, or other substantial action has been taken in reliance on the authorization. A patient may not maintain an action against the Department of Public Health for disclosures made in good-faith reliance on an authorization if

the Department of Public Health had no actual notice of the revocation of the authorization. A revocation is valid only if it is in writing, dated with a date that is later than the date on the original authorization, and signed by the patient or the patient's legally authorized representative. The Department of Public Health shall retain each revocation in the patient's medical record.

V. Discovery Request or Compulsory Process

(1) Before service of a discovery request or compulsory process demand on the Department of Public Health for health care information, an attorney shall provide advance written notice to the patient or the patient's attorney through service of process indicating what health care information is sought, and stating that the patient may obtain a protective order to prevent the Department of Public Health from complying. Thereafter the discovery request or compulsory process demand may be served on the Department of Public Health with a copy of the written notice provided to the patient or patient's attorney attached. The date by which the Department of Public Health must comply with the discovery request or compulsory process demand must allow the patient adequate time to seek a protective order, but in no event be less than fourteen days from the date of service or delivery to the Department of Public Health.

(2) Without the written consent of the patient, the Department of Public Health shall not disclose the health care information sought under subsection (1) of this section if the requestor has not complied with the requirements of such subsection, except upon the order of a court with competent jurisdiction. If the requirements of subsection (1) have been satisfied, and in the absence of a protective order issued by a court of competent jurisdiction forbidding compliance, the Department of Public Health shall disclose the information in accordance with these regulations. The discovery request or compulsory process demand, and any protective order or other related court documents shall be made a part of the patient medical record.

VI. Disclosure Without Patient's Authorization

(1) The Department of Public Health may disclose health care information about a patient without the patient's authorization to the extent that a recipient needs to know the information, if the disclosure is:

(a) to a person who the Department of Public Health reasonably believes is providing health care to the patient at the time the request for disclosure is made;

(b) to any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial or actuarial services to the Department of Public

Health, or for assisting the Department of Public Health in the delivery of health care and the Department of Public Health reasonably believes that the person:

(i) will not use or disclose the health care information for any other purpose; and

(ii) will take appropriate steps to protect the health care information;

(c) to any other health care provider reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the Department of Public Health in writing not to make the disclosure;

(d) to any medical or law enforcement personnel if the Department of Public Health reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this section on the part of the Department of Public Health or its agents or employees to so disclose;

(e) oral, and made by the patient's treating physician, nurse, or other health care provider to immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the Department of Public Health in writing not to make the disclosure;

(f) to a hospital or treatment facility that is the successor in interest to the Department of Public Health for the purpose of maintaining the health care information;

(g) for use in a research project that an institutional review board has determined:

(i) is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) is impracticable without the use or disclosures of the health care information in individually identifiable form;

(iii) contains reasonable safeguards to protect the information from re-disclosure;

(iv) contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) to a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) to the Division of Youth Services, Department of Community and Cultural Affairs, pursuant to the terms of the Multi-Disciplinary Response Team memorandum of understanding signed by the Department of Public Health to assist in addressing issues regarding sexual abuse and assault;

(j) to provide directory information, unless the patient has instructed the Commonwealth Health Center not to make the disclosure;

(k) in cases reported by fire, police, or other public authorities, a report may be provided to them as to the name, residence, sex, age, occupation and general health condition and whether the patient was conscious when admitted;

(l) to the administrator or designated personal representative of the patient if the patient is deceased;

(m) to other professionals and personnel under a health care provider's direction who participate in the diagnosis, evaluation, or treatment of the patient.

(2) The Department of Public Health may disclose health care information about a patient without a patient's authorization in a judicial or administrative proceeding:

(a) when the proceedings are brought by the patient against a Department of Public Health health care provider, including but not limited to malpractice proceedings, and in any criminal or license revocation proceeding in

which the patient is a complaining witness and in which disclosure is relevant to the claims or defense of a Department of Public Health health care provider;

(b) when the purpose of the proceedings is to substantiate and collect on a claim for health care services rendered to the patient after a reasonable attempt has been made to collect from the patient;

(c) in any civil litigation or administrative proceeding against the CNMI Government brought by the patient or someone on his behalf if the patient is attempting to recover monetary damages for any physical or mental condition including death of the patient, if the medical records are relevant;

(d) in any disciplinary investigation or proceeding of a health care provider conducted under or pursuant to the Medical Practice Act, provided that the Medical Profession Licensing Board shall protect the identity of any patient whose medical records are examined, except for those patients covered under any of the subsections in this Section VI or those patients who have submitted written consent to the release of their medical records;

(e) in any criminal investigation of a health care provider in which the Medical Profession Licensing Board is participating or assisting in the investigation or proceeding by providing certain medical records obtained from the health care provider, provided that the Medical Profession Licensing Board shall protect the identity of any patient whose medical records are provided in the investigation or proceeding except for those patients covered under any of the subsections in this Section VI or those patients who have submitted written consent to the release of their medical records. This subsection does not authorize the release of any confidential information for the purpose of instigating or substantiating criminal charges against a patient;

(f) in an involuntary civil commitment proceeding, proceeding for court-ordered treatment, or probable cause hearing under the Involuntary Civil Commitment Act of 1994, 3 CMC §2501-§2522 or the Patients Rights Act, 3 CMC §2551-§2564.

(3) The Department of Public Health shall disclose health care information about a patient without a patient's authorization if the disclosure is:

(a) to federal or CNMI public health authorities, when needed to determine compliance with CNMI or federal licensure, certification, or registration rules or laws, or when needed to protect the public health;

(b) to CNMI law enforcement authorities when necessary to assess whether a patient's death was the result of a criminal act and whether an autopsy is required;

- (c) pursuant to compulsory process in accordance with Section V.

#### VII. Patient's Examination and Copying – Requirements

(1) Upon receipt of a written request from a patient to examine or copy all or part of the patient's recorded health care information, the Department of Public Health, as promptly as required under the circumstances, but no later than fifteen (15) working days after receiving the request shall:

- (a) make the information available for examination during regular business hours and provide a copy, if requested, to the patient;
- (b) inform the patient if the information does not exist or cannot be found;
- (c) inform the patient and provide the name and address, if known, of the health care provider who maintains the record, if the Department of Public Health does not maintain a record of the information;
- (d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than twenty-one (21) working days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or
- (e) deny the request, in whole or in part, under the Section VIII and inform the patient.

(2) Upon request, the Department of Public Health shall provide an explanation of any code or abbreviation used in the health care information. However, if a record of the particular health care information requested is not maintained by the Department of Public Health in the requested form, the Department of Public Health is not required to create a new record or reformulate an existing record to make the health care information available in the requested form. The Department of Public Health may charge a reasonable fee for providing the health care information and is not required to permit examination or copying until the fee is paid.

#### VIII. Patient's Request – Denial of Examination and Copying

(1) The Department of Public Health may deny access to health care information by a patient if the Department of Public Health reasonably concludes that:

(a) knowledge of the health care information would be injurious to the health of the patient;

(b) knowledge of the health care information could reasonably be expected to lead to the patient's identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate.

(c) knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;

(d) the health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes;

(e) access to the health care information is otherwise prohibited by law.

(2) If the Department of Public Health denies a request for examination and copying under this section, it shall, to the extent possible, segregate health care information for which access has been denied under subsection (1) of this section from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.

