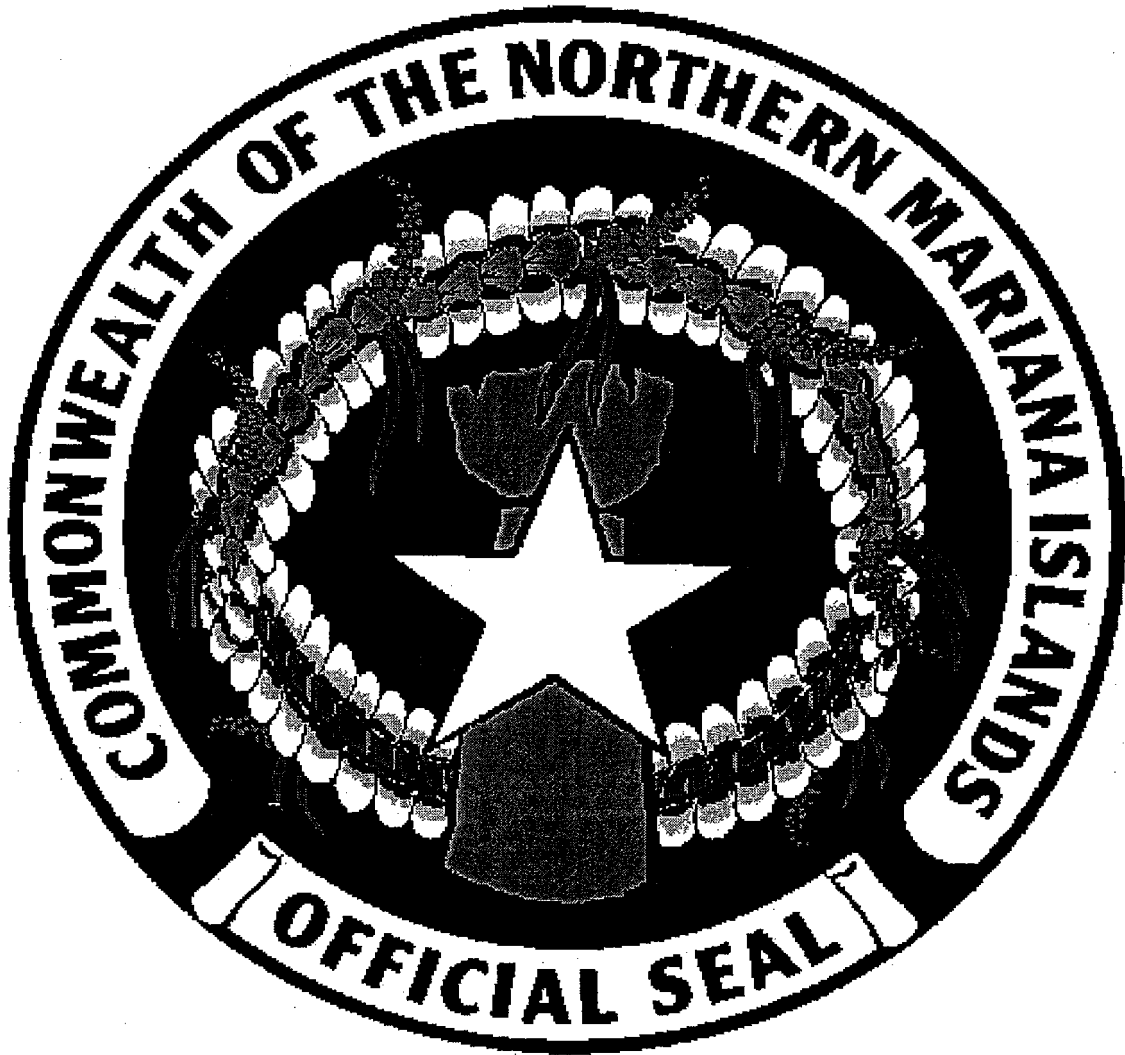


COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS



COMMONWEALTH REGISTER

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NUMBER 10

OCTOBER 25, 2008

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VOLUME 30

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October 25, 2008

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

EXTENSION OF EMERGENCY
Volcanic of Anataban

WHEREAS, On May 13, 2003, a Declaration of Emergency was issued with respect to volcanic activity on the island of Anataban; and

WHEREAS, said Declaration declared the island of Anataban as unsafe for human habitation and restricted all travel to said island with the exception of scientific expeditions; and

NOW, THEREFORE, I, BENIGNO R. FITIAL, by the authority vested in me as Governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, and in accordance with the Emergency Management Office, Commonwealth of the Northern Mariana Islands and U.S Geological Survey, do hereby extend a state of disaster emergency in the Commonwealth with the respect of the island of Anataban under the same terms and conditions as are contained in the original Declaration.

This Extension of Emergency shall remain in effect for thirty (30) days, unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been revoked or further extended for a like term, and giving reasons for extending the emergency.

Dated this 27th of October 2008.

Handwritten signature of Benigno R. Fitial
BENIGNO R. FITIAL
Governor

- Cc: Lt. Governor (Fax: 664-2311)
Senate President (Fax: 664-8803)
House Speaker (Fax: 664-8900)
Mayor of the Northern Islands (Fax: 664-2710)
Executive Assistant (or Carolinian Affairs) (Fax: 235-5088)
Attorney General (Fax: 664-2349)
Secretary of Finance (Fax: 664-1115)
Commissioner of Public Safety (Fax: 664-9027)
Special Assistant for Management and Budget (Fax: 664-2272)
Special Assistant for Program and Legislative Review (Fax: 664-2313)
Press Secretary (Fax: 664-2290)
United States Coast Guard (236-2968)

1 Commonwealth of the Northern Mariana Islands
2 Commonwealth Medical Profession Licensing Board
3
4

5 *In the Matter of Terri H. Clawson, PA,*
6 (Amendment of practice agreement)
7
8
9

Case No. 2008-02

10 BOARD EMERGENCY ORDER #02
11 APPROVING PRACTICE AGREEMENT AMENDMENT
12 FOR REMOTE SUPERVISION
13
14

15 Summary

16
17 This Order extends the orders which the Board entered previously in this case.
18
19

20 Board findings and conclusions

21
22 Terri Clawson's situation has not changed materially at the Tinian Health Center. The
23 Center has not yet hired a physician, and still depends on finding a temporary physician
24 from CHC or the private sector. There is still great uncertainty as to the presence of a
25 physician at the THC. Ms. Clawson still needs a supervising physician.
26

27 The Board finds that it would be unfair to the people of Tinian to restrict Ms. Clawson
28 from practicing at the THE merely because the Center has been unable to find a
29 permanent physician. We will not continue the authority provided in this Order
30 indefinitely. But we will continue it for a time.
31
32

33 Ruling and ordering paragraphs

34
35 The Board having been fully advised in the premises of this matter, for the above-stated
36 reasons, hereby ORDERS that:
37

- 38 1. The Board's preceding order in this case is continued through the following date:
39 October 31, 2008.
- 40 2. The Board shall review this matter at its next meeting.
- 41 3. A copy of this order shall be placed in a public area of the Tinian Health Center;
- 42 4. The Executive Director is directed to do the following in person or by electronic
43 means:
44
45
46

- 1
2 a. serve this Order on the licensee, Ms. Terri H. Clawson (email:
3 tclawson@terriclawson.com);
4
5 b. serve this Order on the director of the Tinian Health Center (tel: 433-9233;
6 fax 433-9247);
7
8 c. have the Order published in the next Commonwealth Register.
9

10 A party seeking to appeal this Order is directed to 1 CMC § 9112(b), which provides for
11 judicial review of final orders within 30 days in the Commonwealth Superior Court. The
12 Board believes that this IS a final Order.
13

14
15 _____ *Isi Ahmed Al-Alou MD.*
16

Dated: September 24, 2008

17
18 Dr. Admad Al-Alou, Chairman
19 Dr. Janet McCullough, Vice Chair: *Isi*
20 Ms. Pamela Carhill, Secretary-Treasurer: *Isi*
21 Dr. Leticia Borja, Board Member: *Isi*
22

23 Dr. Ken Pierson, Board Member: not voting
24 Commonwealth Health Care Professions Licensing Board
25 Building No. 1336, Capitol Hill
26 Saipan MP 96950
27

28 tel 670.664.4809
29 fax: 670.664.4813
30 bpl@pticom.com
31

32
33 03 Order Clawson rem ole practice agreemenLwpd

PUBLIC NOTICE

OF PROPOSED RULES AND REGULATIONS

WHICH ARE AMENDMENTS TO
THE IMMIGRATION RULES AND REGULATIONS
OF THE OFFICE OF THE ATTORNEY GENERAL, DIVISION OF IMMIGRATION

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General, Division of Immigration (hereafter the "Division") intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b)»

AUTHORITY: The Commonwealth immigration authority is authorized to promulgate regulations pertaining the citizenship, permanent residents-, and entry and deportation of aliens pursuant to Division 4 of Title 3 of the Commonwealth Code.

THE TERMS AND SUBSTANCE: The proposed revisions are to renumber the regulations to conform to the numbering system adopted for the N.M.I. Administrative Code, to incorporate changes provided for in the Commonwealth Employment Act of 2007 (PL 15-108), the statute that repealed and replaced the Nonresident Workers Act under which some of the prior regulations had been promulgated, and to clarify certain provisions.

A SUMMARY OF THE SUBJECTS AND ISSUES INVOLVED:

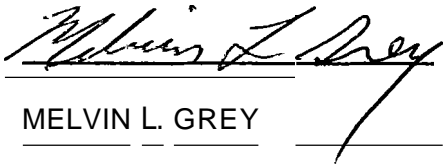
These rules and regulations are promulgated:

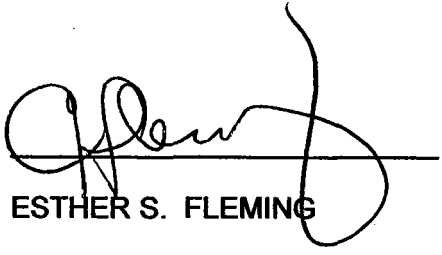
1. To renumber the regulations to conform to the numbering system adopted for the N.M.I. Administrative Code;
2. To incorporate changes provided for in the Commonwealth Employment Act of 2007 (PL 15-108), the statute that repealed and replaced the Nonresident Workers Act under which some of the prior regulations had been promulgated;
3. To make certain sections of the immigration regulations consistent with existing labor regulations;
4. To simplify and clarify certain provisions to make them easier for the public to use.
5. To allow two-year permits for some immigration classes.

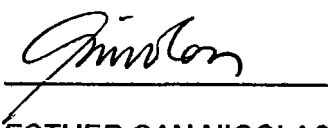
CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES AND REGULATIONS.
These proposed regulations will supersede Title 5, Chapter 5-40 of the N.M.I. Administrative Code.

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

TO PROVIDE COMMENTS: Send or deliver your comments to Director of Immigration, Melvin Grey, at the above address, fax or email address MGrey@cnmi.gov.net, with the subject line "Proposed IR&R". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or proposed changes. (1 CMC § 9104(a)(2)»

Submitted by:  10/16/08
MELVIN L. GREY Date
Director of Immigration

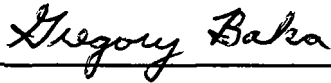
Received by:  10/16/08
ESTHER S. FLEMING Date
Governor's Special Assistant for Administration

Filed and
Recorded by:  10.20.08
ESTHER SAN NICOLAS Date
Commonwealth Register

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been

reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 17 day of October, 2008



GREGORY BAKA

Acting Attorney General

NOTISIAN PUPBLIKU

PUT I MAPROPONEN AREKLAMENTO YAN REGULASION SIHA NU I AMENDASION I AREKLAMENTO YAN REGULASION SIHA PARA I IMMIGRASION GI OFISINAN I ABUGADU HENERAT, nmlSION IMMIGRASION

MA'INTENSIONA NA AKSION PARA U ADAPTA ESTE MAN MAPRONONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islan Marianas siha, i Ofisinan **Abugadu** Henerat, Dibision Immigrasion (despues este i "Dibision") ha intensiona para u **adapta** komu petmanente na regulasion siha ni chechetton yan i Mapropone na Regulasion siha, sigun gi manera siha gi Akton Administrative Procedure, 1 CMC § 9104(a). I Regulasion siha para u efektibu dies(10) diha siha despues di i ma'adapta. (1 CMC § 9105(b))

ATURIDAT: I **aturidat** Immigrasion i Commonwealth ma'aturisa para u cho'gue i regulasion siha komu **siudadanu**, petmanente na residente, yan hinalom yan depottasion estrangheru siha sigun i Dibision **Kuatro(4)** gi Titulu Tres(3) gi kodigon Commonwealth.

I **SUSTANSIAN** I PALARRA SIHA: I maribisan i man mapropone na regulasion siha na para u mata'lon manumiru para u afakcha' i sisteman numiru ni rna'adapta para i N.M. l. Administrative Code, ya mana'danfia' i tinilaika ni mapribeniyi para i halom i Akton Inemplehon Commonwealth gi 2007 (Lai Publiku 15-108), i estatua ni mata'lon rna'apela yan matulaikan i Nomesident Act gi papa' i rna'pos na regulasion siha ni esta man macho'gue, yan para u klarifika palu na probension siha.

I SUIIETU NI **MASUMARIA** YAN I ASUNTO SIHA NI TINETEKKA':

Este siha i areklamento yan regulasion ni man macho'gue:

1. Para u mata'lon manumiru i regulasion siha para u afakcha' i sisteman numiru ni ma'adapta para i N.M.!. Administrative Code.
2. Para umana' **danña'** i tinilaika ni mapribeniyi para i Akton Inemplehon Commonwealth gi 2007 (Lai Publiku 15-108), I estatua ni mata'lon apela yan tinilaika i Nomesident Act gi papa' i man ma'pos na regulasion siha ni esta man macho'gue;
3. Para u rna'asigura na seksiona gi regulasion immigrasion u makonfotma yan i presente na regulasion hotnaleru.
4. Para ti u mappot yan **klaru** i palu na probension siha ni para umana' **libianu** para uson publiku.
5. Para u sedi dos(2) años na lisensia para i klasifikasion immigrasion.

ANNOKIMANACHULE'YANIPATINAFEKTANALAI,AREKLAMENTO
YAN REGULACION SmA.

Este i man mapropone na regulasion siha u tulaika i Titulu 5, Kapitulo 5-40 gi N.M.I.
Administrative Code.

DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA: Este i Maproponen
Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi halom
i seksiona ni mapropone yan nuebu i ma'adaptan regulasion siha (1 CMC § 9102(a)(I)
yan mapega gi konbiniete na **lugát** siha gi halom i civic center yan gi halom i ofisinan
gobietnamento siha gi kada distriton senadot, parehu English yan prinsipat na
lengguáhen natibu. (1 CMC 9104(a)(1)»

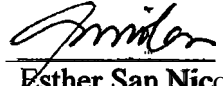
PARA UMAPRIBENIYI **OPINION** SIHA: Na hanaogui pat entrega i opifiion-mu
para i Direktot Immigrasion, Melvin Grey, gi sanhilo' na address, fax pat email
address MGrey@cnmi-gov.net, yan i **ráyan subetu** "Proposed IR&R". **Todu opifiion**
siha debi na u fan **há**lom gi halom trenta(30) diha siha ginen i fechan publikasion
este na notisia. Pot fabot entrega **há**lom j infotmasion, opifiion, pat i matulaikan
i man mapropone siha. (1 CMC § 9104(a)(2)

Nina'há lom as: 
MELVIN L. GREY
Direktot Immigrasion

10/16/08
Fecha

Rinesibe as: _____
ESTHER S. FLEMING
Espesiat Na Ayudánte Para I Atministrasion
Gobietno

Fecha

Pine'lo yan Ninota as: 
Esther San Nicolas
Rehistran Commonwealth

10.20.08
Fecha

Sigun i 1 CMC § 2153(e) (Abugâdu Henerat ha apreba i regulasion siha ni para u macho'gue komu fotma) yan 1 CMC § 9104(a)(3) sinusten inapreban Abugadu Henerat) I maproponen regulasion siha ni **mafechetton** guini ni man marebisa yan rna'apreba komu fotma yan suficiente **ligât** ginen i CNMI Abugadu Henerat yan debi u mapupblika, 1 CMC § 2153(f) (puplikasion areklamento yan regulasion siha

Mafecha gi diha **17** gi Oktubri, 2008

Gregory Baka

GREGORY BAKA

Acting Abugâdu Henerat

ARONGOL TOULAP

REEL POMWOL ALLEGH KKAAL IKKA AA LLIWEL SÁNGI ALLÉGHÚL IMMIGRATION LLOL BWULASIYOOOL SOW BWUNGUL ALLEGH LAPALAP, PEIGHIL (DIBISIONUL) IMMIGRATION

MÁNGEMÁNGIL IGHA EBWE FIL 60Y POMWOL ALLEGH KKAAL:

Bwulasiyool S6w Bwungul Allegh Lapalap, Dibisionul Immigration me1161 Commonwealth Téel falúw kka faluwasch Efáng Marianas ("mwiril661 Dibision yeel") e tipeli ebwe looff6sch pomwol allegh kka e appasch, bwelle mw6ghutul Administrative Procedure Act, 1 CMC Ta1i19104(a). Allégh kkaal ebwe fische161161 seigh (10) ráálil mwiril yaar fi1166y. (1 CMC Ta1i19105(b))

BWANGIL: Commonwealth immigration nge eyoor bwAngil ebwe akkate allegh kkaal bwelle toulap, aramasal faleey reel citizenship, permanent resident me atotoologoor me assefálil sch66y lúghúl sáangi Dibision ye faawu (4) 1161 Tálil eluuw (3) me1161 Alléghúl Commonwealth Code.

AWEWEELE ME OUTOL: Pomwol kka re siweli ebwe ghilighil ghatch alléghúl (renumber) bwelle ebwe til numurool ngali N.M.! Administrative Code, me atotoolog meeta kka e ssiwel bwelle Commonwealth Employment Act 1161 2007 (pL 15-108), allegh kka aa fféer sefáál me siweli Alléghúl sch661 angaang kka aramasal lúghúl (Nomesident Workers) sáangi allegh kka raa fasúl akkateew, me afattawow akkaaw aweewel.

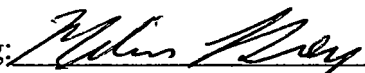
AKKÁÁW AWEWE ME MEETA KKA EYOOR:

Allegh kka aa akkatééló:

1. Rebwe awela numurool allégh kkaal bwelle ebwe fil igha rebwe fi1166y ngáli N.M.! Administrative Code.
2. Ebwe toolong ssiwel kkaall161 Commonwealth Employment Act 11612007 (p. 15-108), allégh kkaal aa fféer sefáál me siwell6 1161 Alleghul school angaang kka aramasal lúghúl (Nomesident Workers Act) sáangi allégh kka fasúl ikka raa ateew;
3. Rebwe fféer akkááw tálil kkaal1161 alléghúl immigration iye ebwe ghol (consistent) fengál me alléghúl bwulsiyool angaang ikka ighila;
4. Ebwe affatawow aweewe kkaal bwelle ebwe meschenigh ngáliir toulap.
5. Rebwe ayoor lisensial ruwoow ráágh reel abwungubwungul tappal immigration (class).

AWEWEEEL AKKÁÁW POMWOL ALLEGH: Pomwo1 allégh kkaal ebwe ssiweli Tálil 5, Chapter 5-401161 N.M.I Administrative Code.

AFALAFAL REEL AMMWELIL ME AMMATAF: Pomwo1 Allégh kkaal ebwe akkatééló 1161 Commonwealth Register sáangi tálil ye raa pomwoli me allégh kka raa fi1166y (1 CMC Tálil kka 9102(a)(1)) me appaschem igha ebwe fisch iye me 1161 bwulasiyoo1 gobenno kkaal1161 senatorial district, e weewe schagh 1161 kkapasal Amerikk:6nu me Remeraalis/Refaluwasch. (1 CMC Tali9104(a)(2))

Isaliyallong: 
MELVIN L. GREY
Samwoolul Immigration

10/16/08

Mwir sáangi: 
ESTHER S. FLEMING
Sów Alillisil Sów Lemelem


10/16/08
Rál

Ammwel sáangi: _____
ESTHER SAN NICOLAS
Commonwealth Register

_____ Rál

Sáangi allégh ye 1 CMC Tali12153(e) (sáangi alúghúlúghúl AG reel allégh kka aa akkatééló ighi1a) me 1 CMC Tálil 9104(a)(3) (bwughi alúghúlúghúl) reel pomwo1 allégh kka e appasch ighi1a meree1 CNMI S6w Bwungul Allégh Lapalap me akkatéélong 1161, 1 CMC Tálil 2153(f) (akkatéél allégh kkaal).

Ráánil yeel 17 11ól maramal Sarobwe1, 2008


GREGORY BAKA
Acting ngáli S6w Bwungul Allégh Lapalap

N.M.!. ADMINISTRATIVE CODE

TITLE 5 CHAPTER 40 DIVISION OF IMMIGRATION

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

PART 5 Subchapter 40.0 General

PART 5-40.0-100 PURPOSE

PART 5-40.0-200 DEFINITIONS

PART 5-40.0-300 ORGANIZATION AND PERSONNEL

PART 5-40.0-400 CONDUCT OF PERSONNEL

PART 5-40.0-100 PURPOSE

§ 5-40.0-101 Replacement

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

§ 5-40.0-105 Separation of functions

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

PART 5-40.0-200 DEFINITIONS

§ 5-40.0-201. Definitions.

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

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

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

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

PART 5-40.0-300 ORGANIZATION AND PERSONNEL

§ 5-40.0-301 Appointments.

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

§ 5-40.0-305 Director.

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

§ 5-40.0-310 Inspector.

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

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

§ 5-40.0-315 Examiner.

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

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

§ 5-40.0-320 Investigator.

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

§ 5-40.0-325 Processor.

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

§ 5-40.0-330 Registrar.

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

§ 5-40.0-335 Other personnel.

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

PART 5-40.0-400 CONDUCT OF PERSONNEL

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

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

§5-40.0-405 Dress.

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

§5-40.0-410 Punctuality.

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

§5-40.0-415 Chain of Command.

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

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

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

PART 5 Subchapter 40.1 Citizenship and Permanent Residents

PART 5-40.1-100 Citizenship.

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

PART 5-40.1-200 Permanent Residents.

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

PART 5-40.1-300 Marriage Fraud.

[RESERVED]

PART 5 Subchapter 40.2 Entry and Exit of Vessels and Aircraft

PART 5-40.2-100 Ports of Entry

PART 5-40.2-200 Entry

PART 5-40.2-300 Exit

PART 5-40.2-400 Fees

PART 5-40.2-100 PORTS OF ENTRY

§5-40.2-101 Designation.

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

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

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

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

§5-40.2-110 Tinian.

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

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

- (b) Any person who enters or attempts to enter the Commonwealth at a place other than these ports of entry may be charged with a crime under 3 CMC §4361 and is subject to exclusion.

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

PART 5-40.2-200 ENTRY

§5-40.2-201 Permission to Enter.

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

(xiii) Estimated time of arrival.

(2) Aircraft:

(i) Type and serial number of aircraft;

(ii) Name, nationality and address of senior pilot;

(iii) Name, nationality and address of owner;

(iv) Plan of flight route;

(v) Landing weight;

(vi) Date of last entry;

(vii) Port of next destination;

(viii) Name and address of agent;

(ix) Purpose of entry; and

(x) Estimated time of arrival.

§5-40.2-205 Multiple Entry Permission.

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

§5-40.2-210 Entry Without Permission.

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

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

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

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

§5-40.2-215 Emergency Entry.

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

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

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

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

PART 5-40.2-300 EXIT

§5-40.2-301 Revocation.

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

§5-40.2-305 Suspension.

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

PART 5-40.2-400 FEES

§5-40.2-401 Compensation for Services Rendered.

(a) All air and sea carriers and other persons whose operations require the service of immigration officers of the Commonwealth at other than established working hours shall pay the overtime costs of such officers providing said services.

(1) "Other than established working hours" include work performed in excess of eight hours on a weekday or forty hours a week and the twenty-four hour period for Saturday and the twenty-four hour period for Sunday. The rate of compensation for overtime or for employees required to work during other than established working hours is one and one-half times the employee's basic pay. An employee required to work on a legal holiday shall be compensated at two times the base salary rate. Overtime pay shall include overtime compensation as well as applicable employer contributions for retirement and Medicare.

(2) There shall be a minimum charge of two (2) hours overtime for each arrival requiring the services of immigration officers. An employee who is required to work overtime of less than two hours is credited with a minimum of two hours overtime work. Any fraction of an hour in excess of the two hour minimum shall be compensated at the full hour rate. Compensation for services shall commence thirty minutes prior to the scheduled arrival time of a carrier. It shall terminate thirty minutes after the officer's services are terminated at the post of duty.

(3) Sea carriers, non-scheduled aircraft, individuals, and others for which overtime services can be specifically assigned shall be charged for the actual overtime incurred by the immigration officer(s) providing such services.

(4) Overtime charges and holiday charges shall be waived when services are rendered to a carrier operating under emergency conditions or for emergency purposes.

(5) For scheduled and extra section flights to Saipan, Tinian, or Rota, immigration services provided during overtime hours shall be presumed to be performed for two or more airlines during one continuous tour of overtime duty. The total charge for these services shall be prorated to the aircraft arriving between 4:00 p.m. to 6:30 a.m. weekdays, and the twenty-four hour period of a Saturday, Sunday or holiday. The total charge shall be assessed pursuant to Customs Service Regulation § 1302.22(e)(1) [NMIAC § 7010.1-720].

(6) Overtime charges of the Division will be included and billed using a standard rate that also includes the overtime charges of the Customs and Quarantine Division and assessed pursuant to Customs Service Regulation § 1302.22(e)(I) [NMIAC § 70-10.1-720].

(7) At the end of the fiscal year, the Director of Finance will compute actual costs in accordance with the percentage allocation formula set forth in Customs Service Regulation § 1302.22(e)(1) [NMIAC § 70-10.1-720].

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

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

§5-40.2-415 Notice of Rate Change.

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

§5-40.2-420 Interest Charge.

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

§5-40.2-425 Waiver.

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

§5-40.2-430 Clearance During Journey.

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

§5-40.2-435 Billing.

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

PART 5 Subchapter 40.3 Entry and Deportation of Persons

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

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

§ 5-40.3-101 Scope.

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

§ 5-40.3-105 Availability of Records.

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

PART 5-40.3-200 ENTRY

§ 5-40.3-201 Valid Passport.

All persons seeking entry to the Commonwealth shall present to the Inspector a passport issued by their country of citizenship valid for at least six (6) months from the date of entry to the Commonwealth. The six (6) month requirement may be waived for u.S. citizens. The six (6) month requirement may also be waived for citizens of countries

which have established a consular office in the Commonwealth that has the authority to renew or issue new travel documents to assist in the repatriation of its citizens. No entry permit shall be issued nor entry permitted for an alien for a period of time longer than the validity of a passport.

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

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

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

- (19) An affidavit attesting to the truthfulness of the information provided, in the format prescribed by the Director;

§ 5-40.3-210 Landing card.

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

§ 5-40.3-215 Examination.

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

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

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

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

(b) The Division may refuse to allow a person or business to be a sponsor if that person or business fails to comply with Commonwealth immigration laws, sponsors a person who violates those laws, or otherwise fails to meet and maintain the qualifications of a sponsor as stated by law or these regulations. The burden is at all times on the sponsor to prove eligibility and qualifications to become or continue being a sponsor.

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

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

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

§ 5-40.3-230 Applications for Entry Permit

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

Applications for a two-year permit will be accepted, at the discretion of the Director, for entry permit class 240(d) immediate relatives of U.S. citizens and permanent residents, 240(g) and 240(0) foreign investors, 240(h) foreign students; and 240(k) foreign workers upon the Director's finding that a two-year permit is in the interests of the Commonwealth. The Director shall make available automatic two-year permits for permanent residents of the CNMI (as defined in § 5-40.0-201(x)) should permitting be required for any reason.

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

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

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

(a) Regular-term Business Entry Permit

The Regular-Term Business Entry Permit allows the holder to stay in the Commonwealth for one visit of not more than a ninety (90) day stay or multiple visits

totaling not more than one hundred twenty (120) days within one twelve (12) month period. The applicant must be present in the Commonwealth to apply for the permit and must present a certificate of eligibility for a business entry permit issued by the Department of Commerce.

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

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

(b) Government Employment Entry Permit

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

This class of entry permit is renewable.

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

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

(c) Visitor Entry Permit

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

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

The Director may impose conditions regarding the length of stay authorized

No Visitor Entry Permit shall be issued within thirty (30) days of the expiration of any previous Visitor Entry Permit that included an extension of up to sixty (60) days when the visitor remained in the Commonwealth for the majority of the previously extended time. There must be a thirty day break between the last extended permit and any new issuance. A Visitor Entry Permit may not be issued for an intending visitor who has already had up to one hundred eighty days (180) days as a visitor in the

Commonwealth in the last 12 months. An exception to this limitation may be granted by the Director for humanitarian reasons such as attending to the serious illness of an immediate relative (as defined above) if it is determined to be in the best interest of the Commonwealth.

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

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

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

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

This class of entry permit may be renewed.

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

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

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

(e) Immediate Relative of Alien Entry Permit

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

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

This class of entry permit may be renewed.

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

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

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

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

(t) Diplomat or Consular Entry Permit

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

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

There shall be no fee for this permit.

(g) Foreign Investor Entry Permit

An alien who presents a certificate of foreign investment issued by the Department of Commerce and meets the other applicable immigration requirements in these

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

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

(h) Foreign Student Entry Permit

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

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

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

(i) Foreign Press Entry Permit

An alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the Commonwealth solely to engage in such vocation, and who meets the other applicable immigration requirements in these regulations, and the immediate relatives of such representative, may be issued a Foreign Press Entry Permit.

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

This class of entry permit is renewable.

(j) Distinguished Merit Entry Permit

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

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

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

(k) Private Sector Employment Entry Permit

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

(l) Minister of Religion Entry Permit

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

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

For purposes of this section, a "vocation of minister or its equivalent" means that the person has been an active, registered, or recognized member of the religious organization for the two continuous years immediately preceding entry to the Commonwealth and seeks entry for the primary purpose of serving as a minister, priest, cleric, preacher, rector, parson, reverend, nun, monk, or equivalent position that directs the religious affairs of a bona fide non-profit religious undertaking that currently has no minister or its equivalent.

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

(m) Missionary Entry Permit

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

is limited to teaching religious doctrine in a church, classroom, or in a home visit setting.

(n) Long-term Business Entry Permit

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

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

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

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

(o) Retiree Investor Entry Permit

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

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

An immediate relative of the holder of this class of entry permit may be issued an immediate relative entry permit for the same duration as the holder, provided that such person is not an excludable alien. Upon application, the Director may waive restrictions applicable to an immediate relative who is a dependent child who is physically or mentally challenged and whose care and support is provided by the holder of the retiree investor entry permit.

