

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



COMMONWEALTH REGISTER

**VOLUME 39
NUMBER 02
FEBRUARY 28, 2017**

COMMONWEALTH REGISTER

VOLUME 39
NUMBER 02
FEBRUARY 28, 2017

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Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
DEQ: P.O. Box 501304, DCRM: P.O. Box 10007, Saipan, MP 96950-1304
DEQ Td.: (670) 664-8500/01; Fax: (670) 664-8540
DCRM Td.: (670) 664-8300; Fax: (670) 664-8315
www.deq.gov.mp and www.crm.gov.mp



Ralph DLG. Torres
Governor

Victor B. Hocog
Lt. Governor

Frank M. Rabauliman
Administrator

Ray S. Masga
Director, DEQ

Frances A. Castro
Director, DCRM

NOTICE OF CERTIFICATION AND ADOPTION OF RULE

ADOPTION OF RULE: ADOPTION OF the use of a DCRM payment voucher when remitting payment to the CNMI Treasury for any and all DCRM permit application fees and/or enforcement fines.

ACTION TO ADOPT RULE: The Office of the Governor, Bureau of Environmental and Coastal Quality, Division of Coastal Resources Management, HEREBY ADOPTS AS A RULE the use of a payment voucher when remitting payment to the CNMI Treasury for all DCRM permit application fees and/or enforcement fines levied pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9102, 9105 and applicable regulations.

AUTHORITY: The attached rule is being promulgated by the Director of the Division of Coastal Resources Management (DCRM), Bureau of Environmental and Coastal Quality (BECQ), Office of the Governor, Commonwealth of the Northern Mariana Islands. These rules, regulations, technical provisions, and specifications shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of DCRM.

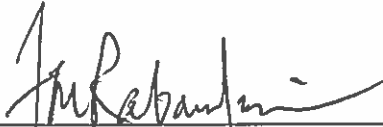
PURPOSE AND OBJECTIVE OF RULE: NMIAC Chapter 15-10-205(f) requires all DCRM permit applications to be accompanied by a non-refundable permit application fee in accordance with the published fee schedule. NMIAC Chapter 15-10-925 allows the DCRM Director to set fines in an amount calculated to compel compliance with applicable law and administrative orders. To comply with uniform administrative requirements governing the management of Federal awards, the use of a payment voucher will allow for more accurate tracking of all transactions made between payee and CNMI Treasury.

DIRECTIONS FOR FILING AND PUBLICATION: This Rule shall be published in the Commonwealth Register in the section on newly adopted Rules (1 CMC § 9102(a)(2)).

The Director will take appropriate measures to make this Rule known to the persons who may be affected by them.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b) and applicable regulations, this adopted Rule is effective 10 days after compliance with 1 CMC §§ 9102, 9105 and publication in the Commonwealth Register.

I, Frank M. Rabauliman, Administrator, Bureau of Environmental and Coastal Quality, hereby approve the attached Rule.

Submitted by:  1/31/17
Frank M. Rabauliman
Administrator, Bureau of Environmental
and Coastal Quality
Date

Filed and
Recorded by:  02.08.2017
Esther SN. Nesbitt
Commonwealth Register
Date

Received by:  02/02/17
Shirley Camacho-Ogumoro
Special Assistant for Administration
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9102(c), the rule attached hereto has been reviewed and approved as to form and legal sufficiency by the Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

 2/8/17
Edward Manibusan
Attorney General
Date



Frank M. Rabauliman
Administrator

Commonwealth of the Northern Mariana Islands
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Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
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www.cnm.gov.mp



Frances A. Castro
Director, DCRM

PUBLIC NOTICE

Payment Procedures for DCRM Permit Fees

CNMI Administrative Code §15-10-205(f) requires all Division of Coastal Resources Management (DCRM) permit applications to be accompanied by a non-refundable DCRM permit application fee in accordance with the fee schedule set. All payments are to be remitted to the CNMI Treasurer.

Effective March 1, 2017, all DCRM permit applicants are required to obtain a payment voucher from DCRM before remitting payment for any and all application fees to the CNMI Treasurer. All payments made to the CNMI Treasurer must be accompanied by a DCRM payment voucher. DCRM will require all receipts of transactions to be accompanied by a payment voucher when submitting any and all applications.