(3) If the Department of Public Health denies a patient's request for examination and copying, in whole or in part, under subsection (1) (a) or (c) of this section, it shall permit examination and copying of the medical record by a health care provider not employed by the Department of Public Health, selected by the patient, who is licensed, certified, registered, or otherwise authorized under the laws of the CNMI to treat the patient for the same condition that was treated by the Department of Public Health staff. At the time the patient's request for health care information is denied, the Department of Public Health shall inform the patient of the patient's right to select another health care provider under this subsection. The patient shall be responsible for arranging for compensation of the other health care provider so selected.

IX. Correction or Amendment of Medical Record

(1) For purposes of accuracy or completeness, a patient may request in writing that the Department of Public Health correct or amend its medical record of the patient's health care information to which a patient has access under Section VII.

(2) As promptly as required under the circumstances, but no later than ten (10) days after receiving a request from a patient to correct or amend its medical record of the patient's health care information, the Department of Public Health shall:

(a) make the requested correction or amendment and inform the patient of the action;

(b) inform the patient if the medical record no longer exists or cannot be found;

(c) inform the patient and provide the patient with the name and address if known, of the person who maintains the medical record, if the Department of Public Health does not maintain the medical record;

(d) if the medical record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing, the earliest date, not later than twenty-one (21) days after receiving the request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) inform the patient in writing of the health care provider's refusal to correct or amend the medical record as requested and the patient's right to add a statement of disagreement.

(3) In making a correction or amendment, the Department of Public Health shall:

(a) add the amending information as a part of the medical record; and

(b) mark the challenged entries as corrected or amended entries and indicate the place in the medical record where the corrected or amended information is located, in a manner practicable under the circumstances.

(4) If the health care provider refuses to make the patient's proposed correction or amendment, the Department of Public Health shall:

(a) permit the patient to file as a part of the medical record of the patient's health care information a concise statement of the correction or amendment requested and the reasons therefore; and

(b) mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the medical record where the statement of disagreement is located, in a manner practicable under the circumstances.

X. Consent by Others; Health Care Representatives

(1) A person authorized to consent to health care for another may exercise the rights of that person under these regulations to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized to consent to health care without parental consent under federal or CNMI law, only the minor may exercise the rights of a patient under these regulations as to information pertaining to health care to which the minor lawfully consented. In cases where parental consent is required, the Department of Public Health may rely on the representation of a parent that he or she is authorized to consent to health care for the minor patient regardless of whether:

(a) the parents are married, unmarried, or separated at the time of the representation;

(b) the consenting parent is, or is not, a custodial parent of the minor;

(c) the giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered in a child custody dispute.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

XI. Personal Representative of Deceased Patient

A designated personal representative of a deceased patient may exercise all of the deceased patient's rights under these regulations. If there is no designated personal representative, or upon discharge of the designated personal representative, a deceased patient's rights under these regulations may be exercised by the next of kin of the deceased patient in the following order: spouse, children over age 18, parents, siblings.

XII. Safeguards for Security of Health Care Information

The Department of Public Health shall adopt and implement reasonable safeguards for the security of all health care information it maintains.

XIII. Retention of Medical Records

The Department of Public Health shall retain medical records for a minimum of seven (7) years after the date of the last entry on the record. In the case of minor children, the Department of Public Health shall retain the medical records for a minimum of seven (7) years after the date the child reaches 18 years of age unless there are entries on the medical records after the child reaches 18 years of age. X-ray films shall be retained for a minimum of five (5) years.

XIV. Severability

If any provision of these Rules and Regulations or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these Rules and Regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected hereby.



**Commonwealth of the Northern Mariana Islands**  
**Department of Community & Cultural Affairs**  
**Office of the Secretary**  
 Saipan, Mariana Islands 96950  
 Telephone Nos.: (670) 233-9556/(670) 233-3343

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

Office of the Secretary  
 Thomas A. Tebuteb

Commonwealth Council for  
 Arts & Culture

Division of Youth Services

Historic Preservation Office

Low Income Home Energy  
 Assistance Program

Office of Aging

Nutrition Assistance Program

Veterans Affairs Office

Women's Affairs Office

Indigeneous Affairs Office

Carolinian Affairs Office

Division of Sports & Recreation

Samorro/Carolinian  
 Language Policy Commission

Library Council

**EMERGENCY:** The Secretary of the Department of Community and Cultural Affairs finds that, pursuant to 1 CMC 9104(b), the public interest requires the adoption of Emergency Regulations, upon concurrence by the Governor, to implement changes to the existing regulations governing the Nutrition Assistance Program (NAP) with regard to the Collection of Claim, Reporting Significant Household Changes in Ten (10) days, Income Level and Benefit Determination, Mandatory Verification Pertaining to Residence, Citizenship, Age, Household Composition, and Proof of Identity (Birth Certificate and Social Security Card), and Recertification Notice, mandated by certain audit findings of the NAP. The Secretary finds that the public interest requires adoption of these guidelines within fewer than thirty (30) days notice for the reasons stated below. These regulations shall become effective immediately upon filing with the Registrar of Corporations and shall remain effective for 120 days.

**REASON FOR EMERGENCY:** The amendments to existing regulations must be adopted immediately in order for the NAP office to implement the required changes mandated by the audit findings. The Fiscal Year 2001 Memorandum of Understanding (FY 2001 MOU) requires the immediate implementation of these amendments to avoid a lapse in NAP benefits for program participants. Thus, consistent with 1 CMC 9104(b), an imminent peril to the public health, safety, or welfare exists which requires adoption of these amendments upon fewer than 30 days notice.

**CONTENTS:** The amendments change portions of the procedure for collecting Over Issuance Claim; reporting changes in household circumstances within ten (10) days requirement; the procedure for income determination; mandatory verification requirement pertaining to household residency, citizenship, age, composition, and proof of identity; and, the recertification requirement procedure.

**INTENT TO ADOPT:** The Secretary intends to adopt these amendments to existing regulations as permanent regulations pursuant to 1 CMC 9104(a)(1) and (2), and therefore publishes in the Commonwealth Register this notice of opportunity to submit comments. If necessary, a hearing will be provided. Comments on the content of the regulations may be sent to:

Secretary, Department of Community and Cultural Affairs, Caller Box  
10007, Capitol Hill, Saipan, MP 96950.

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

Issued by:

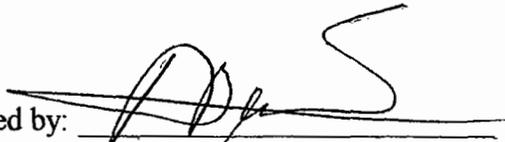


Thomas A. Tebuteb  
Secretary, Department of Community  
and Cultural Affairs

9-26-2000

Date

Concurred by:

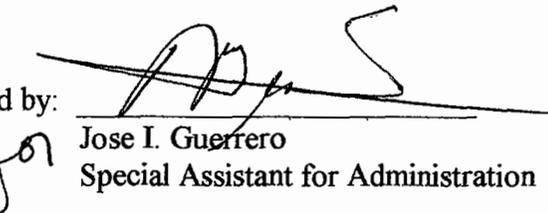


Pedro P. Tenorio  
Governor

9/28/00

Date

Reviewed by:

for 

Jose I. Guerrero  
Special Assistant for Administration

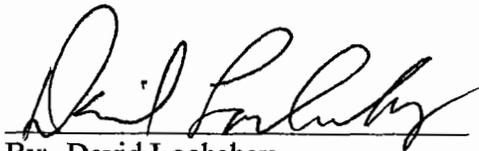
9/28/00

Date

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

Dated this 29<sup>th</sup> day of September, 2000.