(P) Temporary Work Entry Permit

At the discretion of the Attorney General, an alien who is a victim or witness in a civil or criminal proceeding, or a person who has applied for refugee protection pursuant to §5-40A-IOO of these regulations, may be issued a Temporary Work Entry Permit for up to one year while the relevant proceeding is pending. This entry permit is temporary and does not extend beyond the time required for the proceeding and reasonable arrangements thereafter as determined by the Attorney General.

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

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

(q) Comity Entry Permit

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

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

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

(r) Treaty Entry Permit

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

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

(s) Medical Entry Permit

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

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

(t) Citizens of Freely Associated States

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

(u) Employees on temporary assignment

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

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

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

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

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

(w) Transit.

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

(x) Crew.

An alien who is serving as crew in any capacity required for normal operation and service on board a vessel (other than a fishing vessel having its home or an operating base in the Commonwealth) or aircraft, who intends to land temporarily and solely in pursuant of the calling as a crew and to depart from the Commonwealth with the vessel or aircraft on which he arrived or some other vessel or aircraft, may remain in the Commonwealth until the time of scheduled departure. No entry permit is required provided that the alien crew member is sponsored by a marine or airways transportation company qualified to do business in the Commonwealth and a letter identifying the crew member and itinerary has been submitted to the Director. Exclusion provisions and limitations on length of stay and movement may be applied.

(y) Professionals seeking employment:

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

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

§ 5-40.3-245 Denial of entry pennit

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

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

§ 5-40.3-250 Revocation of entry permit.

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

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

§ 5-40.3-255 Annual Registration.

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

240(b) Employee of the CNMI or federal government

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

240(e) Immediate relative of an alien

240(t) Diplomatic or consular employees

240(l) Minister of religion

240(m) Missionary

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

Any alien holding an entry permit in classes 240(c) (tourist), 240 (i) (foreign press), 240(j) (distinguished merit), 240(P) (temporary work), 240(q) (comity), 240(r) (treaty), 240(s) (medical), 240(u) (temporary assignment), or 240(x) (crew) who intends to remain in the

Commonwealth for more than ninety (90) days shall register with the Division within ninety (90) days of their arrival.

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

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

Entry permits may be renewed or extended only pursuant to the provisions of these regulations. Applications for renewals or extensions shall be submitted to the Division, except that renewals or extensions for foreign students, foreign investors, and foreign business persons are the responsibility of the Department of Commerce; and renewals and extensions for foreign national workers are the responsibility of the Department of Labor.

§ 5-40.3-265 Permit cards.

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

§ 5-40.3-270 Fees.

The following fees apply to entry permits:

Vessel or aircraft permission to land	\$100.00
Foreign Worker Entry Permit	\$25.00
Foreign Student Entry Permit	\$100.00
Foreign Investor Entry Permit	\$500.00
Foreign Investor, Immediate Relative	\$500.00
Foreign Investor, Processing Fee (in the event the application is submitted less than seven (7) days in advance of arrival in the Commonwealth)	\$100.00
All other entry permits	\$100.00

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

Extension of entry permit	\$100.00
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The following fees apply to entry classes 240(d) Immediate relative of a U.S. citizen or permanent resident; 240(e) Immediate relative of an alien; 240(f) Diplomatic or consular employees; 240(1) Minister of religion; 240(m) Missionary. (All other classes either have no fees or the fees are payable to the Commonwealth education, commerce, and labor authorities.)

Annual registration with Immigration Division \$25.00

Renewal with Immigration Division \$100.00

The following other fees apply:

Duplicate copies of permits \$25.00

PART 5-40.3-300 EXCLUSION AT PORT OF ENTRY

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

§ 5-40.3-301 Economic Grounds.

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

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

(b) Entry may be allowed, at the discretion of the Director, if relatives or friends or a third party in the Commonwealth post sufficient cash with the Division to ensure the alien's support and repatriation costs for the duration of the entry permit. The full amount of cash deposited with the Division shall be kept in a trust account until the departure of the alien.

§ 5-40.3-305 Threat to Public Health.

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

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

§ 5-40.3-310 Threat to Public Safety.

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

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

- (a) Discontinuance. The Attorney General may discontinue issuance of entry permits to nationals, citizens, subjects or residents of any country, or any state, province, subsection, division or subdivision thereof, if the Attorney General determines:
 - (1) That the government of such country is unable to provide adequate information regarding backgrounds of persons embarking from that location;
 - (2) That the Commonwealth is unable to promptly and accurately assess the backgrounds of such persons; or
 - (3) That admission of such persons poses an unacceptable risk to the security, health and welfare of the Commonwealth.
- (b) Publication of Notice. Determinations made pursuant to subsection (a) may take effect immediately, but shall in every case be published in the next printed edition of the Commonwealth Register and shall be subject to biannual review and renewal. The discontinuance of entry permits may be terminated by future order of the Attorney General, may be renewed indefinitely, or may be for a set period of time.
- (c) Preliminary Waiver. The Attorney General may issue a preliminary waiver, on a case-by-case basis, of the exclusion of a person from an excluded country, state, province, subsection, division or subdivision, provided that the person has satisfied all other requirements for entry under the applicable laws and regulations, and has provided evidence that the following additional conditions have been satisfied prior to embarkation:
 - (1) Except as set forth in subsection (c)(2), if the person is coming to the Commonwealth for purposes of tourism, or under a short-term business entry permit, regular-term business entry permit, immediate relative of a citizen entry permit, immediate relative of an alien entry permit, foreign student entry permit, foreign press entry permit, distinguished merit entry permit, foreign national worker permit, minister of religion permit, religious missionary permit, or retiree investor entry permit the person shall:

- (i) Provide a cash bond or have his or her sponsor provide a bond issued by an approved bond company for the sum of five thousand dollars, such amounts to be used to offset any expense reasonably incurred by the Commonwealth should the person be convicted of any crime or should the person violate any condition of entry; and
 - (ii) If the person is embarking from an excluded country which the Attorney General determines has repeatedly caused undue delays or refused to accept the return of its nationals, citizens, subjects or residents, such person must bear an original, written statement, bearing the official seal of the relevant immigration or government authority in the excluded country, declaring that such country will unconditionally accept the return of the person without delay, such letter to be signed by a person authorized to expedite entry into that country and including the title and official contact information of said signatory.
- (2) If the person coming to the Commonwealth is a medical professional seeking to enter the Commonwealth for the purpose of rendering medical services or is the immediate relative of said medical professional, is the immediate relative of a U.S. citizen currently residing in the Commonwealth whose purpose for coming to the Commonwealth is to reside permanently with said U.S. citizen, or is an official government representative traveling to the Commonwealth for the sole purpose of conducting official government business or is the immediate relative of said government representative, such person must obtain a certification to that effect from the Attorney General.
- (3) A signed letter issued by and bearing the seal of the Attorney General, and imposing any additional conditions as the Attorney General may see fit, shall be delivered to the applicant and shall evidence the issuance or denial of a waiver under this subsection.
- (d) Exempt Aliens. The following aliens shall be exempt from the requirements of this section:
- (1) United States permanent residents who present a valid, un-expired form I-SSt - permanent resident card, form I-SSt-alien registration receipt card, or a valid un-expired passport containing a valid un-expired temporary residence stamp ("processed for 1-551 temporary evidence of lawful admission");
 - (2) Any alien who holds the equivalent of U.S. lawful permanent resident status, or holds status as a temporary resident authorized to work in and unconditionally return to a country that is listed on the visitor entry permit exempt list pursuant to § 5-40.3-315(c);
 - (3) Any alien with a valid United States entry visa which is valid for at least 60 days from the date of entry into the Commonwealth provided that the United States visa permits reentry back into the United States after entry and departure

from the Commonwealth;

- (4) Any alien legally in the Commonwealth on the effective date of this section, provided such alien remains continuously in legal status. Such aliens may freely depart and return to the Commonwealth subject to compliance with other applicable law and regulation;
- (5) Children of an alien legally traveling to or residing in the Commonwealth who will be under the age of twelve (12) on the date of departure from the Commonwealth; or
- (6) Any alien accompanying an alien who is ordered excluded, and the welfare of the excluded alien is dependent upon the accompanying alien, or the welfare of the accompanying alien is dependent upon the excluded alien.

§ 5-40.3-320 Order of exclusion.

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

§ 5-40.3-325 Record of Examination.

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

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

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

PART 5 Subchapter 40.4 Protection for Refugees

PART 5-40.4-100 Applicability

PART 5-40.4-200 Procedural Mechanisms

PART 5-40.4-300 Substantive Law

PART 5-40.4-400 Appeals

PART 5-40.4-500 Other Provisions

PART 5-40.4-100 Applicability

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

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

PART 5-40.4-200 Procedural Mechanisms

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

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

§ 5-40.4-209 Advisory.

(a) Right to Protection.

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

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

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

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

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

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

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

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

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

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

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

§ 5-40.4-211 Application.

(a) Initial Application.

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

(i) give the applicant's true identity;

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

(iii) state the basis for seeking refugee protection.

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

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

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

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

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

§ 5-40.4-212 Detention.

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

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

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

§ 5-40.4-214 Administrative Protection Judge.

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

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

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

§ 5-40.4-215 Protection Hearing.

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

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

protection hearing:

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

(i) Opportunity to Present Evidence.

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

§ 5-40.4-216 Confidentiality.

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

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

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

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

§ 5-40.4-217 Decision.

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

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

(a) General. Subject to subsection (b), an application for refugee protection or CAT protection shall be granted if the applicant's eligibility is established pursuant to §5-40A-100. For purposes of this subsection, the term "CAT protection" means protection pursuant to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

(b) Mandatory Denials.

(1) Scope.

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

(A) the applicant ordered, incited, assisted or participated in the persecution of others on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the applicant has been convicted of a crime and the Administrative Protection Judge determines that the applicant constitutes a danger to the community;

(C) there are reasonable grounds for a finding that the applicant has committed a serious nonpolitical crime outside the Commonwealth, prior to arrival of the alien in the Commonwealth;

(D) there are reasonable grounds for a finding that the individual is a danger to the safety or security of the Commonwealth or the United States. Such grounds shall include but not be limited to persons who have engaged in terrorist activity, as that term is defined by 8 USC § 1182(a)(3)(B)(iii).

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

(2) Effect of mandatory denial.

(i) Refugee protection. An applicant who qualifies for refugee protection but is denied such protection as the result of a mandatory denial pursuant to subsection (b)(1) shall be removed forthwith pursuant to Commonwealth exclusion and deportation law, unless the applicant also qualifies for CAT protection, in which case removal will be pursuant to subsection (b)(2)(ii).

(ii) CAT deferral. An applicant who qualifies for CAT protection but is denied such protection as the result of a mandatory denial pursuant to subsection (b)(1) shall be granted deferral of removal to the country where he or she is more likely than not to be tortured.

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

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

(B) Termination of CAT deferral.

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

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

§ 5-40.4-219 Removal to Third Country.

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

PART 5-40.4-300 Substantive law.

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

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

- (1) Past threat to life or freedom.

(i) If the applicant is determined to have suffered past persecution in the proposed country of removal on account of race, religion, nationality, membership in a particular social group, or political opinion, it shall be presumed that the applicant's life or freedom would be threatened in the future in that country on the basis of the original claim. This presumption may be rebutted if the Administrative Protection Judge finds by a preponderance of the evidence that:

(A) There has been a fundamental change in circumstances such that the applicant's life or freedom would not be threatened on account of any of the five grounds mentioned in this paragraph upon the applicant's removal to that country; or

(B) The applicant could avoid a future threat to his or her life or freedom by relocating to another part of the proposed country of removal and, under all the circumstances, it would be reasonable to expect the applicant to do so.

(ii) In cases in which the applicant has established past persecution, the government shall bear the burden of establishing by a preponderance of the evidence the requirements of subsection (a)(1)(i)(A) or (a)(1)(i)(B).

(iii) If the applicant's fear of future threat to life or freedom is unrelated to the past persecution, the applicant bears the burden of establishing that it is more likely than not that he or she would suffer such harm.

(2) Future threat to life or freedom. An applicant who has not suffered past persecution may demonstrate that his or her life or freedom would be threatened in the future in a country if he or she can establish that it is more likely than not that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion upon removal to that country. Such an applicant cannot demonstrate that his or her life or freedom would be threatened if the Administrative Protection Judge finds that the applicant could avoid a future threat to his or her life or freedom by relocating to another part of the proposed country of removal and, under all the circumstances, it would be reasonable to expect the applicant to do so. In evaluating whether it is more likely than not that the applicant's life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the judge shall not require the applicant to provide evidence that he or she would be singled out individually for such persecution if:

(i) The applicant establishes that in that country there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(ii) The applicant establishes his or her own inclusion in and identification

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

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

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

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

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

(1) "Torture" defined.

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

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

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

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

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

- (2) Consideration of evidence. In assessing whether it is more likely than not that an applicant would be tortured in the proposed country of removal, all evidence relevant to the possibility of future torture shall be considered, including, but not limited to:
- (i) Evidence of past torture inflicted upon the applicant;
 - (ii) Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
 - (iii) Evidence of gross, flagrant or mass violations of human rights within the country of removal, where applicable; and
 - (iv) Other relevant information regarding conditions in the country of removal.
- (3) Order of review. In considering an application for CAT protection, the Administrative Protection Judge shall first determine whether the applicant is more likely than not to be tortured in the country of removal. If the judge determines that the applicant is more likely than not to be tortured in the country of removal, the applicant is entitled to CAT protection. An applicant entitled to such protection shall be granted all privileges provided for such individuals under subpart C of this part, unless the applicant is subject to mandatory denial of protection under § 5-40.4-218(b).
- (4) Effect of mandatory denial. If an applicant otherwise entitled to CAT protection is subject to a mandatory denial under § 5-40.4-218(b), the applicant's removal shall be deferred under § 5-40A-218(b)(2)(ii), and will be referred to as a CAT deferral.

PART 5-40.4-400 Appeals.

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

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

may also include a concise statement of the grounds for the appeal.

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

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

identified in which the applicant can reside free from persecution or torture, if the applicant has committed certain crimes or engaged in other activity that triggers a mandatory denial set forth in § 5-40.4-218(b), if the ORP determines that the applicant engaged in misrepresentation of a material fact in connection with his or her application, or if the ORP determines that there are serious reasons for believing that the alien no longer requires protection under PL 13-61.

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

PART 5-40.4-500 Other provisions.

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

§ 5-40.4-520 Right to Travel. **Applicants** (with immediate **relatives**) must obtain advance permission from the Division and the ORP before **leaving the** Commonwealth if they wish to return. Failure to obtain such permission creates

a presumption that the applicant has abandoned his or her request with the ORP, and he or she may not be permitted to return to Commonwealth. If an applicant obtains permission to depart and returns to his or her country of feared persecution or torture, he or she shall be presumed to have abandoned his or her request, unless he or she can show compelling reasons for the return.

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

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

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

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

PART 5 Subchapter 40.5 Transition

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

PART 5-40.4-500 Other Provisions

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

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

PART 5.40.5-200: Effective Date

These regulations shall become effective on January 1, 2009.



Department of Commerce

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Caller Box 10007 CK, Saipan, MP 96950
Tel. (670) 664-3000· Fax: (670) 664-3067
email: commercedept@pticom.com

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH REPEAL EXISTING AND ADOPT NEW RULES AND REGULATIONS FOR THE DEPARTMENT OF COMMERCE, BANKING SECTION

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

AUTHORITY: The Director of Banking is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities. 1 CMC §2454 and 4 CMC §§6106 and 6108.