/s/Frances A. Castro
Director
Division of Coastal Resources Management



Commonwealth of the Northern Mariana Islands

OFFICE OF THE GOVERNOR

Bureau of Environmental and Coastal Quality

Division of Coastal Resources Management

P.O. Box 10007, Saipan MP 96950

Tel: (670) 664-8300; Fax (670) 664-8315

www.crm.gov.mp



PAYMENT VOUCHER

Remit Payment To: CNMI Treasury Prepared By: Date: DCRM-PV#: No.0001

Business/Name: Application No:

The following amount due to be credited to account no.:

Table with permit fees and enforcement fines. Includes rows for Emergency Permit, APC/Minor Development Permit, Water/Marine Sports Permit, Major Siting Permit, and Enforcement Fines (NOV No.). Total Due: \$

White-Applicant/Business/Individual

Yellow- DCRM Permit/ Enforcement Section

Pink- DCRM-Admin Section



TINIAN CASINO GAMING CONTROL COMMISSION

Municipality of Tinian and Aguiguan
Commonwealth of the Northern Mariana Islands



Esther Hofschneider Barr
Chairman

Jose P. Kiyoshi
Vice Chairman

Lydia F. Barcinas
Member

Patrick H. San Nicolas
Member

Charlene M. Lizama
Member

William M. Cing
Executive Director

**PUBLIC NOTICE AND CERTIFICATION OF ADOPTION WHICH
ARE AMENDMENTS TO THE TCGCC PERSONNEL RULES AND
REGULATIONS REGARDING PART 500 SUBSECTION 170-30.5-510
LEAVE BALANCES FROM PREVIOUS EMPLOYMENT
OF THE TINIAN CASINO GAMING CONTROL COMMISSION**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS
PROPOSED AMENDMENTS TO REGULATIONS
VOLUME 39, NUMBER 01, PAGES 039160-039168
OF JANUARY 30, 2017

**Regulations of the Tinian Casino Gaming Control Commission:
Personnel Rules and Regulations**

**ACTION TO ADOPT THESE PROPOSED RULES AND
REGULATIONS:** The Tinian Casino Gaming Control Commission
(TCGCC) finds that:

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND
REGULATIONS:** The Tinian Casino Gaming Control Commission
HEREBY ADOPTS AS PERMANENT REGULATIONS the Proposed
Amendments to the Regulations which were published in the Commonwealth
Register at the above-referenced pages, pursuant to the procedures of the
Administrative Procedure Act, 1 CMC § 9104(a). The Tinian Casino Gaming
Control Commission announced that it intended to adopt them as permanent,
and now does so. I also certify by signature below that:

as published, such adopted regulations are a true, complete and
correct copy of the Referenced Proposed Amendments to the
Regulations, and that they are being adopted without
modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:
None.

AUTHORITY: The proposed amendments to TCGCC Personnel Regulations
are promulgated pursuant to the Commission's authority as provided by Part II
Section 5(8)c of the Revised Casino Gaming Control Act of 1989 to establish
regulations and the CNMI Administrative Procedures Act.

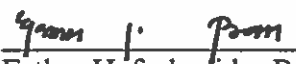
EFFECTIVE DATE: Pursuant to the Administrative Procedures Act, 1 CMC §9105(b), these adopted amendments to the Personnel Regulations are effective 10 days after compliance with the Administrative Procedures Act, 1 CMC §9102 and §9104(a) or (b), which in this instance, is 10 days after this publication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

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the Administrative Procedures Act, 1CMC §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. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

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

I declare under penalty of perjury that the foregoing is true and correct copy and that this declaration was executed on the _____ day of February, 2017, at Tinian, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Esther Hofschneider Barr
Chairman

2/27/17
Date

Filed and recorded by:



Esther SN. Nesbitt
Commonwealth Registrar

02.27.2017
Date

PERSONNEL REGULATIONS

§ 170-30.5-510 Leave Balances from Previous Employment

The rules and regulations in this subchapter apply to all employees and employment positions in the TCGCC.

Credit will not be given to new employees for sick leave earned in previous employment with the Commonwealth or municipality or Trust Territory governments or their agencies. Employees are expected to arrange settlement transfer of accrued sick leave balances directly with the previous employer to TCGCC. Subject to independent verification, TCGCC may retain a record of previously earned unpaid sick leave and include it in calculations pertaining to eligibility for increased annual leave benefits or qualification for retirement benefits provided by the Northern Mariana Islands Retirement Fund the employee's sick leave account and available for use on the first day of re-employment. This applies to employees hired after January 2014.