Attorney General (Acting)  
James Benedetto



By: David Lochabay  
Assistant Attorney General

Filed and  
Recorded by:



Soledad B. Sasamoto  
Registrar of Corporations

9/29/00

Date



Commonwealth of the Northern Mariana Islands  
Department of Community & Cultural Affairs  
Office of the Secretary  
Saipan, Mariana Islands 96950  
Telephone Nos.: (670) 233-9556/(670) 233-3343

**NUTISIAN REGULASION GOTPE NA NISISIDAT SIHA NA NUTISIAN INTENSION PARA MA'ADAPTAN AMENDASION SIHA GI MANEKISISISTE SIHA NA REGULASION NI GUMUBEBETNA I PRUGRAMAN "NUTRITION ASSISTANCE"**

Office of the Secretary  
Thomas A. Tebuteb

Commonwealth Council for  
Arts & Culture

Division of Youth Services

Historic Preservation Office

Low Income Home Energy  
Assistance Program

Office of Aging

Nutrition Assistance Program

Veterans Affairs Office

Women's Affairs Office

Indigeneous Affairs Office

Carolinian Affairs Office

Division of Sports & Recreation

Samorro/Carolinian  
Language Policy Commission

Library Council

**GOTPE NA NISISIDAT:** I Sekretarion i Dipattamenton Community yan Cultural Affairs ha sodda' na sigon gi 1 CMC 9104 (b) i interes publiku ha nisisita i ma' adaptan i Regulasion Gotpe siha na Nisisidat, gi kinomfotmen i Gubetno, para u implementa i tinulaika siha gi maneksisiste siha na regulasion ni gumubebetna i Prugraman Nutrition Assistance (NAP) put i Manrikohen Emfotmasion Ginaye, Rinipottan Siknifikante na Tinulaika siha gi Gima' gi halom dies dias, Eskaleran Suetdo yan Detitminan Benefisio, Mandatu na Inaprueba put Asunton residencia, Siudadanu, Idat, Kantidan Taotao gi Gima', yan Preban Aidentifikasion (Settefikon Mafañagu yan Kattan "Social Security") yan Nutisian Inagonsettefikasion ni mamandatu nu i sinedda' aoditu put i NAP. I Sekritariu ha sodda' na i interes publiku ha gagagao i inadapta este siha na giha gi halom menos ki trenta dias na nutisia put i rason siha ni manmasangan gi sampapa'. Este siha na regulasion para u fanefektibu ensigidas gigon manafanhalom guato gi Rehistradot Kotporasion siha ya u fanefektibu para sientu bente 120 dias.

**RASON PUT GOTPE NA NISISIDAT:** I amendasio siha para i manprisenti na regulasion debi u fanma adapta ensegidas para u siña i ofisinan NAP ha implementa tinulaika siha sigun sinedda' aoditu. Ginen Memorandum Fiskat NA Sakkan 2001 (FY 2001 MOU) nisisariu ma adapta ensegidas este siha na amendasion potno u dinira kuantos tiempo benefisiun pattisipanten programan NAP. Pues, konsiste yan 1 CMC 9104 (b), u guaha chiantasaga gi hinemlo' publiku, safa yan minaolek eksiste ya nisisariu manma adapta este siha na regulasion menos di trenta (30) dias na nutisia.

**SUHETU SIHA:** I amendasion siha matulaika patte siha gi areklo para manrikohen Ginanyen Inipos na Nina'i, manripotten tinulaika siha gi kantedan taotao gi gima' na setkomtansia siha gi halom dies (10) dias na ginagao, i areklo para mandetminan suetdo, i mandatu na nisisidat apruebasion put residencia i gima', siudadanu, idat, kanteda, yan inaprueban aidentifikasion, yan i areklamenton inagonsettefikasion na nisisidat.

**INTENSION INADAPTA:** I Sekretariu ha intensiona para u adapta este siha na amendasion para i manprisente siha na regulasion komu petmanente siha na regulasion sigun 1 CMC 9104 (a) (1) yan (2), yan ani mapublika gi Rehistran Commonwealth este na nutisia para oputtunibat mansatmitinn komentu. Yanggen nisisariu, u managuaha inekungok. Komentu siha put suhetun regulasion siña

manmatuge' yan manahanao guatu para: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

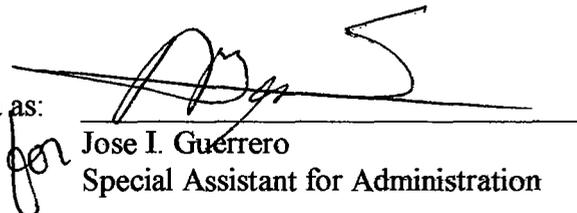
**ATURIDAT:** I Sekretariu ma aturisa para u cho'gue este siha na regulasion sigun 2 CMC 5522 (a).

Linaknos as:   
Thomas A. Tebuteb  
Sekretariun Dipatamenton Community  
yan Cultural Affairs

9/26/00  
Fecha

Inkonfotma as:   
Pedro P. Tenorio  
Gubetno

9/28/00  
Fecha

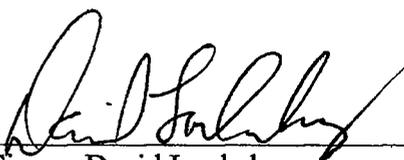
Rinibisa as:   
Jose I. Guerrero  
Special Assistant for Administration

9/28/00  
Fecha

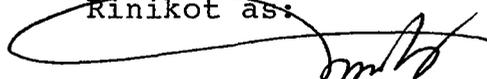
Sigun 1 CMC 2153, ni inamenda ni Lai Puplicu 10-50, i areklamento yan regulasion siha ni chechetton guine esta manma ribisa yan apreba komu para u fotma yan ligat na sufisiente ginen Ofisinan Attorney General giya CNMI.

Ma fecha gi mina' 29<sup>th</sup> na dia, Septiembre, 2000.

Attorney General (Acting)  
James Benedetto

  
Ginen: David Lochabay  
Assistant Attorney General

File yan  
Rinikot as:



SOLEDAD B. SASAMOTO  
Registrar of Corporation

Feche: 9/29/00



**Commonwealth of the Northern Mariana Islands**  
**Department of Community & Cultural Affairs**  
**Office of the Secretary**  
 Saipan, Mariana Islands 96950  
 Telephone Nos.: (670) 233-9556/(670) 233-3343

**ARONGORONGOL TOULAP REEL EBWE GHITIPWOTCH ALLÉGH  
 KKAAL BWAL ARONGORONG REEL IGHA EBWE ADOPT LLIWEL  
 KKAAL IKKA EYOOR IYEEY REEL ALLÉGHÚL- LEMELEMIL  
NUTRITION ASSISTANCE PROGRAM**

- Office of the Secretary  
Thomas A. Tebuteb
- Commonwealth Council for  
Arts & Culture
- Division of Youth Services
- Historic Preservation Office
- Low Income Home Energy  
Assistance Program
- Office of Aging
- Nutrition Assistance Program
- Veterans Affairs Office
- Women's Affairs Office
- Indigeneous Affairs Office
- Carolinian Affairs Office
- Division of Sports & Recreation
- Commonwealth Language Policy Commission
- Library Council