THE TERMS AND SUBSTANCE: The Rules and Regulations provide for a comprehensive update of the policy, procedure and enforcement of the business of selling foreign currency notes and/or the business of receiving money for the purpose of transmitting the same or its equivalent to any country outside the Commonwealth of the Northern Mariana Islands.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Increase fees for remittance dealers and agents for both foreign currency exchange and remittance.
2. Increase the security deposit requirement for the licensing of remittance companies.
3. Require remittance licensees to file electronic copies of the quarterly reports and expands the collection of information required in the quarterly reports.
4. Require licensees to comply with federal money service business registration and reporting requirements.
5. Establish withdrawal procedures for companies wishing to withdraw their licenses.


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

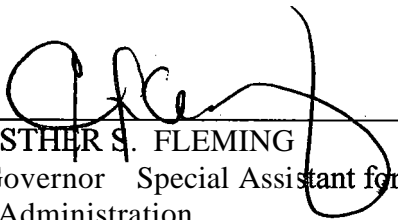
TO PROVIDE COMMENTS: Send or deliver your comments to Michael J. Ada, *Attn: New Foreign Currency Exchange and Remittance/Money Transmission Rules and Regulation* to the following address, fax or email address, with the subject line "New Foreign Currency Exchange and Remittance Rules and Regulations:"

Department of Commerce
Caller Box 10007
Saipan, MP 96950
Fax: (670) 664-3067
Email: commerce@cnmi.gov.net

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

These proposed regulations were approved by the Director of Banking on October 17th, 2008.

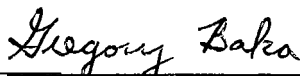
Submitted by: 
MICHAEL J. ADA
Director of Banking
Date 10/17/08

Received by: 
ESTHER S. FLEMING
Governor Special Assistant for
Administration
Date 10/20/08

Filed and
Recorded by: 
ESTHER SAN NICOLAS
Commonwealth Register
Date 10.21.08

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

Dated the 21 day of October, 2008.



DOC FX Regs Notice

Dipattamenton Kumetsio
Commonweath I Sankattan Na Isla Siha
Caller Box 10007 C.K. Saipan, M.P. 96950
Tel. (670) 664-3000 * Fax: (670) 664-3067
Email: commerce@cnmi.gov.net

NOTISIAN PUPBLIKU PUT I MAPROPONEN AREKLAMENTO VAN REGULASION
SIHA NI PARA U MADIROGA I EKSISTE VAN PARA U MA'ADAPTA I NUEBU NA
AREKLAMENTO VAN REGULASION SIHA PARA I DIPATTAMENTON KUMETSO,
SEKSIONAN BANGKO

MA'INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE I MAN MAPROPONE NA
REGULASION SIHA: I Commonwealth Sankattan na Isla Marianas siha, i Dipattamenton Kumetso,
Seksionan Bångko ha intensiona para u adapta kumo petmanente na regulasion siha ni chechetton ni
Maproponen Regulasion siha sigun para u matattiyi ni Akton Administrative Procedure,
1CMC§9104(a). I Regulasion siha para u ifektibu gi halom i dies (10) diha siha despues di ma'adapta
yan i publikasion gi Rehistran Commonwealth (1 CMC § 9105(b).

ATURIDAT: I Lehislatura ha nã'i i Direktot Bångko fuetsa-fia para u adapta iareklamento yan
regulasion siha para i atministrasion yan para ma'implementa i Lai ni ginobebietna aktibidât-ña
siha. CMC § 2454 yan 4 §§CMC6106 yan 6108.

I SUSTANSIAN I PALARRA SIHA: I Areklamento yan Regulasion siha ha prebiniyi para i
comprehensive update na policy, procedure, yan enforcement i bisnes mambenden foreign
currency notes yan /bisnes manresiben salãppe' para rason i transmite parehu pat kana'
pumarehu yan otro lugât gi hiyong i Commonwealth i Sankattan na Islan Marianas siha.

I SUNTO SIHA NI TINETEKKA': Este na areklamento yan regulasion siha:

1. Para u mahatsa i apas para i kontratadot rimiti yan ahensia siha para i todú i dos foreign
currency yan man rimiti.
2. Para u mahatsa i security deposit ni ginagagao para kompanihan lisensian manrimiti siha.
3. Para u madimãnda i manlisensian rimiti na para u mana'hålom i kopianelectronic siha gi
kada quarterly report siha yan para u aomenta siha i rinikohen infotmasion ni ginagagao gi
quarterly report siha.
4. Ha nesesitya i man malisensia siha na u matattiyi i rehistrasion bisnes setbision salãppe'
federat yan para u maripopot i ginaganao siha.
5. Para u rna'estapblesi i withdrawal procedure siha para i kompaniha siha ni man malago'
lumaknos i lisensian-fiiha.

DIREKSION PARA U MAPO'LO VAN MAPUPBLIKA: Este na maproponen Regulasion
siha debi na u mapupblika gi halom i Rehistran Commonwealth gi seksiona ni mapropone yan
nuebu na ma'adapta na regulasion siha (1CMC § 9102(a)(1) yan mapega gi kombiniente na lugât
siha gi halom i Civic Center yan gi ofisinan gobietnamento gi kada distriton senadot, parehu
English yan i prinsipât na lengguãhen natibu. (1 CMC § 9104(a)(1)


PARA U MAPRIBENIYI OPIÑION SIHA: Na hanague osino entrega i opifiion para si Michael Ada, *Atension: I Nuebu na Foreign Currency Exchange yan Rimiti/Areklamento yan Regulasion Transmision Salâppe'* gi san papa' na address, fax pat email address, yan i subject line "Nuebu na Areklamento yan Regulasion i Foreign Currency Exchange yan Rimiti siha."

Dipattamenton Kumetsio
Commonweath I Sankattan Na Isla Siha
Caller Box 10007 C.K. Saipan, M.P. 96950
Email: commerce@cnmi.gov.net

Man uttimo i opinion siha gi halom trenta (30) diha siha ginen i fechan este na notisian publikasion. Pot fabot na hâlom i infotmasion, opinion, pat testamonion kinontra siha. (1 CMC § 9104(a)(2))

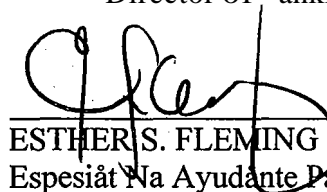
Este i man mapropone na regulasion siha man rna'apreba ni i Direktot Bångko gi Oktubri 17th, 2008.

Nina'hâlom as:


MICHAEL J. ADA
Director of Banking

10/17/08
Fecha

Rinesibi as:


ESTHER S. FLEMING
Espesiât Na Ayudante Para I Atministrasion

10/20/08
Fecha

Pine'lo yan Marikot as:


ESTHER SAN NICOLAS
Rehistran I Commonwealth

10.21.08
Fecha

Sigun i Lai 1 CMC § 2153(e) (Abugadu Henerat ha apreba i regulasion siha ni mafa'tinas kumo mafotma yan 1 CMC § 9104(a)(3) (ni mana'i ni inapreban i Abugadu Henerât) i mapropone na regulasion siha ni mafiechetton guini ni esta man marebisa yan man rna'apreba kumo fotma yan suficiente ligât ginen i CNMI Abugadu Henerat yan debi na u mapublikas, 1 CMC § 2153(f) (publikasion i areklamento yan regulasion siha).

Mafecha gi diha 2, gi Oktubri, 2008.


GREGORY BAKA
(Acting) Abugadu Henerât

BWULASIYOOL COMMERCE

Commonwealth Téél falúw kka Faluwasch Marianas
Caller Box 10007 CK, Seipel, MP 96950
Tilifoon. (670) 664-3000 * Fax: (670) 664-3067
Email: commerce@cnmLgov.net

**ARONGOL TOULAP REEL POMWOL ALLEGH KKAAL IGHA EBWE FFÉÉR
SEFÁÁL ME FILL66Y ALLEGH KAAL NGAU BWULASYOOL COMMERCE, TAUL
BWONGKKO**

MÁNGEMÁNGIL IGHA EBWE FILLOOY POMWOL ALLEGH KKAAL:

Commonwealth Téél falúw kka Faluwasch Efang Marianas, Bwulasyool Commerce, Tálil Bwongkko e mángi ebwe schéschéél fi1166y pomwol al legh kkaal, bwelle mw6ghutughutul Adminstrative Procedure Act, 1 CMC Tali19104(a). Allegh yeel nge ebwe 10 schagh 1161 seigh (10) ráálil mwiril yaar fi1166y me atéew 1161 Commonwealth Register (1 CMC Tali19105(b)).

BWÁNGIL: S6w fféerúl A1 legh nge e nga1 leey **bwángil** Samwoolul Bwongkko yeel igha ebwe fi1166y **allégh** kkaal **sángi** administration me **mwóghutáágheli** aweweel, CMC Tálil 2454 me 4 CMC Tálil kka 1606 me 6108.

OUTOL ME AWEWEEL: Re **ayoorátá** al legh kkaal bwelle ebwe ffat toowowul al legh kaal, aweweel me mw6ghutughutul bisinis reel kkapasal foreign clirrency me bisinisil salaapi ye rekke bwughil igha ebwe toowow me1161 CNMI ngáli eew faluw.

KKAPASAL ME TOOLONGOL: A1 legh kkaal:

1. Ebwe **sárághi** 6b6ssul dealers me bwulasyool foreign currency exchange me alusul salapi.
2. Alapal6 security deposit ye ekke titiing6r reel 6bw6ssullisensia kkompania kkaal.
3. Rebwe mweiti **ngáli** 6bw6ssuur sch66y lisensia reel tilighial quarterly me alapal6 aweweel kka re titiing6r **sángi** quarterly reports.
4. Sch66y lisensia ebwe tabweey aweweel salapial feder66d **sángi** registration me ting6rol repot.
5. Ayoorá aweweel withdrawal ngaliir bisinis ikka re **mángi** rebwe **ayúwúló** yaar lisensia.

AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol A1 legh kkaal ebwe akkatééló 1161 Commonwealth Register 1161 Tálil kka re pomwoli iye me fi1166l al legh kka e ffé (1 CMC Tali19102(a)(1)) me appasch igha toulap rebwe weri me1161 bwulasyool gobenno kkaal 1161 senatorial district, ebwe isch 1161 English me RemeraalislRefaluwasch. (1 CMC Tálil 9104(qa)(1)).


ISISILONGOL MÁNGEMÁNG: Afanga me ngáre bwughii16 ischil mángemángúm w reel Michael J. Ada, Attn: New Foreign Currency Exchange me Remittance/ Money Transmission Rules and Regulation sáangi address ye elo weiláng, fax me ngáre email address, reel kkapasal ye "New Foreign Currency Exchange me Remittance Rules and Regulation:"

BWULASIYOOL COMMERCE
Caller Box 10007
Seipel, MP 96950
Fax: (670) 664-3067
Email: commerce@cnmi.gov.net

Aghiyegh kkaal ebwe atotoolong 1161 eliigh (30) ráálil sáangi igha e akkatééwow arong yeelOutu ghal soong 6w ischilong mááfiyámi, me yáámi aingiing. (1 CMC Tali19104(a)(2)).

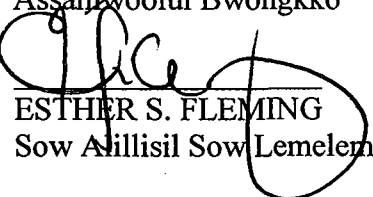
Pomwol allegh kkaal nge aa alléghélo mereel Samwoolul Bwongkko ótol Sarobwél , 2008.

Isaliyallong:


MICHAEL J. ADA
Assamwoolul Bwongkko

10/17/08
Rál

Mwir sáangi:


ESTHER S. FLEMING
Sow Allisil Sow Lemeler

10/20/08
Rál

Ammwel sáangi:


ESTHER SAN NICOLAS
Commonwealth Register

10.21.08
Rál

Sáangi allegh ye 1 CMC Tali12153(e) alúghúlúgh meree! s6w bwungul allegh lapalap reel allegh kka ebwe akkatééwow ighila) me 1 CMCTalil kka 9104(a)(3) (bwughi alúghúlúghúl S6w Bwungul Allegh Lapalap) pomwol allegh kka e appasch nge S6w Bwungul Allegh aa takkal amweri fischi me aléghéghélo me ebwe akkatééló. 1 CMC Tali12153(f) (akkatéél allegh kkaal).

Ráallil 21 llól maramal Sarobwel, 2008.

Gregory Baka

FOREIGN CURRENCY EXCHANGE AND REMITTANCE MONEY TRANSMISSION
RULES AND REGULATIONS

1. AUTHORITY AND PURPOSE:

- (a) Authority. The authority for the promulgation and issuance of Foreign Exchange Rules and Regulations is by virtue of 1 CMC §2454 and 4 CMC §§6106 and 6108.
- (b) Purpose. The purpose of these regulations is to establish policy and procedures to implement and provide uniform enforcement of the business of selling foreign currency notes and/or the business of receiving money for the purpose of transmitting the same or its equivalent to any country outside the Commonwealth of the Northern Mariana Island; to update the regulation of money transmitters and currency exchange businesses by repealing existing regulations and adopting new regulations; to require, administer, comply and enforce all licenses issuable under these regulations; and to establish administrative and appeal procedures.

2. DEFINITIONS:

- (a) "Agent" means a person authorized by the licensee under these regulations to sell or issue payment instruments or engage in the business of exchanging or transmitting money on behalf of a licensee.
- (b) "Dealer" means any person or business establishment engaged in either (d), (e) or (g) or all three and is a licensee.
- (c) "Director" means the Director of Banking or his designee.
- (d) "Electronic Funds Transfer ('EFT')" means the transfer of funds between accounts by electronic means including but not limited to a financial transaction originating from a telephone, electronic terminal, computer or magnetic tape.
- (e) "Foreign Exchange Currency Transactions" means the business of receiving and/or selling foreign currency notes.
- (f) "Licensee" means any person licensed pursuant to these regulations for the purpose of granting authority to engage in foreign currency exchange transactions and/or money transmission.
- (g) "Money Service Business" as used in these regulations means a currency dealer or exchanger; or money transmitter in which a person is engaged in the business of the transfer of funds.

- (h) "Money Transmission" means the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or transmitting money to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile, or electronic funds transfer.
 - (i) "Payment Instrument" means any electronic or written check, draft, money order, traveler's check, or other electronic or written instrument or order of transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable. "Payment Instrument" does not include any credit card voucher, any letter of credit or any instrument that is redeemable by the issuer in goods or services.
 - (j) "Remittance" means the business of receiving money for the purpose of transmitting the same or its equivalent to any country outside the Commonwealth of the Northern Mariana Islands.
 - (k) Quarterly Foreign Exchange Remittance Report means that described in forms FX-10, FX-11.
3. LICENSE REQUIRED: No person shall engage in the business of money transmission or foreign currency exchange transactions without first obtaining a license from the Director. The applicant must also obtain a general business license after the issuance of a foreign exchange license.

The license granted shall be for the period of one year.