COMMONWEALTH PORTS AUTHORITY

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P.O. Box 501055, Saipan, MP 96950-1055

Phone: (670) 237-6500/1 Fax: (670) 234-5962

E-mail Address: cpa.admin@pticom.com

Website: www.cpa.gov.mp



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF AMENDMENTS TO THE AIRPORT RULES AND REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

Title 40-10, The Airport Rules and Regulations: Commercial/General Aviation Definition and Insurance

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT amendments to the Proposed Airport Rules and Regulations which were published in the Commonwealth Register pursuant to the procedures of the Administration Procedure Act, 1 CMC § 9104(a). I certify by signature below that as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

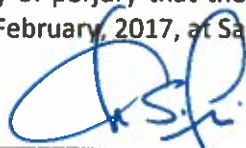
PRIOR PUBLICATION: These regulations were published as Proposed Amendments in Volume 38, Number 12, pp 039062-69, December 28, 2016, of the Commonwealth Register.

AUTHORITY: The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122(g) as an autonomous agency of the Commonwealth of the Northern Mariana Islands. 2 CMC § 2111(b)

EFFECTIVE DATE: These amendments will become effective ten days after publication of this Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b)

COMMENTS AND AGENCY CONCISE STATEMENT: The agency received no written or oral comments during the 30-day comment period. CPA will use these regulations for all aircrafts landing at all airports in the CNMI.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 8th of February, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by: 
CHRISTOPHER S. TENORIO, Executive Director

Date: 2/15/17

Filed and Recorded by: 
ESTHER SN. NESBITT, Commonwealth Register

Date: 02.16.2017



COMMONWEALTH PORTS AUTHORITY

Main Office: FRANCISCO C. ADA/SAIPAN INTERNATIONAL AIRPORT

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Phone: (670) 237-6500/1 Fax: (670) 234-5962

E-mail Address: cpa.admin@pticom.com

Website: www.cpa.gov.mp



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF AMENDMENTS TO THE PERSONNEL RULES AND REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

Title 40-40, The Personnel Rules and Regulations: Exhibit C – Salary Scale

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT amendments to the Proposed Airport Rules and Regulations which were published in the Commonwealth Register pursuant to the procedures of the Administration Procedure Act, 1 CMC § 9104(a). I certify by signature below that as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

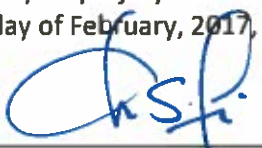
PRIOR PUBLICATION: This salary scale was published as Proposed Amendments in Volume 38, Number 12, pp. 039052 – 039061, December 28, 2016 of the Commonwealth Register.

AUTHORITY: The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122(g) as an autonomous agency of the Commonwealth of the Northern Mariana Islands. 2 CMC § 2111(b)

EFFECTIVE DATE: These amendments will become effective ten days after publication of this Notice of Adoption in the commonwealth Register. 1 CMC § 9105(b)

COMMENTS AND AGENCY CONCISE STATEMENT: The agency received no written or oral comments during the 30-day comment period. CPA will use this salary schedule to compensate its hourly employees.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 8th day of February, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by: 
CHRISTOPHER S. TENORIO, Executive Director

Date: 02/15/17

Filed and Recorded by: 
ESTHER SN. NESBITT, Commonwealth Register

Date: 02.16.2017



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS
Volume 36, Number 7, pp 035137-035170, of July 28, 2014

CHCC Amended Fee Schedule for the Bureau of Environmental Health and the Immunization Program

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations that were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted with the following minor modification:

1. Section 105.5, the fee for inspection of apartments, is deleted for not being in conformity with the definition of room accommodation in Public Law 12-48.

This change is not material as it is the deletion of one fee amongst hundreds of fees. No inspections of apartments have occurred and the fee never has been charged.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Deletion of \$140 fee for inspection of apartments.

AUTHORITY: CHCC is authorized to adopt rules and regulations as may be necessary for the implementation of this chapter. 3 CMC Section 2824(l). Pursuant to PL 16-51, CHCC is directed to "[e]stablish a market oriented set of fees to be charged for care and service at its facilities." Section 2824(c).

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

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Telephone: (670) 234-8950 FAX: (670) 236-8930

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, 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.

The adopted 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)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 27th day of February, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Esther L. Muna
CEO, CHCC

02/27/2017
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the 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 27th day of February, 2017.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Register

02.27.2017
Date

0 Form Notice of Final Adoption of Regs.wpd

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Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS

Volume 38, Number 11, pp 039037, of November 29, 2016

CHCC Human Resource Rules and Regulations

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted with the following minor modifications:

1. They are consistently referred to as the "CHCC Human Resource Rules and Regulations" and not the "CHCC Personnel Regulations."
2. Evening and night pay differentials and on-call pay have been added.
3. A Sick Leave Bank has been added.
4. An informal grievance procedure replaces the proposed formal one.