**GHITIPWOTCH:** Sekereteril Bwulsaiyol Community and Cultural Affairs e schuungi bwe, sáangi aileewal 1 CMC 9104 (D) mereel toulap efil bwe adoption reel Ghitipwotch reel Allégh kkaal, sáangi alúghúlúghúyal Sóllemelem, reel ebwe fféer lliiwel mellól allégh kkaal ikka eyoor iyeeey ikka e lemeli Nutrition Assistance Program (NAP) iye ebwal ghil ngali mille Collection of Claims, Reporting Significant Household Changes llól ótol seigh(10) rál, Income Level bwal Benefit Determination, Mandatory Verification Pertaining to Residence, Citizenship, raagh(age), Household Composition, bwal Alúghúlúgh reel yóómw (Birth Certificate bwal Social Security Card), bwal Recertification Notice, iye efil ebwe yoor bwelle reel akkáaw chungiyal audit mellól NAP. Sekereteri e schuungi bwe mereer tipeer toulap efil ebwe yoor adoption reel guidelines kkaal llól eghusuto faal eliigh (30) ral reel arongorong bwelle reel meta kka e apasal faal. Allegh kkaal nge ebwe kkáyil lléghéló igha e toolong Registrar of Corporations bwal ebwe looschagh reel ebwe lléghéló llól 120 ral.

**BWÚLÚL EBWE GHITIPWOTCH:** Lliiwel kkaal ngali allégh kka eyoor iyeeey nge ebwe kkáyil schagh adopted ló bweigha Bwulsaiyol NAP ebwe féerú meta kka efil mereel lliiwel kkaal bwelle reel akkaaw meta kka chungiyal audit. Fiscal Year 2000 memorandum of understanding (FY 2001 MOU) efil ebwe kkayil ayoora lliiwel kkaal reel ebwe ataweey bwe essóbw yoor ammwey mellól NAP benefits reer program recipients. Reel ebwe ghol ngáli 1 CMC 9104 (b) bwe ete yoor weires reel llimilimil ilighiir aramas, ghatch, ngare ghatchúl malaweer aramas igha e fil bwe ebwe adopt lliiwel kkaal mmwal 30 rál igha e arongowow.

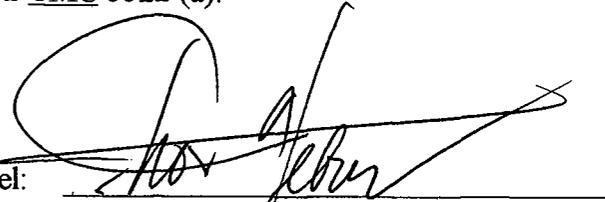
**AUTOL:** Lliiwel kka e liwili akkáaw mellól autol mwóghútúghútúl bweibwoghul Over Issuance Claim; isisilongol meta kka e lliiwel mellól iimw llól seigh (10) rál bwe efil; mwóghútúghútúl income determination; mandatory verification requirement iye e ghil ngali reel aramasal llól iimw iya igha e lollo iye, aramasal falúw fa, ráaghil, composition bwal scheel alúghúlúghúl; me, mwóghútúghútúl meta kka efil reel recertification.

**MÁNGEMÁNGIL EBWE ADOPT:** Sekereteri e tipeli reel mángemángil reel ebwe adopt li lliiwel kkaal ngáli allégh kka eyoor iyeeey reel ebwe permanent lo sáangi aileewal autol 1 CMC 9104 (a) (1) bwal (2), bwal reel milleel ebwe toolong arong yeel llól Commonwealth Register reel ebwe yoor schóól isisilongol yaar mángemáng me ngare aiyegh. Ngare efil, ebwe, bwal yoor hearing. Mángemang ngare aiyegh

bwelle reel autol allégh kkaal nge emmwel ubwe afanga ngali: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

**BWÁNGIL:** Eyoor bwángil Sekereteri reel ebwe atéew ló allégh kkaal sángi aileewal autol 2 CMC 5522 (a).

Mereel:



Thomas A. Tebuteb  
Secretary, Department of Community  
and Cultural Affairs

9/28/00

Ral

Alúghúlúghúyal:

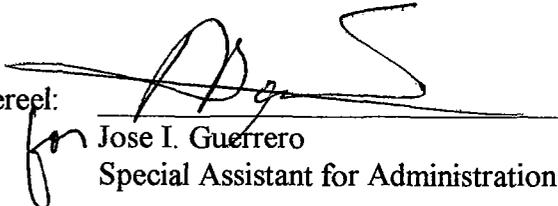


Pedro P. Tenorio  
Sow Lemelem

9/28/00

Ral

Reviewed mereel:

for 

Jose I. Guerrero  
Special Assistant for Administration

9/28/00

Ral

Sángi aileewal 1 CMC 2153, iye a lliiwel mereel Alléghúl Toulap (Public Law) 10-50, allégh kkaal ikka e appasch nge atakkal amweri sefáil bwal alúghúlúgh mereel CNMI Bwulasiyol Attorney General.

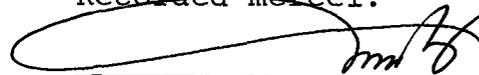
Ral ye 29<sup>th</sup> llool maram ye Maan, 2000.

Attorney General (Acting)  
James Benedetto



Mereel: David Lochabay  
Assistant Attorney General

Isaliyal Bwal  
~~Recorded mereel:~~



SOLEDAD B. SASAMOTO  
Registrar of Corporations

Ral:

9/29/00

(Proposed Revised Language)

VI. CERTIFICATION OF HOUSEHOLD

A. Application Process.

4. **Birth Certificate.** A certified copy of Birth Certificate (BC), either from the Court or any Church of religious institution, must be provided for each HH member (eligible and ineligible). As an alternate document, a copy of Birth and Baptismal Certificate, Certificate of Identity, or Passport may be accepted.
- \*5. **Social Security Number.** Each member of the HH (eligible and ineligible) must have a copy of a U.S. Social Security Number (SSN) Card. As an alternate document, only on official document from the Social Security Administration Office may be accepted. Additionally, for a new applicant on SSN Card, the Receipt For Application from SSA may be accepted and the subject individual included in the Program; however, within thirty (30) days a copy of the actual SSN Card should be filed or the affected individual will risk Disqualification. Disqualification may be waived for good cause. \*Amendment 1-85.

B. Interviews.

4. **On behalf of a HH, the individual subject for interview may be the adult HD or designated AR.** The CU Personnel shall explore and resolve unclear or incomplete information with the **adult HD or its AR.** The adult HD or its AR shall be advised of their rights, responsibilities, such as, reporting potential changes within ten (10) days, and penalties for violations before the interview is concluded. NAP facilities shall be adequate to preserve the privacy and confidentiality of the formal interview.

C. Verification.

Verification is the use of documentation, third party information, **Collateral Contacts**, or Home Visits, to establish the accuracy of the statements on the Application in order to determine the eligibility or ineligibility of the HH.