Provisions of these regulations shall not apply to:

- (a) Banks, savings and loan associations, and credit unions licensed to do business in the Commonwealth.
 - (b) The receipt of money by an agent of an incorporated telegraph company at any regular office of such company for immediate transmission by telegraph.
4. FOREIGN CURRENCY EXCHANGE LICENSE
- (a) LICENSE FEE: Every licensee shall pay an annual license fee of Three Hundred Dollars (\$300.00).
 - (b) LICENSE APPLICATION: The application for a license shall be in writing and shall contain the following information:
 - 1. The name, address, nationality of the applicant, the address from which the business is to take place, and contact number(s). If the applicant is a corporation, the names, addresses, and nationality of the shareholders,

directors, and officers, and the number of shares held by each shareholder as required;

11. The name, address, and nationality of every agent of the applicant, including a copy of a criminal record clearance not older than three months from issuance;
- iii. Financial statements of the applicant and personal financial statements of the principal shareholders, directors and officers;
- iv. Any other information which the Director may require.

(c) EXEMPTION FROM REGULATIONS: Provisions of these regulations shall not apply to:

1. A bank, credit union, savings and loan association, or a savings bank licensed to do business in the Commonwealth;
11. The United States Postal Service;
- iii. The receipt of money by an agent of an incorporated telegraph company at any regular office of such company for immediate transmission by telegraph.

(d) ISSUANCE OF FOREIGN EXCHANGE LICENSE: If the application is approved by the Director, he or she shall, upon receipt of the license fee, issue to the applicant a license to engage in business in accordance with these regulations. A licensee shall conduct its business at its designated office location. A licensee shall be prohibited and restricted from conducting or performing foreign currency exchange transactions, issuance of receipts, or the collection of funds outside the premises of its designated business location. This rule shall apply to agents of foreign exchange companies.

(e) EXPIRATION AND RENEWAL OF FOREIGN EXCHANGE LICENSE:

1. The license is not transferable or assignable.
11. The license shall expire one year following the date of issuance. An agent's license shall expire on the same date as the appointing Dealer's license.
- iii. Failure to comply with section 4(c) of these rules and regulations shall be just cause for the non-renewal of a dealer's license and may be subjected to other certain sections of these rules and regulations.
- iv. Any other information, which the Director may require as part of the license renewal requirement, must be submitted.

(f) REGISTRATION OF AGENTS:

1. Every agent of a licensee shall register with the Director and shall pay annually a registration fee of Fifty Dollars (\$50.00).
11. If the appointed agent is a nonresident worker, he/she must obtain the approval from the Director of Labor or submit copies of the work permit and employment contract which specify duties and responsibilities inherent of "agent" as defined under 2(a) of these regulations.
- iii. Retailers and hotels in the business of foreign exchange currency transactions and having such business as only incidentals to serving their clients must also appoint agents. Names of persons doing transactions and their job title must be specified on Form FX-I and FX-12. Only one \$50 fee may be assessed for all agents listed on FX-2 and FX-3.
- iv. Registration of agents shall be denied if an applicant fails to meet the above requirements and others as required by the Director of Banking.

Forms FX-2 and FX-3 must be completed.

(g) REPORTS:

1. The Director has prescribed a Quarterly Reporting requirement for foreign currency exchange dealers as found in FORM FX-8 and its instructions.
11. The Director further requires foreign currency exchange dealers to obtain details of customers who transact amounts aggregating \$10,000 or more. Such details must include:
 - 1). Social Security Number and/or Tax Identification Number;
 - 2). Address of Sender and Recipient;
 - 3). Type of transaction;
 - 4). Whether amount received is cash or check;
 - 5). Signature of the customer as acknowledgement of the transaction.
 - 6). An Indication that a copy of an acceptable form of identification is on file. An acceptable form of identification shall include a driver's license, passport, military or military/dependent ID card, state issued identification card, or any other identification document issued by a jurisdiction which contains name, address and a photograph.

The Dealer shall report such transaction upon submission of the quarterly reports.

iii. COMPLIANCE WITH FEDERAL REQUIREMENTS.

1. For purposes of these regulations, Money Service Businesses (MSBs) refer to a class of non-bank financial institutions defined in the Bank Secrecy Act which requires such non-bank financial institutions to register with the Department of the Treasury and to comply with other recordkeeping and compliance laws.
2. A licensee that is by definition an MSB under federal law, shall comply with the federal registration requirements for such businesses and shall provide the Director with evidence of such registration.
3. Licensees are required to comply with the recordkeeping requirements, the necessity for a compliance program, currency transaction reporting, and suspicious activity reporting of the Bank Secrecy Act and its regulations. MSBs filing a suspicious activity report (SAR) with a federal authority must send a copy of such report to the Director at the same time the SAR is filed. Licensees may consult www.msb.gov for questions about the federal requirements.

(h) MAINTENANCE OF FORMS: Each licensee will obtain and continue to hold for three (3) years, a true copy of every receipt form used by it and by its agents for selling foreign currency notes. The receipts used shall be printed and pre-numbered and consist of at least two (2) copies, one (1) to be given to the customer, the other to be retained by the licensee for record keeping purposes. A receipt used for the sale of foreign currency notes shall contain not less than the following information:

- i. The amount and country of origin of the foreign currency notes involved in the transactions.
- ii. The rate of exchange of the transaction.
- iii. The u.S. Dollar amount involved in the transaction.
- iv. The commission or other fee received by the licensee for carrying out the transaction.

No licensee or its agents shall use any receipts, a certified copy of which has not been filed with the Director. Every licensee violating the requirement of this section shall be subject to a fine of Fifty Dollars (\$50.00) for each violation.

(i) DENIAL OF FOREIGN EXCHANGE LICENSE: The Director may deny an application for a license to be issued under these regulations if, after a hearing pursuant to the provisions of the Administrative Procedures Act, he/she finds that:

1. Granting of the license will be against the public interest;

- ii. The applicant does not intend to actively and in good faith, carry on as a business with the general public, the transactions, which would be permitted by the issuance of the license applied for;
- iii. The applicant, and if a corporation, a shareholder, director, or officer thereof, is not of good business reputation or is lacking in integrity;
- iv. The applicant has knowingly or willfully made a misstatement in an application to the Director for a license, or any document filed in support of such application, or has made a false statement in testimony given under oath before the Director or any other person acting in his/her stead.
- v. The applicant has permitted any person in his/her employ to violate any provisions of these regulations.

5. MONEY TRANSMISSION OR REMITTANCE LICENSE

- (a) LICENSE FEE: Every licensee shall pay an annual license fee of Five Hundred Dollars (\$500.00).
- (b) LICENSE APPLICATION (Form FXIR): The application for a license shall be in writing and shall contain the following information:
 - i. The name, address, nationality of the applicant, the address from which the business is to take place, and contact number(s). If the applicant is a corporation, the names, addresses, and nationality of the shareholders, directors, and officers, and the number of shares held by each shareholder as required.
 - ii. The name, address, and nationality of every agent of the applicant, including a copy of a criminal record clearance not older than three months from issuance.
 - iii. Financial statements of the applicant and personal financial statements of the principal shareholders, directors and officers.
 - iv. Any other information which the Director may require.
- (c) ISSUANCE OF MONEY TRANSMISSION OR REMITTANCE LICENSE: If the application is approved by the Director, he or she shall, upon receipt of the license fee, issue to the applicant a license to engage in business in accordance with these regulations. A licensee shall conduct its business at its designated office location. A licensee shall be prohibited and restricted from conducting or performing remittance transactions, issuance of receipts, or the

collection of funds outside the premises of its designated business location. This rule shall also apply to agents of remittance companies.

(d) EXPIRATION AND RENEWAL OF REMITTANCE LICENSE:

1. The license is not transferable or assignable.
- ii. The license shall expire one year following the date of issuance. An agent's license shall expire on the same date as the appointing Dealer's license.
- iii. Failure to comply with section 5(c) of these rules and regulations shall be just cause for the non-renewal of a dealer's license and may be subjected to other certain sections of these rules and regulations.
- iv. Any other information, which the Director may require as part of the license renewal requirement, must be submitted.

(e) REGISTRATION OF AGENTS:

1. Every agent of a licensee shall register with the Director and shall pay annually a registration fee of Fifty Dollars (\$50.00).
- ii. If the appointed agent is a nonresident worker, he/she must obtain the approval from the Director of Labor or submit copies of the work permit and employment contract which specify duties and responsibilities inherent of "agent" as defined under 2(a) of these regulations.
- iii. Registration of agents shall be denied if applicant fails to meet the above requirements and others as required by the Director of Banking.

Forms FX-2 and FX-3 must be completed.

(f) REPORTS:

1. The Director has prescribed a Quarterly Reporting requirement as found in FORM FX-11 and its instructions.
- ii. All Remittance Companies are required to submit a summary report of business activity on a quarterly basis. The report shall, at a minimum, include the following details:
 1. Company assigned receipt number
 2. Name and Occupation of the Sender
 3. Social Security Number or Tax Identification Number of Sender
 4. An indication that a copy of a valid identification card is on file
 5. Address of the Sender
 6. Name of the Beneficiary

7. Address of the Beneficiary
8. Amount remitted
9. Date funds entrusted to the company
10. Date funds were sent
11. Remittance agent who performed the transaction.

An electronic/computerized copy containing the above details shall be submitted using a spreadsheet format, preferably on Microsoft Excel, saved on a 3½ inch floppy disk or a compact disc (CD).

iii. QUARTERLY FINANCIAL STATEMENTS: Licensees for money transmission shall submit to the Director on a calendar quarter basis their interim financial statements. Financial statements shall include a balance sheet and an income statement. The financial statements submitted shall be kept confidential by the Director.

iv. COMPLIANCE WITH FEDERAL REQUIREMENTS.

- 1). For purposes of these regulations, Money Service Businesses (MSBs) refer to a class of non-bank financial institutions defined in the Bank Secrecy Act which requires such non-bank financial institutions to register with the Department of the Treasury and to comply with other recordkeeping and compliance laws.
- 2). A licensee that is by definition an MSB under federal law, shall comply with the federal registration requirements for such businesses and shall provide the Director with evidence of such registration.
- 3). Licensees are required to comply with the recordkeeping requirements, the necessity for a compliance program, currency transaction reporting, and suspicious activity reporting of the Bank Secrecy Act and its regulations. MSBs filing a suspicious activity report (SAR) with a federal authority must send a copy of such report to the Director at the same time the SAR is filed. Licensees may consult www.msb.gov for questions about the federal requirements.

v. DUE DATES. Quarterly reports and interim financial statements are due 30 days following each quarter end:

<u>Quarter</u>	<u>Due date</u>
March 31	April 30
June 30	July 30
September 30	October 30
December 31	January 30

vi. The Director further requires money transmitters or remittance dealers to obtain details of customers who transact amounts aggregating \$10,000 or more. Such details must include:

1. Social Security Number and/or Tax Identification Number;
2. Address of Sender and Recipient;
3. Type of transaction;
4. Whether amount received is cash or check;
5. Signature of the customer as acknowledgement of the transaction.
6. An Indication that a copy of an acceptable form of identification is on file. An acceptable form of identification shall include a driver's license, passport, military or military/dependent ID card, state issued identification card, or any other identification document issued by a jurisdiction which contains name, address and a photograph.

The Dealer shall report such transaction upon submission of the quarterly reports.

(g) MAINTENANCE OF FORMS: Each licensee will obtain and continue to hold for three (3) years, a true copy of every receipt form used by it and by its agents.

1. Receipt. Each customer placing a money transfer order shall be provided with a written receipt as acceptance of the order showing the name of the licensee (or trade name of the licensee as registered with the Director), agent identifier information, the date of the order placed, the dollar amount of the transaction order, and the fee charged. The receipts used shall be printed and pre-numbered and consist of at least two (2) copies, one (1) to be given to the customer, the other to be retained by the licensee for record keeping purposes.

No licensee or its agents shall use any receipts, a certified copy of which has not been filed with the Director. Every licensee violating the requirement of this section shall be subject to a fine of Fifty Dollars (\$50.00) for each violation.

11. Failure to provide receipt. A licensee or any of its agents that does not provide the customer with a written receipt or other evidence of acceptance as required by these regulations shall be subject to a fine of Fifty Dollars (\$50) per transaction where the receipt was not provided.

(h) DENIAL OF REMITTANCE LICENSE: The Director may deny an application for a license to be issued under these regulations if, after a hearing pursuant to the provisions of the Administrative Procedures Act, he/she finds that:

1. Granting of the license will be against the public interest;
 2. The applicant does not intend to actively and in good faith, carry on as a business with the general public, the transactions, which would be pennitted by the issuance of the license applied for;
 3. The applicant, and if a corporation, a shareholder, director, or officer thereof, is not of good business reputation or is lacking in integrity;
 4. The applicant has knowingly or willfully made a misstatement in an application to the Director for a license, or any document filed in support of such application, or has made a false statement in testimony given under oath before the Director or any other person acting in his/her stead;
 5. The applicant has pennitted any person in his/her employ to violate any provisions of these regulations.
- (i) **WITHDRAWAL PROCEDURES.** A licensee who desires to withdraw its license must first make application to the Director of Banking for an order granting permission to withdraw.
1. Such application shall be accompanied by its principal officer or director that:
 1. It desires to withdraw and to permanently discontinue the remittance business in the CNMI; and
 2. There are no outstanding remittances in existence as of the date of application.
 11. It shall cause publication of a notice of its intention to withdraw in a newspaper of general circulation in the CNMI at least once a week for three (3) consecutive weeks, and shall cause the said newspaper to file an affidavit of publication with the Director. The publication should include the following language: "Any comments or complaints should be directed to the Office of the Director of Banking, Department of Commerce, Capitol Hill, Saipan, Tel: 664-3044, Fax: 664-3067 or Email: commercedept@pticom.com."
 - iii. If the remittance company has complied with the provisions of this section and no objection is made but without good and sufficient cause, the Director shall order pennission and the withdrawing remittance company shall deliver to the Director for cancellation its Remittance license and current licenses of its agents.
6. **EXAMINATION:** The Director may at any time and from time to time examine the business of any licensee or its agents in order to ascertain whether such business is being conducted in a lawful manner and whether all monies received for

transmission are properly accounted for. Each licensee and its agents shall keep books, records and accounts in such form or manner as the Director may prescribe.

7. FORWARDING OF FUNDS: Every licensee or its agents shall forward all monies received for transmission to a foreign country or give instructions committing equivalent funds to the person designated by the remitter within ten (10) days after receiving such money, unless otherwise ordered by his/her customer.

8. SECURITY DEPOSIT:

(a) As security for the faithful performance of its obligations, a remittance licensee shall deposit, with the Treasurer of the Commonwealth, One Hundred Thousand Dollars (\$100,000.00) in a Timed Deposit account for a period of not less than one year in a bank within the Northern Mariana Islands; and such value must be maintained at all times. The Director of Banking prescribes the following procedures:

1. Time Deposit account must show the remittance company (dealer) "and" the CNMI Treasurer "or" the Director of Banking as holders of the account.

11. The Director shall notify Treasurer and company of account's maturity date and Treasurer shall be authorized to renew or terminate such account pursuant to instruction from the Director.

111. Interest earned on such deposit shall accrue to the benefit of the foreign exchange company.

IV. Complete forms FX-7, FX-9, and other forms as provided by the Director.

v. Release of the security deposit shall only be accomplished by authority from the Director of Banking.

(b) In lieu of the deposit of money pursuant to subsection (a) of this section, a Remittance may deliver to the Director of Banking the bond of a bonafide surety company, in a form satisfactory to the Director, the principal sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) lawful money of the United States, conditioned upon the faithful holding and transmission of all monies received by such licensee or its agents for such purpose.

Form FX-13 contains language, which may be used as guideline language for surety bonds; otherwise, policy forms previously approved by the Insurance Commissioner shall remain acceptable.

(c) Foreign exchange currency transaction dealers who are not in the business of transmitting money shall not be required to put up a security deposit.