These charges are not material as the CNMI government already has a sick leave bank and these regulations are extending the practice to CHCC. In addition, the grievance procedure has been modified but informal grievances to the Human Resource Manager are encouraged to resolve HR issues that arise.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Adoption as CHCC Human Resources Rules and Regulations. Section 6.1B Evening and Night Shift differential has been added. Section 6.1C On-call Pay has been added. Section 6.3 N. Sick Leave Bank has been added. Section 7.1 is now the Informal Grievance Procedure.

AUTHORITY: The CEO is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2824(k), (l), and 3 CMC Section 2829.

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Telephone: (670) 234-8950 FAX: (670) 236-8930

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

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, 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.

The adopted 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)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 24th day of February, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

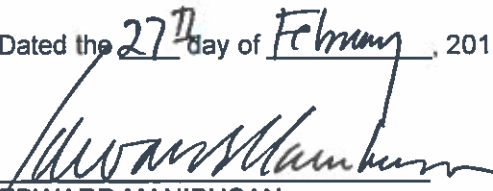


Esther L. Muna
CEO, CHCC

02/24/2017
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the 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 27th day of February, 2017.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Register

02-27-2017
Date

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Commonwealth Healthcare Corporation

HUMAN RESOURCE RULES & REGULATIONS



Adopted
February 28, 2017

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SECTION 1 GENERAL PROVISIONS

1.1 Authority

Under the authority vested in the Chief Executive Officer pursuant to 3 CMC Sections 2824 (k), (l) and 3 CMC Section 2829 the following rules and regulations are hereby promulgated.

1.2 Statement of Purpose

The purpose of these rules is to implement 3 CMC Section 2829(a) that requires the Corporation to develop, adopt, and administer a merit-based HR Office system that rewards productivity and service, provides management flexibility, and includes provisions for employees to appeal serious disciplinary action. The Corporation shall set forth the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Corporation by adoption of these regulations.

1.3 Application and Interpretation

These rules shall apply to all employees of the Commonwealth Healthcare Corporation (CHCC) except that they shall not apply to the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), the Corporate Officers, the Hospital Administrator, the Legal Counsel, and the Medical Staff who are covered by the Medical Staff By-laws of the Corporation.

If any section subsection, sentence, clause or phrase of these rules is found to be illegal, such findings shall not affect the validity of the remaining portions of these rules.

1.4 Authority and Responsibilities of the Manager of the Human Resources Office

The Human Resources Manager (HRM) shall have overall authority and responsibility for the Human Resource administration for the Corporation. The HRM shall also:

- A. Advise the Corporation on matters pertaining to the administration of HR Office and assist in ensuring that these rules and are observed by those concerned. In this capacity, the HRM has advisory responsibility in coordination and consultation with CHCC Legal Counsel for the enforcement of these rules.

- B. Maintain or direct the maintenance of an up-to-date HR Office records system.
- C. Prepare or direct the preparation of forms and reports as may be required by the Rules and Regulations.
- D. Assist all Manager and Supervisors in the interpretation and application of employee relation matters.
- E. Administer and maintain classification and compensation system.
- F. Direct the recruitment, employment and promotion programs and promote equal employment opportunity in the Corporation.
- G. Review and implement the HR organizational plans and modifications thereto as directed by the Chief Executive Officer.
- H. Promote and develop programs improving employee effectiveness, such as training, health and safety, counseling, and productivity improvement programs.
- I. Maintain a position control system based on the budget as approved for the Corporation.

1.5 HR Committee

The HR Office Committee consists of members appointed by the Chief Executive Officer. The committee may review and make recommendations or modifications to these regulations.

1.6 HR Office Records and Official Personnel Files (OPF)

- A. The HRM shall establish and maintain a separate OPF and medical information file for each employee.
- B. Access to OPF or Medical Information Files.
 - 1. Employees shall have access to their own OPF during normal office hours. The employee's Manager or Supervisor, the CEO, the HRM, and the Legal Counsel may inspect the employee's OPF. Except as otherwise provided in this rule, an OPF shall be inspected by others only following presentation of written consent by the employee to whom that file pertains. A document contained in an HR Office or medical information file shall be confidential and protected from unauthorized or unwanted disclosure.