1. **Mandatory verification.**
  - b. HH composition and citizenship status shall also be verified

prior to certification of the HH by requiring the HH to submit BC copies for each HH member; **Notarized or Court Sealed Affidavit of Customary Marriage; Marriage Certificate; Tax Returns; School Records; Notarized Sworn Affidavit or Court Sealed Guardianship and Custodial Documents; Valid Labor and Immigration Documents; Passport; Certificate of Naturalization; Current CNMI Voter Registration Card; Certificate of Identity; and, NMHC Records, etc., at State Agency NAP discretion upon request.**

- d. **A minor who is not the biological or legally adopted child of a particular HH shall be required a Power of Attorney or Legal Guardianship or Custodial Document(s) from the biological/adoptive parent(s) or Placement Agreement from a recognized Child Welfare Agency or entity in order to be included for determination of eligibility and level of benefit. At State Agency NAP discretion, applicable most recent 1040 Forms filed at the Division of Revenue & Taxation may be required and/or School Certification.**

#### H. Certification Notices.

1. **Notice of Eligibility. If determined eligible the HH shall be provided a written Notice of Eligibility, or Notice of Disposition (NOD), from CU Office within the 30-day processing time. The NOD shall inform the HH of the initial allotment. The adult HD or its AR shall be provided with its NAP ID Card at the same time it receives the initial Notice of Eligibility. The NOD shall be provided to households to reflect any positive action by the CU Personnel on a change in the HH's circumstances during a Certification Period if there is at least one (1) month remaining in the HH's current Certification Period. The EW shall indicate on the notice the remaining period of certification, and the new HH size and benefits, as appropriate. With regards to Pending Cases, these Cases are centralized in a designated filing system at CU and are properly labeled by dates and monitored on a daily basis by respective EWs and CU Supervisor. All Pending Cases must be constantly followed up to determine the status and take appropriate action prior to the expiration of or on the final day of the 30-day APP Processing Period. After this period, the Case File without action shall be deleted from the Program immediately and processed Withdrawal.**

I. Recertification.

At the expiration of each Certification Period, entitlement to NAP benefits ends. Further eligibility shall be established only upon recertification based upon a newly completed **and signed** APP, an interview, and verification as required herein. Under no circumstances shall benefits be continued beyond the end of a Certification Period without a new determination of eligibility. At recertification, the EW shall verify changes in income, **resources and other HH circumstances.** All other changes reported at the time of recertification shall be subject to the same verification procedures used at the initial certification.

J. Determining Household Eligibility and Benefit Level.

3. Determining income.

- a. Anticipating income. For the purpose of determining the household's eligibility and level of benefits, the State Agency CU shall take into account the **averaged gross monthly** income already received by the HH during the Certification Period and any anticipated income the HH and the CU Personnel are reasonably certain will be received during the remainder of the Certification Period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the CU Personnel. For example, job or recently applied-for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These money shall not be anticipated by the CU Personnel unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the CU Personnel may elect to average the income.
- b. Income received during the past thirty (30) days shall be used as an indicator of the income that is and will be available to the HH during the Certification Period. However, the CU Personnel shall not use past income as an indicator of income anticipated for the Certification Period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income,

the CU Personnel and the HH may use a longer prior period (at least two months but preferably three months) if it will provide a more accurate indication of anticipated fluctuations in future income. In such cases, the CU Personnel shall use pay documents (pay stubs, check stubs, pay slips), or the NAP Employer Statement of Earnings (ESE) to be completed by the employer, which indicate the actual income to the HH from the three (3) most recent pay periods prior to the HH's Application or recertification. The CU Personnel shall average the actual gross amounts indicated on the pay documents and convert the averaged amount to a monthly gross income figure (if the pay periods documented are more frequent than monthly, i.e., weekly or biweekly). Similarly, if the HH's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the Certification Period, rather than the last thirty (30) days, as one (1) indicator of anticipated income. The CU Personnel shall exercise particular caution in using income from a past season as an indicator of income for the Certification Period. In many cases of seasonally fluctuating income, the income also fluctuates from one (1) season in one (1) year to the same season in the next year. However, in no event shall the CU Personnel automatically attribute to the HH the amounts of any past income. Earnings with less than sixty (60) hours per pay period, with or without overtime, shall be converted to the standard eighty (80) hours base salary, unless, a valid justification is submitted (such as: an Employer or Doctor's Certification attesting to the reduction in hours or a sick/death in the immediate family, respectively, that contributed to the shortage in payroll; a copy of Death Certificate should be provided for a HH member that passed away). This also applies to refusal to work overtime without good cause. Income of ineligible Micronesians shall be prorated as is, and earned income of persons aged fifty-five (55) and older shall be taken into account as is too. However, for the Non-Resident Contract Worker claiming lack of compensation for whatever reason, unless there is an official document from the Division of Labor (Department of Labor, Immigration and Employment Services) to substantiate, the salary indicated on the valid Employment Contract shall be honored and prorated for determination of eligibility and level of benefit.

- c. Income anticipated during the Certification Period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the **CU Personnel** shall convert the income to a monthly **gross** income by multiplying weekly **gross** amounts by 4.33 and biweekly **gross** amounts by 2.15, or use the exact **gross** monthly figure if it can be anticipated for each month of the Certification Period. Non-recurring lump sum payments shall not be counted as income.
  - d. Wages held at the request of the employee shall be considered income to the HH in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received only if reasonably anticipated as defined herein.
  - e. Households receiving assistance payments, such as, SSI Benefits or Social Security Payments, on a recurring, monthly basis, shall not have their monthly income from sources varied merely because mailing cycles may cause two (2) payments to be received in one (1) month and none in the next month.
4. Income averaging.
- a. The **CU Personnel** shall have an applicant's income averaged. To average the **gross monthly** income, the **CU Personnel** shall use the household's anticipation of income fluctuations over the Certification Period. The number of months used to arrive at the average **gross monthly** income need not be the same as the number of months in the Certification Period. For example, if fluctuating income for the past thirty (30) days and the month of Application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the **gross** income from the three (3) known months may be averaged and projected over a Certification Period of longer than three (3) months (such as SSI Cases).
  - b. Households which, by contract or self-employment, derive their annual income in a period of time shorter than one (1) year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piece-work basis. **Additionally, copies of the Business License and the latest Business**

**Gross Revenue (BGR) should be furnished at the time of Application to determine the average gross monthly income. These HHs may include taxi operators, fishermen, farmers, and other self-employed HHs. Further, for those who are engaged in such activities without a Business License and only on occasions, receipts declaring the Customer's Name, Date, Type of Income (such as: house rental, local fish sale, betelnut sale, local vegetables and other farm produce sale, etc.), Amount of Sale, and the Customer's acknowledged Signature should be submitted at the next recertification.**

**K. Reporting Changes.**

1. **Household responsibility to report changes. The adult HD or designated AR is required to report the following changes in circumstances to its assigned EW within ten (10) days after effect:**
  - a. **Changes in the sources of income or in the amount of average gross monthly income;**
  - b. **All changes in HH composition, such as, the addition or loss of a HH member;**
  - c. **Changes in residence;**
  - \*d. **When cash on hand, Stocks, Bonds, money in a bank or Savings institution, Savings Certificates, Time Certificate of Deposit (TCD), and/or Negotiable Instruments reach or exceed a total of two thousand dollars (\$2,000), or, three thousand dollars (\$3,000), as applicable. \*Amendment 1-87.**
  
2. **Reporting changes. The State Agency CU shall require the adult HD or designated AR to report changes within ten (10) days of the date the change becomes known to the HH. Reports of changes may be done personally, by telephone contact or in writing addressed to the assigned EW of the HH. In either case, the CU Personnel shall document any reported changes on the Contact Sheet in the Case File. If written, the document shall be filed with the current Application Form.**