The Director shall forward the deposit to the CNMI Treasurer for custody and safekeeping and shall be accomplished by preparing a transmittal form and acknowledged by the Treasurer.

9. TRUST FUND: The money deposited with the Treasurer of the Commonwealth pursuant to Section 13(a) and (b) of these regulations shall constitute a fund for the benefit of persons in case a licensee or its agents is not able to pay for funds entrusted to them for remittance.
10. OWNERSHIP OF FUNDS FOR TRANSMITTAL TO A FOREIGN COUNTRY: All funds, less fees, received by a licensee or its agents for transmission to a foreign country shall constitute trust funds owned by and belonging to the person from whom they were received until such time as directions have been given by the licensee or its agents for payment abroad of the remittance and funds provided for such payment.
11. ORDER TO CEASE UNLAWFUL PRACTICE: If it appears to the Director that the licensee is violating or failing to comply to these regulations; the Director shall direct the licensee to comply with these regulations or if it appears to the Director that any licensee is conducting his business in an unsafe or injurious manner he shall in like manner direct the licensee to discontinue practice. The Order shall require the licensee to show cause before the Director at the time and place to be fixed by him why the Order should not be observed.
12. SUSPENSION OR REVOCATION OF LICENSE: The Director may suspend any license issued pursuant to these regulations if he finds that:
 - a) The licensee has violated a provision of these regulations or any rule issued thereunder;
 - b) Any fact or condition exists, which if it had existed at the time of the original application of such license, would be grounds for denying an application for a license under Sections 4(b) and 5(b) of these regulations;
 - c) The licensee is conducting his business in an unsound manner.

The Director may revoke a license after a hearing held pursuant to the Administrative Procedures Act following a suspension.

13. CIVIL PENALTY FOR VIOLATION
 - a) Any person who violates or fails to comply with any of these regulations or who, without complying with the provisions of these regulations, represents that he is authorized to receive, or solicits or receives, money or the equivalent for transmission to a foreign country, shall be fined \$500 for each violation.

- b) A penalty fee of \$10.00 a day for each day a report is late shall be assessed on foreign exchange and remittance dealers or failure to submit a complete and accurate quarterly report on the filing deadline and no notice and explanation for extension request was received by the Director.
- c) If, upon sufficient evidence, the Director finds that funds were not remitted to beneficiaries within 10 days as required in Section 12, the foreign exchange company will be fined fifty dollars (\$50.00) for each violation; or have its license suspended, or both.

14. FEES: The following is a schedule of all fees required by these regulations:

a. Foreign Exchange Dealer License	\$300.00
b. Remittance License...	\$500.00
c. Foreign Exchange Agent License.....	\$50.00
d. Remittance Agent License.....	\$50.00
e. Violations to 5(g).....	\$50.00
f. Violations to Sections 11, 12 & 18(c).....	\$50.00/day
g. Violations to Section 18(a).....	\$500.00
h. Penalty Fees Section 18 (b).....	\$10.00/day
1. Amendment Fee.....	\$25.00
J. Duplication of documents.....	\$0.50/page
k. Certification Fee	\$10.00
L. Late Renewals and Other Filing Fees...	\$2.00/day or

as prescribed by the Director.

Fees collected under this Section other than business license G), shall be paid to the CNMI Treasurer, and Secretary of Finance shall permit the Director of Banking to use such funds for the enforcement of these regulations.

- 15. A schedule of all requirements are enumerated in the "Checklist for Proposed Registration as Foreign Exchange Dealer/Agent" and all such requirements are included as part of these regulations. Memoranda, rules, guidelines, comments, procedures, and other items relative to foreign exchange business to be issued by the Director of Banking shall be published annually as part of these regulations.
- 16. AMENDMENTS to these Rules and Regulations shall be in accordance with the Administrative Procedures Act. These Regulations shall repeal all previous Foreign Exchange Rules and Regulations upon its adoption and certification by the Director of Banking.
- 17. EFFECTIVE DATE: These regulations are to take effect immediately after adoption and certification by the Director of Banking after its publication in the Commonwealth Register. All foreign currency exchange and remittance companies and their respective agents must immediately comply.



Department of Commerce

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Caller Box 10007 CK, Saipan, MP 96950
Tel. (670) 664-3000 • Fax: (670) 664-3067
email: commercedept@pticom.com

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS FOR THE DEPARTMENT OF COMMERCE, DIVISION OF ENFORCEMENT & COMPLIANCE

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

AUTHORITY: The Secretary of Commerce is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing his activities. Public Law 15-36.

THE TERMS AND SUBSTANCE: The Rules and Regulations establish policy and procedures to implement and provide uniform enforcement, of the recycling business.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Stipulate requirements (maintenance of written and video records) that recyclers must comply with.
2. Establish allowable times in which copper materials may be transacted.
3. Establish a required waiting period prior to export of copper materials.
4. Establish prohibited practices and penalties for violation.

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


TO PROVIDE COMMENTS: Send or deliver your comments to Michael J. Ada, *Attn: New Recycling Rules and Regulations* at the following address, fax or email address, with the subject line "New Recycling Rules and Regulations."


Department of Commerce
Caller Box 10007
Saipan, MP 96950
Fax: (670) 664-3067
Email: commerce@cnmi.gov.net

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

These proposed regulations were approved by the Secretary of Commerce on October 21, 2008.

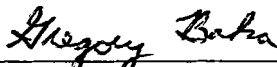
Submitted by: 
EDMUND S. VILLAGOMEZ
Acting Secretary of Commerce
Date 10/21/08

Received by: 
ESTHERS. FLEMING
Governor's Special Assistant for
Administration
Date 10/22/08

Filed and Recorded by: 
ESTHER SAN NICOLAS
Commonwealth Register
Date 10.22.08

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

Dated the 22 day of October, 2008.


GREGORY BAKA
Acting Attorney General

ESTHER SAN NICOLAS
Commonwealth Register

DOC Recycling Regs Notice

DIPATTAMENTON KOMETSIO
Commonwealth I Sangkattan Na Isla Siha
Caller box 10007 C.K. Saipan, M.P. 96950
Tel. (670) 664-3067
Email: commerce@cnmi.gov.net

NOTISIAN PUPBLIKU PUT I MAPROPONEN AREKLAMENTO YAN
REGULASION SIHA PARA I DIPATTAMENTON KOMETSIO, DIBISION
ENFORCEMENT YAN COMPLIANCE

MA'INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE MAN
MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth
gi Sangkattan na Islan Marianas, Dipattamenton Kometsio, Dibision i Enforcement yan
Compliance ha intensiona para u adapta komu petmanente na regulasion siha ni chechetton
yan i mapropone na regulasion siha, sigun i manera siha gi Akton Administrative
Procedure, 1 CMC § 9104(a). I Regulasion siha para u efektibu gi halom i trenta (30) diha
despues di ma'adapta-ña yan publikasion gi halom i Rehistran Commonwealth. (1 CMC
§ 9105(b)).

ATURIDAT: I Lehislatura ha' nã'i fuetsa-fia i Sekretarion Kometsio para u adapta
iareklamento yan regulasion siha para i atministrasion yan dinimãndan i estatua ni
ginobebetna i aktibidat-fia. Lai Pupbliku 15-36..'

I SUSTANSIAN I PALABRA SIHA: I Areklamento yan Regulasion sma ni para u
inestaplesi areklo yan manera siha ni para u ma'implementa yan para u mapribeniya
parehu na dinimãndan i bisnes recycling.

I SUHETU NI MASUMARIA YAN I ASUNTO NI TINETEKKA': Areklamento yan
Regulasion sma:

1. U mana'guaha dinimãnda siha (minantiene tinige yan rekot bideo siha) anai i
recycler siha debi na u matattiyi i ginagagao.
2. U ma'estaplesi i ora siha ni masedi gi anai i materiãt kopble u mana'kabales i
transaksion.
3. U estaplesi i ginagagao na tiempo antes di u ma' ekspotta i materiãt kopble sma.
4. U estaplesi i maprohibi na prinaktikka siha yan kastigu siha para i kontradiksion.

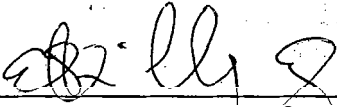
DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA: I Man Mapropone na
Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi halom i
seksiona ni mapropone yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1))
yan u mapega gi kombiniente na lugãt siha gi halom i civic center yan gi ofisinan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

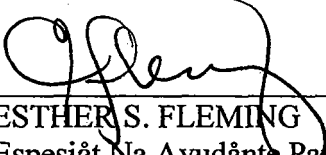
PARA U MAPRIBENIYI OPIÑION SIHA: Na hamigue osino entrega i opiiion-mu para as Michael J. Ada, Atension: Nuebu na Areklamento yan Regulasion Recyclingg i sigiente na address, fax, pat email address, yan i rāyan suhetu "Nuebu Na Areklamento yan Regulasion Recycling."


Dipattamenton Kometsio
Caller Box 10007
Saipan, MP 96950
Fax: (670) 664-3067
Email: commerce@cnmi.gov.net

Man uttimo i opiñion siha gi halom trenta (30) diha siha ginen i fechan este na notisisan pubplikasion. Pot fabot na'hålom i infotmasion, opifiion, pat testamonion kinontra siha. (1 CMC § 9104(a)(2))

Este i man mapropone na regulasion siha man ma'apreba ni Sekretarion Kometsio gi Oktubri 21, 2008.

Nina'hålom as:  10/21/08
EDMUND S. VILL 0
Acting Sekretarion Kometsio

Rinesibi as:  10/22/08
ESTHER S. FLEMING
Espesiāt Na Ayudante Para I Atministrasion
Gobietno
Fecha

Pine'lo yan Rinekot as:  10.22.08
ESTHER SAN NICOLAS
Rehistran Commonwealth
Fecha

Sigun 11 CMC § 2153(e) (Abugadu Henerat ha apreba i regulasion siha na para u fan macho'gue komu fotma) yan 1 CMC § 9104(a)(3) (hentan inapreban Abugadu Henerat) i maproponen regulasion siha ni chechetton guini man marebisa yan rna'apreba komu para fotma yan sufisiente ligāt ginen i Abugadu Henerat CNMI yan debi na u mapublika, 1 CMC § 2153(t) (pubplikasion areklamento yan regulasion siha).

Mafecha gi diha 22, gi Oktubri, 2008.


KA

ARONGOL TOULAP REEL POMWOL ALLEGH KKAAL NGALI
BWULASIYOOL COMMERCE, DIBISIONUL EBWE MWOGHUTUL AGHELI
ME TABWEEY TINGOROL

MÁNGEMÁNGIL IGHA EBWE FILLOOY POMWOL ALLEGH KKAAL:
Dibisionul rebwe mw6ghut agheli me Tabweey ting6rol mell6l Commonwealth Téél
falúw kka falúwasch Efang Marianas e mángi ebwe looffosch allegh kka e appasch,
bwellle mw6ghutul Administrative Act, 1 CMC Tálil kka 9104(a), Commonwealth
Register. (1 CMC Talil9105(b)).

BWÁNGIL: S6w fféerúl Allegh (Legislature) nge e ngalleey bwángil Commerce ebwe
fill66y allégh kkaal sángi administradod me. Mw6ghutMgheli allagh ye e lemeli Alléghúl
Toulap 15-36.

KKAPASAL ME OUTOL: Allegh kkaal nge e ayoorá ammweelil me aghatchiIwulo
bwellle ebwe weewe alongal alléghúl bisinisil recycling.

AWEEWE ME AINGIING KKA EYOOR: Allégh kkaal ebwe:

1. Ayoorá alleghul kka (kkapasal maintenance me kkapasal video) igha sch66y
recyclers rebwe attabweey.
2. Ayoorá 6tol peirághil copper igha rebwe mw6ghutMgheli.
3. Ayoorá 6tol ye rebwe mweiti ngáli mmwal igha rebwe akkkangawow lúghúl
peyil copper.
4. Ebwe akkayúúló féfféer kkaal me mwuttal igha rese tabweey alléghúl.

AFALAFAL REEL AISISIL ME AKKATEEL: Pomwol All6gh kkaal ebwe akatééló
ll6l Commonwealth Register ll6l tálil ye raa pomwoli me fill66l all6gh kka e ffé (1 CMC
Talil9102(a)(1)) me ayoorá igha toulap rebwe mmweelil woori iye me bwalI6l
bwulasiyool gobenno kkaalI6l senatorial district, e weewe schagh ll6l kkapasal
Amerikkonu me RemeraalisIRefaliIwasch. Vernacular. (1 CMC talil9104(a)(I))

REEL ISISIWOWUL MAFIYOMW: Afanga me ngáre bwughiil6 ischil
mángemángúmw reel Michael J. Ada, Att: Alléghúl Recycling kka e ffé sángi address
kka e ischitiw me faal, fax me ngáre email address; ll6lkkapas ye "New Recycling Rules
and Regulations."


BWULASIYOOL COMMERCE
Caller Box 10007
Seipel, MP 96950
Fax: (670) 664-3067
Email:commerce@gov.net

THE COMMONWEALTH REGISTER REEL 2008-10-25

Mángemáng kkaal ebwe atotoolong 6tol eliigh (30) raalil yaal akkate arong yeel.
Ghutchughami, 6w isisilong ischil mafiyámi. (1 CMC Talil 9104(a)(2)»

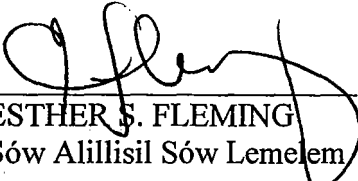
Allégh kkaal nge raa alléghúw meree! Samwoolul Commerce 6tol Sarobwel 21, 2008.

Isaliyal long:


Edmund S. Villagomez
(Acting) Samwoolul Commerce

10/21/08
Rál

Mwir sáangi:


ESTHER S. FLEMING
Sów Alillisil Sów Lemelem

10/21/08
Rál

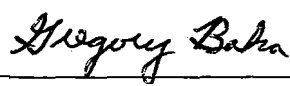
Ammwel sáangi:


ESTHER SAN NICOLAS
Commonwealth Register

10.22.08
Rál

Sáangi allégh ye 1 CMC Tali12153(e) (alúghúlúgh meree! AG ebwe akkatééló ighila) me
1 CMC Tali19104(a)(3) (bwughi yaal alúghúlúgh AG) pomwol allegh kka e appasch nge
raa takkal amweri fischí meree! CNMI Sów Bwungul Allégh Lapalap me ebwe
akkatéélong 1161, 1 CMC Tali12153(f) (akkateel al legh kkaal)

Rállil ye 22 llól maramal Sarobwel, 2008.


GREGORY BAKA
Sów Bwungul Allégh Lapalap
(Acting)

Rules and Regulations

Recycling Business

- Section 1: Regulatory Purpose
- Section 2: Regulatory Definition
- Section 3: Licensing of Recycling Operations
 - Part A: Issuance of License
 - Part B: Change of License
 - Part C: Suspension or Revocation of License
- Section 4: Business Requirements for Transactions Involving Copper
 - Part A: Record of Transactions
 - Part B: Video Record of Transactions
 - Part C: Times of Transactions Involving Copper
- Section 5: Export of Copper
- Section 6: Prohibited Acts and Practices
- Section 7: Enforcement and Penalties
- Section 8: Seizure of Stolen Goods

Section 1. Regulatory Purpose

It is the intent of the Department of Commerce to define the rules and regulations set forth by Public Law 15-36 to establish the general practices governing recycling business that are involved in the transaction of copper and other scrap metals. These rules and regulations shall be the guiding reference to the licensing of businesses operating in the recycling sector.