2. Review of any OPF or medical information files shall be conducted in the presence of the HRM or assigned staff in the HR Office. No document shall be removed from a HR Office or medical information file without the prior written approval from the CEO after consultation with Legal Counsel. The HRM shall record for tracking purposes the person(s) who accessed the OPF or medical information file. The Legal Counsel of the Corporation shall review and authorize removal, copying, destruction, shredding or taking of OPF outside the premises of the Corporation or custodian of the record.
- C. Use of HR OPF or Medical Information files. Employees shall have access to their OPF only upon 24 hours advanced request to the HRM.
 - D. In keeping with the Corporation's policy and the CNMI Open Government Act (OGA) on record confidentiality and disclosures, the HRM may release employee information such as employee name, employment dates, and salary and position title and duty station in response to requests received from outside the corporation. Other information is considered confidential and will be released only upon written consent of the employee or by authorization of the CEO or authorized designee pursuant to the laws of the CNMI.
 - E. Employees who may have access to employees' OPF records because of their administrative responsibilities shall be required to observe due care protecting against the unauthorized disclosure of documents or records contained in the OPF or medical information file. The employees in the HR Office shall observe and maintain the highest standard of confidentiality to avoid unwanted disclosure of personal and private information about employees.

SECTION 2 TYPES OF EMPLOYMENT

2.1 Types of Employment

The type of employment is dependent upon the position that is being filled.

- A. Probationary Appointment – Probationary Appointment employees will be hired for a period of 90 days based on a selection process from a list of eligible applicants resulting from an open-competitive announcement to fill a full time employment position. Probationary employees receive

annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period.

Managers will be given the evaluation form at the time of hire. The Manager should try to provide periodic feedback so that the employee is aware of any deficiencies he or she needs to correct prior to the end of the 90 day period. The Manager must do the evaluation, provide it to the employee, and transmit it to the HRM one week prior to the end of the 90 day probationary period. An employee who receives all or primarily all "unsatisfactoriness" on the evaluative criteria should assume s/he will be separated from service, though the HRM needs to provide a letter that the employee either has or has not successfully passed his or her probationary period. The employee who has not received a letter about passing the probationary period should request one.

That probationary period may be extended if the Supervisor and HRM document additional time is needed to evaluate whether the employee can perform the job adequately. Once the employee successfully completes the probationary period, s/he can only be terminated through the disciplinary process.

- B. **Provisional Appointment** – Provisional Appointment employees are hired on a 90 day period to fulfill an urgent need of the Corporation. This is usually done in order to allow time to obtain a full time permanent employee for the position.

If the Corporation still needs the services of the provisional employee and the position has not yet permanently been filled, the Corporation may extend the provisional employee another 90 days but the employment of a provisional employee shall not exceed 180 days.

Provisional employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period. If the employee is then converted to a full-time position, s/he still has to complete the 90 day probationary period.

Please refer to Appendix A for Employment Status Acknowledgement Form.

- C. **Full Time Employment** – Full Time Employees will be hired on Permanent status when the position is a continuous one and there is an FTE to fill it. An employee under this employment status must have satisfactorily completed a 90 day probationary period.

D. Limited Term Appointment – Limited Term Appointment employees may be classified as a Federal Grant Employees who are hired to work on programs funded through federal grants. The terms of these employees shall be congruent with the budget cycle of the grant. Limited Term Appointment employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period.

E. Temporary Appointment – Temporary Appointment employees are employees who are hired for less than one year. While their terms may be extended, there should be no expectation of and reliance upon an extension.

Temporary employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

F. Employment Contract – Employment Contract employees shall be hired on a contractual basis. These shall be the following types of contract employees:

1. Employment Contract employees shall be hired for a period of one to two years and are entitled to all the benefits of employment, including annual and sick leave, and are eligible for health and life insurance and the 401(a). Employees under this status are subjected to the Offer Letter of Employment from the Chief Executive Officer and the Conditions of Employment.

Please refer to Appendix D for an updated Conditions of Employment Form.

2. *Locum tenens* (temporary substitute) employees shall be hired, usually for the medical staff, for a period not to exceed one year. These employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

3. Part-time employees may be hired for one or two years and do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

No contract employee shall have an expectation of renewal.