Commonwealth of the Northern Mariana Islands  
Department of Community & Cultural Affairs  
Office of the Secretary  
Saipan, Mariana Islands 96950  
Telephone Nos.: (670) 233-9556/(670) 233-3343

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

Office of the Secretary  
Thomas A. Tebuteb

Commonwealth Council for  
Arts & Culture

Division of Youth Services

Historic Preservation Office

Low Income Home Energy  
Assistance Program

Office of Aging

Nutrition Assistance Program

Veterans Affairs Office

Women's Affairs Office

Indigenous Affairs Office

Carolinian Affairs Office

Division of Sports & Recreation

Chamorro/Carolinian  
Language Policy Commission

Library Council

**EMERGENCY:** The Secretary of the Department of Community and Cultural Affairs finds that, pursuant to 1 CMC 9104(b), the public interest requires the adoption of Emergency Regulations, upon concurrence by the Governor, to implement changes to the existing regulations governing the Nutrition Assistance Program (NAP) with regard to the Work Registration Requirement, Certification Periods, Certification Notices, Income Level and Benefit Determination, Collection of Claims, Management Evaluation Systems, and Participation of Redemption Agents, mandated by certain audit findings of the NAP. The Secretary finds that the public interest requires adoption of these guidelines within fewer than thirty (30) days notice for the reasons stated below. These regulations shall become effective immediately upon filing with the Registrar of Corporations and shall remain effective for 120 days.

**REASON FOR EMERGENCY:** The amendments to existing regulations must be adopted immediately in order for the NAP office to implement the required changes mandated by the audit findings. The Fiscal Year 2001 Memorandum of Understanding (FY 2001 MOU) requires the immediate implementation of these amendments to avoid a lapse in NAP benefits for program participants. Thus, consistent with 1 CMC 9104(b), an imminent peril to the public health, safety, or welfare exists which requires adoption of these amendments upon fewer than 30 days notice.

**CONTENTS:** The amendments change portions of the Work Registration requirement; the certification period for households; the certification notices procedure; the procedure for income determination; the procedure for collecting non-fraud claims; certain procedures in management evaluation, and certain procedures of the Redemption Agent.

**INTENT TO ADOPT:** The Secretary intends to adopt these amendments to existing regulations as permanent regulations pursuant to 1 CMC 9104(a)(1) and (2), and therefore publishes in the Commonwealth Register this notice of opportunity to submit comments. If necessary, a hearing will be provided. Comments on the content of the regulations may be sent to: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.





**Commonwealth of the Northern Mariana Islands**  
**Department of Community & Cultural Affairs**  
**Office of the Secretary**  
 Saipan, Mariana Islands 96950  
 Telephone Nos.: (670) 233-9556/(670) 233-3343



**NUTISIAN REGULASION GOTPE NA NISISDAT YAN INTENSION MA  
 ADAPTAN I AMENDASION GI PRISENTI SHIHA NA REGULASION I PARA  
 U GUBIETNA PROGRAMAN NUTRITION ASSISTANCE**

Office of the Secretary  
 Thomas A. Tebuteb

Commonwealth Council for  
 Arts & Culture

Division of Youth Services

Historic Preservation Office

Low Income Home Energy  
 Assistance Program

Office of Aging

Nutrition Assistance Program

Veterans Affairs Office

Women's Affairs Office

Indigenous Affairs Office

Carolinian Affairs Office

Division of Sports & Recreation

Samorro/Carolinian  
 Language Policy Commission

Library Council

**GOTPE NA NISISDAT:** I Sekretariun Dipatamenton Community yan Cultural Affairs ha sodda', sigun 1 CMC 9104 (b), para interes yan minaolek pubpliku na nisisariu ma adapta i; Regulasion Gotpe na Nisisdat, gigun konfotme i Gubetno, para u mana'guaha tinulaika gi manpresenti siha na regulasion i para u gobietna Nutrition Assistance Program (NAP) put Nisisdat Marehistran Cho'cho, Tetminun Settifikasion, Nutisian Settifikasion, Chi'ña i Suetdo' yan Benefisiun Diteminasion, Marikohen Claims, Ma Ebaluan sisteman Minaneha yan Pattisipasion Redemption Agents, ni manmandatu ginen sinedda' auditun NAP. I Sekretariu ha sodda' put interes pubpliku na nisisariu manma adapta este siha na giniha menos di trenta (30) dias gigun malaknos este na nutisia sigun i rason siha ni manggaige gi sampapa. Este siha na Regulasion efektibu ensegidas gigun ma file guatu gi Rehiistradoran Kotporasion ya efektibu ha gi halom 120 dias.

**RASON PUT GOTPE NA NISISIDAT:** I amendasio siha para i manpresenti na regulasion debi u fanma adapta ensegidas para u siña i ofisinan NAP ha implementa tinulaika siha sigun sinedda' aoditu. Ginen Memorandum Fiskat NA Sakkan 2001 (FY 2001 MOU) nisisariu ma adapta ensegidas este siha na amendasion potno u dinira kuantos tiempo benefisiun pattisipanten programan NAP. Pues, konsiste yan 1 CMC 9104 (b), u guaha chiantasaga gi hinemlo' pubpliku, safa yan minaolek eksiste ya nisisariu manma adapta este siha na regulasion menos di trenta (30) dias na nutisia.

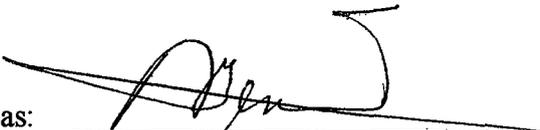
**SUHETU:** I amendasion siha para u tulaika didide' gi halom i nisisdat Rehistrasion cho'cho', tetminun settifikasion kada guma'; kinalamten nutisian settifikasion; kinalamten maditeminan suetdo'; kinalamten marikohen non-fraud claims; didide' gi maebaluan minaneha, yan didie' na kinalamten para Redemption Agent.

**INTENSION INADAPTA:** I Sekretariu ha intensiona para u adapta este siha na amendasion para i manpresente siha na regulasion komu petmanente siha na regulasion sigun 1 CMC 9104 (a) (1) yan (2), yan ani mapublika gi Rehistran Commonwealth este na nutisia para oputtunidat mansatmitinn komentu. Yanggen nisisariu, u managuaha inekungok. Komentu siha put suhetun regulasion siña manmatuge' yan manahanao guatu para: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

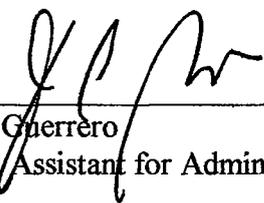
**ATURIDAT:** I Sekretariu ma aturisa para u cho'gue este siha na regulasion sigun 2 CMC 5522 (a).

Linaknos as:   
Thomas A. Tebuteb  
Sekretariun Dipatamenton Community  
yan Cultural Affairs

9/19/2000  
Fecha

Inkonfotma as:   
Pedro P. Tenorio  
Gubetno

9/25/00  
Fecha

Rinibisa as:   
Jose I. Guerrero  
Special Assistant for Administration

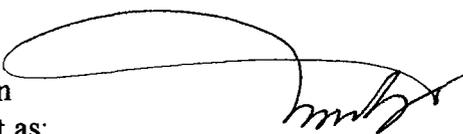
9/21/00  
Fecha

Sigun 1 CMC 2153, ni inamenda ni Lai Publiku 10-50, i areklamento yan regulasion siha ni chechetton guine esta manma ribisa yan apreba komu para u fotma yan ligat na suficiente ginen Ofisinan Attorney General giya CNMI.