Section 2 Regulatory Definition

When used in this code,

- (a) "Copper" means copper in all different forms, including tubing, sheets (including plates), gutters, down spouts, bars, bare wire or cable, insulated wire or cable, and aluminum/copper coil used in air conditioning and refrigeration.
- (b) "Person" means an individual, cooperation, partnership, association, business trust, company, joint venture company, or limited liability company.
- (c) "Recycled Products" means all types of scrap metal and excludes aluminum cans, glass bottles, and paper products.

(d) "Recycler" means a person or business entity engaged in the business of purchasing or acquiring recycled products for the purpose of reselling, rebuilding, or repairing the recycled products.

(e) "Export" means the transportation or facilitation of transportation of materials from the CNMI to a destination outside of the CNMI.

(f) "Scrap metal" means all types of metals including iron, steel, stainless steel, copper, aluminum, lead, zinc.

(g) "Secretary" means the Secretary of the Department of Commerce.

Section 3. Licensing of Recycling Businesses

Part A. Issuance of License

All persons engaging in the recycling of scrap metals in whole or part of business operations must obtain a license from the Secretary of the Department of Finance. The Secretary must ensure that all pre-requisites are met prior to issuing a valid business license for recycling. Prior to licensing, the Secretary shall ensure adherence the following criteria:

- (1) A non-refundable annual license fee of \$50.00 to be paid to the secretary prior to issuance of a business license.
- (2) A police clearance from the court for all parties having ownership in the business.
 - a. In the event of a license renewal, the applicant shall provide a police clearance of all principal owners in the business, in addition to all employees that are employed with the licensed business.
 - b. The licensee shall provide to the secretary a police clearance from the court for all employees hired after the issuance of the license and submit all clearance to the secretary for approval.
- (3) A financial statement, prepared by a firm acceptable to the secretary, shall be provided.
- (4) Provide additional documentation at the discretion of the secretary to make a determination of suitability to conduct business as a recycler.

Upon satisfaction of the above criteria, the Secretary will issue a license to conduct business as a recycler. The license is only valid for a period of one (1) year from the date of issuance. A renewal for a business license will require the submission of a renewal application and the annual license fee to be paid no later than thirty (30) days before the expiration of the current license. Request to renew business licenses past the expiration of

the current license may be assessed a penalty of five dollars (\$5.00) per from the date of expiration.

Part B. Change of License

All business licenses issued for recyclers are non-transferable and are only valid for the place of business in which the license was originally issued. In the event that a recycler wishes to change their place of business, they must first file a written request on the form prescribed by the secretary, who may approve or deny the request. In the event that the recycler wishes to transfer the business license to another party not listed as a business owner on the license application, a separate application must be filed and a separate annual license fee must be paid.

Part C. Suspension or Revocation of License

The secretary may issue a suspension or revocation of any issued license after providing an order to show cause to the licensee the reasons for the suspension or revocation. Upon suspension or revocation of any issued license, the secretary shall hold a hearing within ten (10) business days which will provide the licensee a reasonable opportunity to state their dispute with the suspension or revocation and provide documentation or information to assist on the lift of the suspension or revocation. The secretary may suspend or revoke the issued license for the following reasons:

- (1) The application provided by the business contained false or fraudulent information;
- (2) The licensee bribed or otherwise unlawfully influenced any person to obtain the issuance of the business license;
- (3) The licensee violated any Commonwealth law or federal law, rule or regulation in obtaining the business license;
- (4) The licensee purchased goods that the licensee knew or should have known to be stolen through diligent inquiry to be stolen;
- (5) The licensee consistently fails to adhere to the rules and regulations set forth in this document.

Section 4 Business Requirements

Part A. Written Record of Transactions

It is the responsibility of the recycler to maintain a record of transaction on a form approved by the Department of Commerce which legibly identifies details of the transaction in the English language. The details of the transaction shall include:

- (1) The printed legal name and signature of the person selling the scrap metal;

- (2) Endorsement of a acknowledgment form indicating that "This Transaction Is Being Recorded";
- (3) The date and time of the transaction;
- (4) The name of the recycler and the name of the employee conducting the transaction;
- (5) The name, date of birth, address and contact telephone numbers of the party selling the scrap metal;
- (6) A complete description of the property, which includes the brand name, any identifying numbers such as a serial number, model number, initials, engravings, weight, engravings, patterns, and/or color;
- (7) A clear photocopy of a valid government issued identification card that contains a photograph and physical description of the individual who is the seller of the copper metal;
- (8) The name of the location from which the scrap metal originates; and
- (9) A progressive tracking number identifying the purchase.

The recycler shall also maintain a single on-going monthly log of transactions on all transactions in the purchase of copper was made. The monthly log shall be prescribed by the Secretary of the Department of Commerce and will account for the following pieces of information:

- (1) Date of transaction;
- (2) Name of the seller;
- (3) Identification Number (i.e. driver's license number);
- (4) A detailed description of the item being sold;
- (5) The total weight of the item
- (6) The invoice number of the transaction; and
- (7) The amount paid.

The recycler shall maintain in its possession such records of transaction for a period of at least two (2) years after making the final entry of the purchase. The books must be maintained in a manner that allows for the transactions to be readily separated and identified from any other business activities that the recycler may engage in. The recycler shall furnish requested documents to the Department of Commerce or the Department of Public Safety within forty-eight (48) hours from the time of request and agree that all documents provided to either department to be full, true, or a correct copy of all transactions.

Part B. Video Record of Transactions

The recycler shall provide closed circuit video recorded copies of all transactions involving copper. The video record shall have no audio recording. The recycler shall ensure that all transactions involving copper are visible in the video recording, to include the receipt of the proper identification, weighing of copper, exchange of monetary instruments for the purchase of copper, and the signing of all required forms. The recycler shall maintain on their premises a copy of all video recordings for a period of six (6) months. The recycler shall make available to the Department of Commerce or the Department of Public Safety within a period of forty-eight (48) hours from the time of the request.

Part C. Times of Transactions Involving Copper

The recycler shall engage in transactions involving the weighing and purchasing of copper only during specified times as outlined by the Department of Commerce. The Department of Commerce shall make available a reasonable amount of time, during the business day to allow for transactions involving copper. Any transactions involving copper conducted outside of these time frames will be subject to penalty.

Section 5. Export of Scrap Metal

The licensee must wait a period of forty-five (45) days after the purchase of scrap metals, particularly copper, to export such materials from the CNMI to a destination outside of the CNMI. The recycler shall receive prior clearance from the Department of Public Safety and the Division of Customs in the event that they wish to export materials prior to the expiration of the forty-five (45) days.

Section 6. Prohibited Acts and Practices

Recyclers shall not engage in any transactions with any individual who is visibly under the influence of drug or alcohol. Recyclers shall not conduct business with individuals who are under the legal age of eighteen or individuals who are using a name other than their own legal name or registered business name. The recycler may not accept any form of identification outside of a valid government issued identification card which provides a physical description of the individual. The recycler shall not accept any products which they or any employee of the business knows or should have know through diligent inquiry to be stolen property.

Section 7. Enforcement and Penalties

The licensee will be monitored by the Department of Commerce to ensure compliance set forth in this code. The Department of Commerce shall work with partnering governmental agencies to ensure proper investigation, reporting, and adherence to all CNMI laws, rules and regulations.

Any recycler who knowingly violates or causes another person to violate any provision set forth under CNMI Public Law 15-36 or the rules and regulations as outlined in this code shall fall under penalty of a felony criminal charge. In the event that the rightful owner of the property recovers said stolen property from a recycler, the court may order the seller to make full restitution to the recycler as a condition of probation.

Section 8. Seizure of Stolen Goods

The recycler shall report to the Department of Public Safety if the recycler has reasonable suspicion to believe that any recycled products is lost or stolen. The recycler shall work with the Department of Public Safety in the course of an investigation in the event that property is deemed stolen. The Department of Public Safety shall seize the stolen property and hold it for no more than sixty (60) days unless a court orders otherwise. The recycler shall provide all requested documents to the Department of Commerce and the Department of Public Safety as requested by the respective agencies.



Department of Commerce

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Caller Box 10007 CK, Saipan, MP 96950
Tel. (670) 664-3000· Fax: (670) 664-3067
email: commercedept@pticom.com

NOTICE AND CERTIFICATION OF ADOPTION
OF
AMENDMENTS OF THE ALCOHOLIC BEVERAGE CONTROL RULES AND
REGULATIONS TO CARRY OUT THE INTENT AND PURPOSE OF
PUBLIC LAW 15-115

The Secretary of Commerce of the Department of Commerce, pursuant to 4 CMC §5575, and 1 CMC §2454, (modified by Section 302(c) of Executive Order 94-3, text printed in Reorganization Plan No.2, Directive 93, Commonwealth Register Volume 16, No.6, at 11931 [effective date June 15, 1994]), in accordance to the Administrative Procedures Act, 1 CMC §9101, *et seq.*, and after expiration of appropriate time for public comment, having received no public comments, hereby notifies the general public that the proposed amendments of the Alcoholic Beverage Control Rules and Regulations to carry out the intent and purpose of Public Law 15-115, as published in the Commonwealth Register, Volume 30, Number OS, May 27, 2008, at pages 28489 through and including 28506, have been adopted without modification or amendment.

Therefore, I, Michael I. Ada, Acting Secretary of Commerce, Department of Commerce, Commonwealth of the Northern Marian Islands (CNMI), which is promulgating the amendments of the Alcoholic Beverage Control (ABC) Rules and Regulations to carry out the intent and purpose of Public Law 15-115, by signature below, hereby certify that the amendments of the ABC Rules and Regulations are true, correct and complete. I further request and direct that this Notice and Certification of Adoption be published in the CNMI Commonwealth Register. The amended regulations shall become effective ten (10) days after the publication of this Notice of Adoption, 1 CMC §§2454, 9104.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 22nd day of August, 2008 at Saipan, CNMI.


MICHAEL J. ADA
Acting Secretary of Commerce

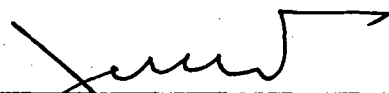


Northern Mariana Islands
R E T I R E M E N T F U N D
"Investing For The Future Financial Security Of Our Members"

**NOTICE AND CERTIFICATION OF ADOPTION
OF THE
EMERGENCY AMENDMENTS TO THE RULES AND REGULATIONS
GOVERNING THE NORTHERN MARIANA ISLANDS RETIREMENT FUND**

I, Juan T. Guerrero, Chairman of the Board of Trustees of the Northern Mariana Islands Retirement Fund, Commonwealth of the Northern Mariana Islands, which is promulgating the amended Rules and Regulations Governing the Northern Mariana Islands Retirement Fund published as Emergency Regulations in the Commonwealth Register, Volume 30, Number 07, on JULY 28, 2008, at pages 28535 through and including 28553, by signature **below** hereby certify that the Regulations as modified are a true, complete, and correct copy of the Rules and Regulations Governing the Northern Mariana Islands Retirement Fund now adopted by the Board of Trustees. I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of **perjury that the** foregoing is true and correct and that this declaration was executed on the 23rd day of October, 2008, at Saipan, Commonwealth of the Northern Mariana Islands.



JUAN T. GUERRERO
Chairman, Board of Trustees
Northern Mariana Islands Retirement Fund

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REGULATIONS OF
THE DEPARTMENT OF LABOR

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 30, Number 09, pp 028632-735, of September 25, 2008

Regulations of the Department of Labor

Please take notice that the Department of Labor hereby adopts as permanent, the referenced Proposed Regulations. I also certify by signature below that such adopted regulations are being adopted without modification or amendment.

I further request and direct that this Notice be published in the Commonwealth Register.

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


Comments and agency concise statement. Pursuant to 1 CMC sec. 9104(a) or (b) which, in this instance, is 10 days after publication in the Commonwealth Register.

Comments and agency concise statement. Pursuant to 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

Attorney General approval. The proposed regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 28th day of October, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Gil M. San Ni

10/28/08
Date

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

Dated the 30th day of October, 2008.



GREGORY BAKA
ACTING ATTORNEY GENERAL

Filed and
Recorded by:



HER SAN NIC

10.30.08
Date

NOTISIAN PUPBLIKU PUT SETTIFIKASION YAN ADAPTASION
I REGULASION SIHA
GI DIPATTAMENTON HOTNALERU

GI MA'POS NA PUPBLIKASION GI HALOM I REHISTRAN
COMMONWEALTH KOMU I MAPROPONEN REGULASION SIHA
Baluma 30, Numiru 09, pp 028632-735, gi Septembre 25, 2008

Put este na notisia na i Dipattamenton Hotnaleru gaige na para u ma'adãpt komu petmanente, i referenced na Maproponen i Regulasion siha. Hu settifika ni fitmã-ku gi sampapa' komu i inadãptan regulasion siha na man ma'adapta sin u matulaika pat u ma'amenda.

Bai hu sigi mo'na fumaisen yan otden na este na notisia debi na u mapupblika gi halom i Rehistran Commonwealth.

Sigun i 1 CMC seksiona 9105(b), este i man ma'adãpta na regulasion siha man efektibu gi halom dies(10) diha siha despues di kinemple ni 1 CMC §§ 9102 yan 9104 9102 yan 9104(a) pat (b), gi anai, este na ihemplo, i dies(10) diha siha despues di pupublikasion gi halom Rehistran Commonwealth.


Opiñion yan ahensia klãru na deklarasion. Sigun i 1 CMC seksiona 9104(a) pat (b) gi anai, este na ihemplo, gi dies(10) diha siha despues di pupublikasion gi halom Rehistran Commonwealth.

Opiñion yan ahensia klãru na deklarasion. Sigun i 1 CMC seksiona 9104(a)(2), i ahensia ha konsidera todú i tinige' yan nina' hãlom sinangan kon respetu i man maproponen regulasion siha. Gi este i adaptasion i regulasion siha, i ahensia, yanggen mamaisen para u macho'gue pues ginen i inetres **indibiduãt**, parehu 00' yan i mofo'na na adaptasion pat gi halom trenta(30) diha siha despues , para u mata'lon u ma'laknos i klãru nadeklarasion put i prinsipat na rason siha para yan kinontran i adaptasion-fia, dinanai'ia'i guini rason-fia para u makontra i konsiderasion ni man ma'obliga i kinontran i adaptasion-fia.

Inapreban Abugadu Henerãt. I maproponen regulasion siha man ma'apreba para u macho'gue ginen i Abugadu Henerãt gi mamensiona gi sanhilo' na pahina siha gi Rehistran Commonwealth, sigun i 1 CMC seksiona 2153(e) (para u maribisa yan ma'apreba, komu fotma yan suficiente ligat, todú areklamento yan regulasion siha para u macho'gue ginen maseha mãnu na dipattamento, ahensia pat instrumentasion gi gobietnon Commonwealth, sasaonao corporation pupbliku siha, fuera i pumalu ni prinebiniyi ni lai.

Hu deklára na i papa' i kastigon dinage na i todú mo'na man magâhet yan dinanche yan na este i deklarasion macho'gue gi diha 28th gi Oktubri, giya Saipan, Commonwealth gi Sangkattan na Islan Marianas siha

Masettifica yan ma'otden ginen as:

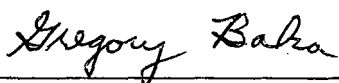


Gil M. San Nicolas

10/28/08
Fecha

Sigun i 1 CMC §2153(e) (Inapreba ni Abugadu Henerát na para u macho'gue komu fotma) yan 1 CMC 9104(a)(3) (hentan inapreban Abugádu Henerát), i masettifikan i uttimona regulasion siha, mamâdifica komu fotma yan sufisiente ligatginen Abugádu Henerát, yan debi na u mapupblika (1 CMC §2153(f) (pupublikasion areklamento yanregulasion siha).