**SECTION 3
RECRUITMENT**

3.1 General Policy

- A. The HRM shall facilitate all employment recruitment. The Chief Executive Officer will approve the final selection prior to the position being offered to the applicant and ensure all appropriate HR procedures have been followed.
- B. Applicant selection shall be done without discrimination based on race, national origin, color, age, religious creed, sex, political affiliation, marital status, disability or other criteria prohibited by law. Position requirements that constitute bona fide occupational qualifications (BFOQs) will be allowed.
- C. Generally, position vacancies shall be filled from within the Corporation. This policy is observed so that employees and the public will regard service to the Corporation as a career, whereby efficiency and ability will be recognized, and employee turnover will be minimized.
- D. Qualified applicants with disabilities and veterans are encouraged to apply for positions in the Corporation.

3.2 Requests for Recruitment

The Managers or Supervisors shall notify the HRM as far in advance as possible of the need to fill a vacated or new position. Upon receipt of request, the HRM shall approve the method for filling the position as set forth in this section. It is the responsibility of the Manager or Supervisor to ensure that funding in the position is available through the certification of the Fiscal/Budget Officer.

3.3 Types of Announcements

- A. Contents and distribution. When a position vacancy occurs, the HRM shall circulate a recruitment announcement. The announcement shall specify the FLSA coverage, title, duties and the minimum qualifications required, the open and closing date on which applications will be accepted, the type of examination and other pertinent information and requirements.

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- B. Recruitment announcement shall be circulated only within the Corporation for at least five (5) working days. If no qualified applicants apply, then HRM may advertise publicly in the CNMI for at least ten (10) working days. Hard to fill positions may be open until filled.
- C. The HRM, in consultation with the Managers or Supervisors, shall issue a recruitment announcement in accordance with the following procedures:
1. Corporation announcement. When an examination is restricted to employees within the Corporation, the examination will be announced on a Corporation wide basis only. Recruitment announcements will be published for at least five (5) working days.
 2. Open-competitive announcement. Open-competitive announcements will be published for at least ten (10) working days. Applications may be received from any persons who wish to apply.
 3. Continuous announcement. Open examinations may be announced on a continuing basis at the discretion of the HRM, without a designated closing date for receipt of application, when it is anticipated that the designated ten (10) working days for publishing an open competitive announcement may not be adequate for generating qualified applicants. Continuous open-competitive announcement issued under this rule will indicate that the period for application will be "open until filled" or "open until further notice". When an appropriate number of qualified applications have been received or upon request by the requisitioning division, a notice closing the announcement shall be published providing an additional five (5) working days period for final receipt of applications. Applications received after the five (5) working days notice deadline will not be considered for the examination announcement concerned. This procedure must be completed for each vacancy requirement for which it is considered necessary to extend the period for application.
 4. All applications must be received by the HR Office on or before the closing date of the announcement:

Human Resource Office
Commonwealth Healthcare Corporation
P. O. Box 500409
Saipan, MP 96950 USA

3.4 Announcement Deadline

Deadline for receipt of applications by the HRM for any examination announcement will be at the close of business on the announced closing date. If the closing date should fall on a day when the CHCC Offices are closed for business, then applications will be accepted on the following business day. Applications received after that time shall not be considered.

SECTION 4 EVALUATION OF CANDIDATES

4.1 Types of Examination or Announcement

- A. Open-competitive. Open-competitive examinations shall be open to all applicants.
- B. Corporation. Corporation examinations shall be open only to employees of the Corporation.

4.2 Minimum Qualifications for Applying

A. Minimum Qualifications Requirement

Only applicants who meet the advertised minimum qualifications will be considered for the position.

B. Equivalency

Please refer to Appendix B for full discussion of College Equivalency.

For positions requiring a High School Diploma:

The equivalency for positions requiring a High School Diploma is a General Education Diploma (GED), an Adult Basic Education Diploma (ABE), or an Advanced Development Certificate (ADI), all of which are currently or have previously been offered by the Northern Marianas College (NMC) and/or the CNMI Public School System (PSS).

C. Without Equivalency

Candidates who do not meet the minimum qualifications of the position or its equivalency will not be entertained.

If the pool of applicants does not contain an individual who meets the qualifications or the Corporation does not want to fill the position with an applicant who does meet the qualifications, for good reason, such as a recent violent felony or a termination for cause by another employer, the position may be re-announced.

D. Minimum Age for Employment; Registration for Selective Service

The minimum age for employment within the Corporation shall be in accordance with the minimum age prescribed by Federal law. In accordance with Federal law, all male applicants between the age of 18 up to 25 must register with the U.S. Selective Service in order to have gainful employment with the Corporation. A copy of the Selection Service Registration Card must be provided and will be placed in employee file.