Ma fecha gi mina' 21<sup>ST</sup> na dia, Septiembre, 2000.

Attorney General (Acting)  
James Benedetto

  
Ginen: David Lochabay  
Assistant Attorney General

File yan  
Rinikot as:   
Soledad B. Sasamoto  
Registrar of Corporations

9/26/00  
Fecha



**Commonwealth of the Northern Mariana Islands**  
**Department of Community & Cultural Affairs**  
**Office of the Secretary**  
 Saipan, Mariana Islands 96950  
 Telephone Nos.: (670) 233-9556/(670) 233-3343

**ARONGORONGOL TOULAP REEL EBWE GHITIPWOTCH ALLÉGH  
 KKAAL BWAL ARONGORONG REEL IGHA EBWE ADOPT LLIWEL  
 KKAAL IKKA EYOOR IYEY REEL ALLÉGHÚL LEMELEMIL  
NUTRITION ASSISTANCE PROGRAM**

- Office of the Secretary  
Thomas A. Tebuteb
- Commonwealth Council for  
Arts & Culture
- Division of Youth Services
- Historic Preservation Office
- Low Income Home Energy  
Assistance Program
- Office of Aging
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- Library Council

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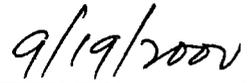
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**AUTOL:** Lliiwel kka kkal ebwe liwili akkaaw mellól autol Work Registration igha e auscheeya; rállil certification reer aramasal llól iimw; alúghúlúghúl mwóghútúl arong; mwóghútúghútúl income determination; mwóghútúghútúl isisil non-fraud claims; akkáaw mwóghútúghútúl llól mille management evaluation, bwal akkáaw mwóghútúghútúl llól mille Redemption agent.

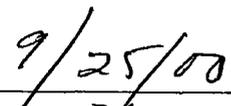
**MÁNGEMÁNGIL EBWE ADOPT:** Sekereteri e tipeli reel mángemángil reel ebwe adopt li lliiwel kkaal ngáli allégh kka eyoor iyeey reel ebwe permanent lo sáangi aileewal autol 1 CMC 9104 (a) (1) bwal (2), bwal reel milleel ebwe toolong arong yeel llól Commonwealth Register reel ebwe yoor schóól isisilongol yaar mángemáng me ngare aiyegh. Ngare efil, ebwe, bwal yoor hearing. Mángemang ngare aiyegh bwelle reel autol allégh kkaal nge emmwel ubwe afanga ngali: Secretary, Department of Community and Cultural Affairs, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

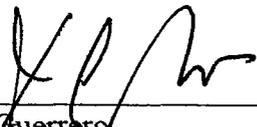
**BWÁNGIL:** Eyoor bwángil Sekereteri reel ebwe atéew ló allégh kkaal sáangi aileewal autol 2 CMC 5522 (a).

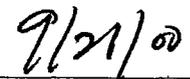
Mereel:   
Thomas A. Tebuteb  
Secretary, Department of Community  
and Cultural Affairs

  
Ral

Alúghúlúghúyal:   
Pedro P. Tenorio  
Sow Lemelem

  
Ral

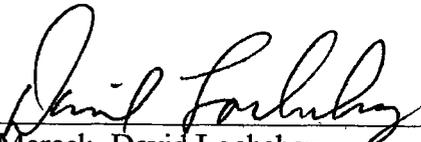
Reviewed mereel:   
Jose I. Guerrero  
Special Assistant for Administration

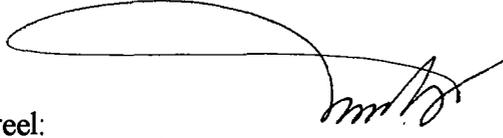
  
Ral

Sáangi aileewal 1 CMC 2153, iye a lliiwel mereel Alléghúl Toulap (Public Law) 10-50, allégh kkaal ikka e appasch nge atakkal amweri sefálil bwal alúghúlúgh mereel CNMI Bwulasiyol Attorney General.

Ral ye 21<sup>st</sup> llool maram ye Maan, 2000.

Attorney General (Acting)  
James Benedetto

  
Mereel: David Lochabay  
Assistant Attorney General

Isaliyal bwal  
Recorded mereel:   
Soledad B. Sasamoto  
Registrar of Corporations

  
Ral

(Proposed Revised Language)

V. ELIGIBILITY OF HOUSEHOLDS

E. Work Registration Requirement.

1. People required to register for employment at the **Division of Employment Services , Department of Labor, Immigration and Employment Services. On the first Work Registration Requirement,** the Eligibility Worker shall determine which household member(s) are required to register for employment at the time when the household files an application. Each household member who is not exempt by paragraph 2 of this section shall register for employment at the time of application and once every **three (3) months after initial registration should unemployment status remain unchanged.** Upon reaching a determination that a member is required to register, the Eligibility Worker shall explain to the **adult Head or its Authorize Representative** both the Work Registration Requirements and the consequences of failure to comply. The Eligibility W shall **process and provide the Work Registration Referral Form** to the **adult Head or its Authorize Representative** for each household member who is required to register for employment. Household members are registered when a completed Work Registration Referral Form is submitted at the **Division of Employment Service.** The Eligibility Worker shall forward the Work Registration Referral Forms filed from Nutrition Assistance Program to **Division of Employment Service.** **The second requirement of Work Registration is submittal of a copy of a recent Employment Application acknowledged receipt by a potential employer either on the registration month or previous month to the Eligibility Worker for Nutrition Assistance Program record.** **The Work Registrant must comply with both Work Registration Requirements within thirty (30) days following the initial month of Work Registration or risk Disqualification.** **Employment Application should be updated every three (3) months or another Application from another employer may be accepted.** **Nutrition Assistance Program sends Work Registration Referral Forms to Division of Employment Service every Tuesdays and Thursdays, then at the end of each week (Friday) a follow-up report is sent to Division of Employment Service to identify the Work Registrants that comply with this requirement versus those that failed to comply.** **Work Registrants that failed to comply with this requirement without good cause, based on the response from**

**Division of Employment Service, are automatically disqualified from Nutrition Assistance Program participation.**

VI. CERTIFICATION OF HOUSEHOLDS.

H. Certification Periods.

4. **Initial certification.** The Certification Period shall be based on the predictability of the Household's circumstances, but it shall not exceed three (3) months for all Households except for Households consisting entirely of elderly persons (55 or older), permanently disabled, and/or minors under the age of eighteen (18), which may be certified up to six (6) months, or even one (1) year. **Only Social Security Income Cases shall be certified longer than three (3) months at State Agency Nutrition Assistance Program discretion. A 3-month Certification Period shall be granted to Households where there is at least one (1) member gainfully employed.** Households which cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or Household status may be certified for as short a Certification Period as one (1) month. (Examples: part-time or commission employees, day laborers, etc., if income is uncertain and subject to large fluctuations during the work season due to the uncertainty of continuous employment, bad weather and other circumstances, and occasional sale of local fish and farm produce, etc.). Zero income households, or Households with no wage earners, shall be certified initially for no longer than one (1) month. **However, if the only source of income is Social Security Benefit, Child-Support Payment, or Monetary Contribution, etc., and it remains consistent in consecutive months, the Certification Period may be extended to two (2) months. Zero Income Questionnaire shall be processed by the Eligibility Worker to determine the providers responsible for the basic needs; and, it should be updated every six (6) months thereafter for as long as the zero income status remains unchanged. Certification Unit shall designate a separate filing system for all zero income Household cases for easy identification and monitoring of expiration dates. The Certification Unit Supervisor shall be responsible in ensuring that the timely processing of Zero Income Questionnaires and compliance with this procedure are performed accordingly by the Eligibility Workers. Once eligibility and level of benefits are determined, the Certification Unit shall prepare and process a Notice of Disposition Form and transmit it to the Issuance and Accountability Unit where the**