Mafechagi diha 30 gi Oktubre, 2008.



GREGORY BAKA
ACTING ABUGADu HENERAT

Pine'10 yan Rinekot as:

10.30.08
Fecha

ARONGORONGOL TOULAP REEL ALÚGHÚLÚGHÚL ME FILLOOL
ALLEGH KKAAL NGÁLI BWULASIYOOOL LABOR

MMWAL AKKATÉÉL LLOOL COMMONWEALm REGISTER IYE RAA
FASÚL POMWOLI LLOOL ALLEGH KKAAL

Volume 30, Numero 09, pp 028632-735, **1161** Maan 25, 2008

Alléghúl Bwulasiyool Labor

Sáangi Bwulasiyool Labor nge ebwe schéschéél fil166y, aweewel Pomwol Allegh kkaal. I alúghúlúgh sáangi yááy amasawa me faal bwe fil166l allégh kkaal nge raa fil166y nge es66r lliwel.

I titting6r me tipeli bwe Arong yeel ebwe akkatééló 1101 Commonwealth Register.

Sáangi allegh ye 1 CMC Ta.lil9105(b), allegh kka raa fil166y ebwe kkamaal161161 seigh (10) ráálil mwiril yaar tabweey allégh ye 1 CMC Tálil kk:a 9102 me 9104(a) me ngáre (b), aweewe, ebwe seigh (10) ráálil mwiril yaal akkatééló 1161 Commonwealth Register.


Mángemáng me eghús aweewel bwulasiyo. Sáangi allégh ye 1 CMC Tálil 9104(a) me ngare (b) aweewe, ebwe seigh (10) ráálil yaal akkatééló Commonwealth Register.

Mángemáng me eghús aweewe. Sáangi allegh ye 1 CMC Tálil 9104(a)(2), bwulasiyo yeel nge e tipeli rebwe ischi me isisilong kkapasal pomwol allégh kkaal. Sáangi fil166l allegh kkaal, bwulasiyo, ngáre iyo e mwuschel, e weewe schagh ngare mmwal yaar fil166y me ngáre mwiril eliigh ráálil, ebwe isisiwow eghús aweewel me ngare use tipeli fil166l, ammwelaalonge resewoori sch66y aingiing reelfil166l.

Alúghúlúghúl S6w Bwungul Allégh Lapalap. Pomwol allégh kkaal nge aléghélégh bwe ebwe akkaté sáangi S6w Bwungul Allegh Lapalap ye elo weiláng 1161 peighil Commonwealth Register, Sáangi allégh ye 1 CMC Tali12153(3) (Rebwe alúghúlúgh bwe e weI, alongalallegh kk:aal ebwe akkate sáangi bwulasiyokkaal me ngáre aweewel Commonwealth government, E bwal toolong mwiischil toulap, ngáre schagh e toowow mereel allegh).

I akkapal6 faal penalty of perjury bwe kkapas yeel nge e wei me e ffat me bwelle igha aweewe yeel ebwe fféérló w661 Sarobwel 28, 2008, me Seipel, Commonwealth Téél faluwasch Marianas.

Alúghúlúgh me ting6r sáangi:

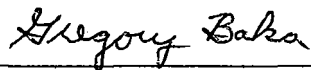


Rál

10/25/08

Sáangi allegh ye 1 CMC Tálil 2153(e)(Alúghúlúgh mereel AG reel allegh kka ebwe akkatééló) me 1 CMC Tali19104(a)(3)(bwughi alúghúlúghúl AG), allegh kaa aléghéléghéló, ssiwel16 iye ekke bwáári me weiláng reel aweewel pomwol allegh kkaal, nge raa takkal amweri fischí mereel CNMI S6w Bwungul Allégh Lapalap, me ebwe akkatééló (1 CMC Tali12153(f) (akkateel allegh kkaal).

Rállil ye 30 1161 Sarobwé1, 2008.



GREGORYBAKA
SOW BWUNGUL ALLEGH LAPALAP

AMMWEL SÁNGI:


THER S

10.30.08
Rál

Commonwealth of the Northern Mariana Islands



Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

EXECUTIVE ORDER 2008-16

DECLARATION OF A STATE OF DISASTER EMERGENCY: PHARMACY DEPARTMENT AT CDC

I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands stdue to the imminent and impending closure of the Pharmacy Department at the Commonwealth Health Center (hereafter "CHC").

WHEREAS, the in-house Pharmacy Department at CHC cannot operate and dispense medications without a licensed pharmacist on duty. Currently, the Pharmacy Department faces near immediate closure. Closure of the Pharmacy will deprive all medical departments at CHC from receiving any medications for the patients. As such, the pharmacy crisis at CHC threatens an extreme, immediate and imminent endangerment to the health and welfare of the Commonwealth of the Northern Mariana Islands.

This Executive Order shall expire on the 31 st day following the date of my signature, or sooner if the Legislature exempts pharmacists from the salary cap. The following findings and conclusions further support continuation.

Executive Order 2008-16
Declaration of Disaster Emergency: Pharmacy Department at CHC

I HEREBY FIND THAT:

1. The in-house pharmacy at CHC is under threat of imminent closure due to the lack of licensed pharmacists.
2. The in-house pharmacy at CHC is responsible for preparing and dispensing all medications for both out-patients and in-patients of the hospital. The pharmacist duties include mixing, preparing and supplying medications for and to all hospital departments, including but not limited to: the operating room, hemodialysis, chemotherapy, emergency room, internal medicine, pediatric neonatal intensive care unit, and the adult intensive care unit, just to name a few. These departments will cease to function effectively, if at all, without access to medications from the in-house pharmacy.
3. The last full time pharmacist employee has resigned effective on October 8, 2008.
4. The licensed pharmacist positions at CHC are currently subject to the salary cap limitations contained in 1 CMC §8248(a), thereby limiting pharmacists to annual salaries of \$50,000.00. There is a shortage of licensed pharmacists in the Commonwealth and the salary cap limitation makes hiring replacement pharmacists untenable as the fair market value of experienced and licensed pharmacists far exceeds the salary cap limitation.
5. The Secretary of Health has advised me that unless one or more licensed pharmacists can be immediately hired to operate the pharmacy, that the health care operations of CHC will be severely curtailed and patients lives will be put at extreme risk
6. This Declaration of Emergency Disaster is necessary to protect the health and safety of our citizens and visitors who seek medical care and treatment at CHC.

Therefore, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat facing the Commonwealth of the Northern Mariana Islands.

Executive Order 2008-16
Declaration of Disaster Emergency: Pharmacy Department at CDC

Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the issuance of Executive Directives setting forth the measures to be taken to address the State of Disaster Emergency pursuant to 3 CMC § 5121(f), which states:

(f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;
- (3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

3 CMC § 5121(f)(I)-(3).

I HEREBY ISSUE THE FOLLOWING DIRECTIVES:

Directive 1: The Secretary of Health and the Department of Public Health shall adequately staff the Pharmacy Department at CHC with licensed pharmacists by whatever means necessary to ensure that the Pharmacy remains open and is fully operational to meet the needs of CHC and its patients.

Directive 2: The Secretary of Health shall notify me when he and his agency have determined that the Pharmacy crisis is resolved.

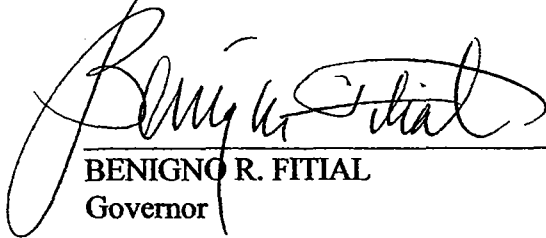
Directive 3: All statutes and regulations relating to the Pharmacy Department of CHC, pertaining to Commonwealth government employment and the salary cap limitations, are hereby suspended in order to effect and fulfill the purposes of this Executive Order.

Executive Order 2008-16
Declaration of Disaster Emergency: Pharmacy Department at CDC

By today's disaster emergency declaration, I intend to immediately protect the citizens of the CNMI and its many visitors by maintaining a viable and operational Commonwealth Health Center hospital.

This Declaration of a State of Disaster Emergency shall take effect immediately and all memoranda, directives and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty(30) days. A comprehensive report on the exercise of my constitutional authority shall be transmitted to the presiding officers of the Legislature as soon as practicable in accordance with 1 CMC § 7403(a).

Dated this 25th day of September 2008.



BENIGNO R. FITIAL
Governor



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

EXECUTIVE ORDER 2008-17

DECLARATION OF A STATE OF DISASTER EMERGENCY: COMMONWEALTH UTILITIES CORPORATION'S IMMINENT GENERATION FAILURE AND THE NEED TO PROVIDE IMMEDIATE RELIABLE POWER DURING REPAIRS

CONTINUATION #2

I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands due to the inability of the Commonwealth Utilities Corporation ("CUC") to provide critical power generation service to the CNMI and the extreme, immediate and imminent threat such condition poses to the Commonwealth of the Northern Mariana Islands.

This Executive Order is intended to, and does, continue in effect my preceding disaster emergency declarations on this matter, EO 2008-10 and -13. As more fully stated below, this Executive Order shall expire on the 31st day following the date of my signature. The following findings and conclusions further support continuation.

I find that:

1. All findings and conclusions of EO 2008-10 and -13 are incorporated by reference herein.

2. In the past month, CUC's contractor, Aggreko, has commissioned approximately 13 MW of temporary, diesel-fired power generators, pursuant to CUC contract # CUC-PG-08-COI6. IID's generation has meant the difference between continued rolling blackouts and largely continuous service to CUC electric customers. Unforeseen technical issues have arisen, and there have been some forced outages. Although the Aggreko installation is professionally managed, events can occur that require the attention of non-CUC personnel, including security, pipefitters, and the related personnel, materials and supplies. Other issues may arise that will require rapid attention by CUC contractors and the securing of materials and supplies, particularly as 2 MW additional of Aggreko capacity is delivered and connected to CUC's system.

3. CUC desires to comply with environmental and land use regulations, but fears that the lack of permits or the permitting process would postpone or eliminate the in-service date, and uninterrupted service, for Aggreko power generating equipment. In particular, taking Aggreko's units offline, while undergoing the time and expense of computer modeling of the emissions of Lower Base power plants could plunge Saipan into renewed rolling blackouts.

4. CUC is facing additional challenges due to the failure of its electric production and distribution facilities. In particular, the Chalan Kiya distribution transformers require immediate maintenance. Their failure could plunge the south end of Saipan into lengthy blackouts, including the water wells in the Airport area and the Agingan Point sewage treatment facilities.

5. CUC has determined that its Tank 104 used oil facility is structurally unsound and must be emptied of its used oil in advance of severe weather, particularly a serious typhoon, to avoid any potential harm to the Commonwealth's waters, including the Lagoon. Further, there are 2,800 sealed barrels of used oil nearby which must also be removed. The removal must comply with federal environmental law. CUC lacks the internal capability to carry out the removal, and must contract for these services.

6. This Declaration is still necessary to protect the health and safety of our children, our senior citizens, businesses and all other CNMI residents and visitors.

Therefore, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat facing the Commonwealth of the Northern Mariana Islands.

Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the issuance of Executive Directives setting forth the measures to be taken to address the State of Disaster Emergency pursuant to 3 CMC § 5121(t), which states:

(t) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:

- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth's business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute; order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;
- (3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

3 CMC § 5121(f)(1)-(3).

I direct:

Directive 1: CUC shall comply with CUC Procurement Regulations and the CNMI Procurement Regulations applicable to CUC, except as follows:

Upon a finding by the CUC Executive Director that such compliance is not feasible for purposes of responding to the State of Disaster Emergency, the CUC Procurement Regulations and the CNMI Procurement Regulations applicable to CUC, if any, are suspended as to such CUC procurements. CUC must fully document all such procurement activity for Executive, PUC, Public Auditor, and Legislative review.

Directive 2: The Commonwealth Public Utility Commission ("PUC") Act of 2006, PL 15-35, as amended, and the new CUC Act - PL 16-17 - are hereby suspended insofar as they would require the PUC's advance review or approval of CUC contracts and other measures relating to the supply of power or the operation and maintenance of CUC's system during the State of Disaster Emergency.

Directive 3: CUC is specifically empowered to execute the wholesale generation power contract it has negotiated with an independent power producer for a period of two years or less.

Directive 4: All regulatory statutes and regulations relating to the Aggreko temporary wholesale generation power contract, # CUC-PG-08-COI6, which CUC determines in writing will interfere with the deployment, in-service dates, and/or operation of the temporary power production facilities, are hereby suspended, except that CUC must within 30 days provide to me in writing its plan for compliance, and a copy of each agency's permits or a complete explanation why compliance has not yet been achieved and how it will be achieved.

Directive 5: CUC shall notify as soon as possible by email after each procurement governed by these directives, at least the following persons, advising of at least the following matters:

a: Persons: The Governor, President of the Senate, Speaker of the House, PUC, Public Auditor; and

b: Matters: Subject of the procurement; contractors and/or suppliers; amounts involved; the extent to which competitive bids or proposals were used; and short description of the reason for the action.

Directive 6: CUC shall procure as soon as practicable the necessary technical expertise and other labor, parts and materials to remedy the failings of its Chalan Kiya distribution facilities.

Directive 7: CUC shall procure with all deliberate speed the contractors necessary to remove used oil from Tank 104 and the hundreds of nearby barrels; and in particular, shall take every measure to insure that a typhoon shall not cause any of that oil to pollute the Lagoon.

As stated in EO 2008-10, PL 16-9 removed substantial impediments to CUC's securing by contract immediate, reliable, and cost-effective temporary power from an independent, non-utility power producer. That law amends the Commonwealth PUC Act of 2006, specifically requiring a gubernatorial declaration of disaster emergency pursuant to 3 CMC § 5121, so that CUC might sign an emergency wholesale power generation contract for two years or less without pre-review of the PUC or the PUC's issuance of a certificate of convenience and necessity. Each of these PUC decisions would have taken so long to investigate and make that the conditions discussed above may have developed in the meantime.

EO - 2008-17

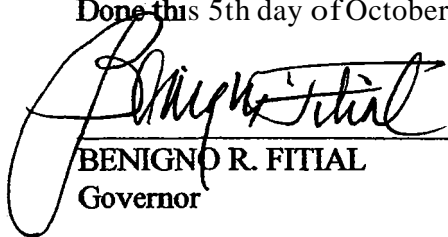
Declaration of Disaster Emergency: Continuation 2

I determined that, if CUC could immediately execute such a contract, it could quickly have temporary replacement generators placed into service and then shut down the dangerous Power Plant #1 engines. By disaster declaration EO-2008-10 I intended to enable CUC, within the definitions of PL 16-9, to sign a power contract with the appropriate "person".

By today's disaster emergency declaration, I intend to continue to enable CUC, within the intent of PL 16-9, to continue to implement the temporary power contract which it signed. The purpose is to make the electric system as reliable as practicable, as soon as practicable, during the period of repair of CUC's generators. I also intend that government leaders be kept informed as to the progress of the effort to place the temporary power equipment into service.

This Declaration of a State of Disaster Emergency shall take effect immediately and all memoranda, directives and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. A comprehensive report on the exercise of my constitutional authority shall be transmitted to the presiding officers of the Legislature as soon as practicable in accordance with 1 CMC § 7403(a).

~~Done~~ this 5th day of October 2008.



BENIGNO R. FITIAL
Governor