4.3 Filing of Applications

Applications shall be filed with the HRM or Human Resource Office on or prior to the closing date specified in the announcement and shall constitute an integral part of every examination. The HRM may require information as to education, training and experience of the applicant and such other information as he or she may deem pertinent and may require any applicant to submit documented proof of any license, certificate, degree or other qualification claimed or required, and may refuse credit for such qualifications in the absence of proof.

A. Character

Evaluation shall be practical and shall relate to the duties and responsibilities of the position for which the applicant is being considered and shall measure the relative capacity and fitness of applicants to perform the duties of the class of positions to which they seek to be appointed or promoted.

The evaluation used to determine the fitness and relative ability of the applicant shall consist of one or more of the following:

1. an evaluation of education, training and experience as shown on the application or by other information submitted;

2. an interview designed to determine general suitability for the position; and / or
3. any other appropriate measure of suitability.

B. Ranking Education and Experience

When the ranking of education and experience forms a part or all of the examination, the HRM shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall consider the quality of the education and experience.

4.4 Disqualification of Applicants

- A. The HRM may refuse to examine an applicant, or after examination may refuse to place his or her name on an eligible list, or may remove his or her name from an eligible list, or may refuse to certify any person on an eligible list who:
1. Has failed to submit a complete and accurate application or failed to submit within the prescribed time limit;
 2. Is found to lack any of the minimum qualifications in the recruitment announcement or examination for the position;
 3. Has applied for corporation announcement, but whose last performance evaluation was below average;
 4. Has received any disciplinary action (other than an oral reprimand, warning, or counseling) from the Corporation within a 12-month period preceding application and it has not been rescinded;
 5. Is found to have been convicted for violation of the narcotics law of the CNMI or federal government within the past two years. Conviction includes guilty pleas. The applicant shall comply with the Corporation's Drug Free Work Place policy concerning post employment offer drug testing;
 6. Has been convicted of any crime involving violence or dishonesty within the last two years, if such disqualification does not violate federal, or CNMI laws;
 7. Has withheld information of material fact or made a false statement of material fact in regard to the application for employment;

8. Has ever been dismissed from the Corporation or from other employer for disciplinary reasons or resigned in lieu of termination;
9. Has used or attempted to use bribery to secure an advantage in the examination or appointment;
10. Has directly or indirectly obtained information regarding examinations to which the applicant is not entitled; or
11. Is disqualified under other sections of these rules.

SECTION 5 CERTIFICATION AND SELECTION OF CANDIDATES

5.1 Certification of Candidates

Upon receipt of request for certification, the HRM may certify to the Manager or Supervisor the names of all candidates included in the highest five (5) rankings (if more than five applied) pursuant to an examination and the names of those candidates whose employment may assist the Corporation to reach its affirmative action goals and timetables. Upon request by the Manager or Supervisor, the HRM may certify additional candidates. If more than one vacancy occurs in the same class of positions, the HRM may certify the name of five additional candidate for each additional vacancy. If the Manager or Supervisor, for good cause, rejects all names submitted, the HRM may prepare and submit a second list of candidates for consideration. If there are no other certified candidates and all efforts are being exhausted; then position will be re-announced. The Manager or Supervisor must submit in writing justification for the rejection of all names submitted in the list of candidates.

5.2 Selection of New Employees

The Manager or Supervisor shall select a candidate for hire and forward it to the HRM. At the same time, the Manager or Supervisor must indicate the reason for non-selection of the other names listed on the certification list and forward it to the HRM for his or her appointment action. No offers of employment, transfer or promotion either oral or written, will be made by anyone but the CEO or authorized designee.

5.3 Acting Appointment

An acting appointment is made when an employee may be required to serve temporarily and accept responsibilities for work in a vacant higher level position which, the Chief Executive Officer has determined cannot be left vacant for any but the shortest period of time. This type of appointment gives the acting appointed employee no advantage in competition for regular filling of this position. However, time in acting appointment may be counted toward experience for the class of position concerned.

All acting appointments require the written approval of the Chief Executive Officer. Any employee who is acting for a period in excess of 90 days will receive acting pay effective the 91st day in acting capacity. If the employee does not meet the minimum qualifications of the position for which he/she is in acting capacity, the acting pay will be at least 10% more than the employee was earning immediately prior to accepting the acting role but not more than the pay level for the position the employee is filling.

5.4 Reinstatement of Veterans

A. Re-Employment of Returning Veterans

1. Return from military leave. A Corporation employee who returns from military duty shall be re-employed in accordance with the (United States Code Title 50, War and National Defense Military Selective Service Act of 1967, Section 459, Separation from Service (a), (b), (c), (f) and (g) Uniformed Services Employment and Reemployment Rights Act 38 U.S.C. 4301-4333. The employee is entitled to re-instatement into the position the employee had when the employee left on military duty, or into one as nearly alike as possible or comparable position with similar pay and seniority.