**Authorize To Participate Card shall be prepared for Issuance during the first five (5) working days of the month following the month of Application, or as otherwise provided in this Manual.**

I. Certification Notices.

5. **Notice of Eligibility.** If determined eligible the Household shall be provided a written Notice of Eligibility or Notice of Disposition from Certification Unit Office within the 30-day processing time. The Notice of Disposition shall inform the Household of the initial allotment. The adult Head or its Authorize Representative shall be provided with its Nutrition Assistance Program Identification Card at the same time it receives the initial Notice of Eligibility. The Notice of Disposition shall be provided to households to reflect any positive action by the Certification Unit Personnel on a change in the Household's circumstances during a Certification Period if there is at least one (1) month remaining in the Household's current Certification Period. The Eligibility Worker shall indicate on the notice the remaining period of certification, and the new Household size and benefits, as appropriate. **With regards to Pending Cases, these Cases are centralized in a designated filing system at Certification Unit and are properly labeled by dates and monitored on a daily basis by respective Eligibility Workers and Certification Unit Supervisor. All Pending Cases must be constantly followed up to determine the status and take appropriate action prior to the expiration of or on the final day of the 30-day Application Processing Period. After this period, the Case File without action shall be deleted from the Program immediately and processed Withdrawal.**

K. Determining Household Eligibility and Benefit Level.

6. **Determining Income.**
  - c. **Income received during the past thirty (30) days shall be used as an indicator of the income that is and will be available to the Household during the Certification Period. However, the Certification Unit Personnel shall not use past income as an indicator of income anticipated for the Certification Period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the Certification Unit Personnel and the Household may use a longer prior period (at least**

two months but preferably three months) if it will provide a more accurate indication of anticipated fluctuations in future income. In such cases, the **Certification Unit Personnel** shall use pay documents (pay stubs, check stubs, pay slips), or the **Nutrition Assistance Program Employer Statement of Earnings** to be completed by the employer, which indicate the actual income to the Household from the three (3) most recent pay periods prior to the Household's Application or recertification. The **Certification Unit Personnel** shall average the actual gross amounts indicated on the pay documents and convert the averaged amount to a monthly gross income figure (if the pay periods documented are more frequent than monthly, i.e., weekly or biweekly). Similarly, if the Household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the Certification Period, rather than the last thirty (30) days, as one (1) indicator of anticipated income. The **Certification Unit Personnel** shall exercise particular caution in using income from a past season as an indicator of income for the Certification Period. In many cases of seasonally fluctuating income, the income also fluctuates from one (1) season in one (1) year to the same season in the next year. However, in no event shall the **Certification Unit Personnel** automatically attribute to the Household the amounts of any past income. **Earnings with less than sixty (60) hours per pay period, with or without overtime, shall be converted to the standard eighty (80) hours base salary, unless, a valid justification is submitted (such as an Employer or Doctor's Certification attesting to the reduction in hours or a sick/death in the immediate family, respectively, that contributed to the shortage in payroll; a copy of Death Certificate should be provided for a Household member that passed away). This also applies to refusal to work overtime without good cause. Income of ineligible Micronesians shall be prorated as is, and earned income of persons aged fifty-five (55) and older shall be taken into account as is too. However, for the Non-Resident Contract Worker claiming lack of compensation for whatever reason, unless there is an official document from the Division of Labor (Department of Labor, Immigration and Employment Services) to substantiate, the salary indicated on the valid Employment Contract shall be honored and prorated for determination of eligibility and level of benefit.**

Q. Claim Against Households.

3. Non-Fraud Claim.

c. Collecting Non-Fraud Claim.

- v. **The Issuance & Accountability Unit Supervisor shall effectively control, monitor and maintain a complete record of all Nutrition Assistance Program Claim Cases of inactive participants, including those subject for Small Claims Court and the Attorney General Office, and coordinate on a monthly basis with the Commonwealth Court in scheduling Hearings on subject Claim Cases as appropriate. For Tinian and Rota Claim Cases subject for Small Claims Hearings, the Issuance & Accountability Unit Supervisor shall coordinate with the Commonwealth Courts scheduled Hearings to coincide with Nutrition Assistance Program Claim Hearings on a quarterly basis, or on a frequent monthly basis should it warrant necessary at the discretion of the Nutrition Assistance Program, Administrator. The Nutrition Assistance Program has designed a system or program to effectively monitor/track all Claim Cases on a monthly basis in order to ensure that Program Procedure are administered to successfully recoup all Program loss. The Issuance & Accountability Unit Supervisor shall take the required initiative to effectively control and monitor this system in order to ensure that recoupment process on all Claim Cases is acted in accordance with established guidelines.**

IX. MANAGEMENT EVALUATION

C. Evaluation System.

1. Modified quality control review.

- e. **The Management Evaluation Unit shall provide State Agency Certification Unit in a timely manner a Review Action Form (Management Evaluation Unit Random**

**Case Review Disposition Record or Management Evaluation Unit Negative Case Review Disposition Record) for each Quality Control Review completed. These Review Forms must be returned with comments to the Management Evaluation Unit within ten (10) days after receipt with Corrective Actions imposed accordingly as applicable. To effectively control and monitor the Review Forms forwarded to Certification Unit , Management Evaluation Unit shall follow up with the Certification Unit Supervisor within five (5) days after receipt.**

- g. **The Management Evaluation Unit shall also provide a Quarterly Report of Findings of the Random Cases reviewed to the Nutrition Assistance Program Administrator for his disposition. This report shall include an analysis of the findings (both numerical and narrative) and Recommendations for Corrective Actions. This report shall be submitted to the Nutrition Assistance Program Administrator no later than fifteen (15) work days after the end of the month following the review quarter, with a courtesy copy to the Department of Community and Culture Affair Secretary.**

3. **Review of compliance with personnel requirements.**

- c. **The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that only merit personnel are used in the Certification Process. In addition, Management Evaluation Unit shall conduct on a quarterly basis, or as it may warrant necessary, Internal Training Programs and incentives for Certification Unit Personnel to ensure strict compliance with the Application Certification Process and recertification.**

## **XI. PARTICIPATION OF RETAIL FOOD STORE AND REDEMPTION AGENT**

### **E. Participation of Redemption Agent.**

- 6. **Reconciliation. The Retail & Redemption Unit Officer and Redemption Agent shall reconcile the redeemed coupons with Deposit Slips and Transmittal Reports from other banks on a monthly basis. The Nutrition Assistance Program shall forward all monthly bank statements for reconciliation to the**

**Department of Finance. The Finance and Accounting Reconciliation Section will reconcile all bank statements for the subject month with the Nutrition Assistance Program Special Fund bank account to ensure that adjustments are posted on the General Ledger in a timely manner. The Nutrition Assistance Program shall obtain the Monthly Checking Account Summary indicating the Statement Ending Balance of the Nutrition Assistance Program Special Account accordingly and in a timely manner.**