5.5 Promotion, Lateral Transfer, Demotion

A. Promotion

Promotions shall be made on the basis of qualifications.

A promotion is the filling of a vacancy, which has been announced within the Corporation for a period of five (5) working days, by the advancement of an employee from a position having a lower salary or pay level. Vacancies shall be filled by promotion whenever practicable and in the best interest of the Corporation. Promotions shall be based upon

merit and shall be made in accordance with the procedures established in these rules.

Major factors in determining promotions are:

1. Performance evaluation report;
2. Education, experience and training;
3. Length of service;
4. Police Clearance; and/or
5. Must have no disciplinary action.

B. Lateral Transfer

Lateral transfers shall be made based on the needs of the Corporation. Whenever possible, the desires of the employee will be taken into account, but if the position the employee is currently filling is no longer needed, the employee must either accept the lateral transfer or resign.

C. Demotion

The movement of an employee to a position in a lower class is a demotion. For this purpose a lower class means a class having a pay band lower than the pay level of the position in which the individual is employed. An employee will not be demoted to a lower class without being given (1) a written notice and (2) an opportunity to improve his/her performance.

1. Reasons

- a. For lack of work or for cause. An employee may be demoted for lack of work in his or her class, or for cause.
- b. Employee request. If, for personal or other reasons, an employee requests in writing that he or she be assigned to a vacant position in a lower class, the Manager or Supervisor for that vacant position may make such a demotion with prior approval of the CEO in writing. The employee must meet the minimum qualifications for the position. In such cases, the demotion will be deemed to have been made on a voluntary basis.

2. From the Exempt Status to Non-Exempt Status

An Exempt employee who requests demotion, may be placed in a vacant Non-exempt position at the same or a lower level position than the one

previously held, with the approval of the Manager or Supervisor of the vacant position and the CEO. Such a demotion shall be allowed only if the employee is qualified to hold the position. The HRM may require evidence of the applicant's qualifications for the new position.

**SECTION 6
HOURS OF WORK, HOLIDAYS, LEAVE, AND BENEFITS**

6.1 Work Hours

A. Regular Hours of Work

Regular working hours of the Corporation employees shall consist of a five-day week, eight hours a day, 40 hours per workweek from 7:30 am to 4:30 pm. The standard workweek shall consist of the period from midnight Sunday to the following midnight Sunday.

The CHCC is a 24-hour operation. In the departments that operate outside of normal business hours, the Manager of the Department together with the Hospital Administrator shall make a schedule for the employees who work hours other than the standard work week. Please refer to the Time Clock / Biometric Timekeeping Policy, Policy No. 1095 for the hours of all units operating outside of the standard work week.

B. Evening and Night Shift Differential

Evening and night work will result in additional compensation through a differential of ten percent or fifteen percent of base salary rate. The evening differential of 10% will be paid for all work from 4:31 p.m. to 11:59 p.m. The night differential of 15% will be paid for all work from 12:00 pm. to 7:00 a.m.

Control Criteria: To be eligible to receive payment of the evening or night work differential, the following criteria must be met:

- (1) Payment will be made for actual hours worked that fall between 4:30p.m. and 7:30a.m.
- (2) The above is restricted to include only those regularly scheduled work hours within the specified time period that constitute all or part of the employee's regular hours of duty.

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Non-payment of Evening and Night Work Differential. Payment of evening and night work differential will not be made when:

- (1) An employee whose regular hours of duty include scheduled hours during the period of 4:30p.m to 7:30a.m. is absent and does not actually perform for the hours involved.
- (2) An employee required to perform work during the hours of 4:30p.m. to 7:30a.m. is not part of the employee's regular scheduled hours of night work duty; or an employee who is paid for remaining on call to duty in excess of the normal forty hour work week shall not be eligible for payment of night work differential for any work performed while on call.

C. On Call:

Employees who are required to remain on-call outside of their regular working hours shall maintain a fit to report for duty status while on call and shall be paid a premium of one-dollar and fifty cents per hour they are scheduled to be on call, provided that:

- (1) Employees shall be compensated for hours actually worked instead of receiving an on-call premium for all hours in which they are required to be at a prescribed workplace; and
- (2) Hours of on-call duty must be for a regularly scheduled period of time in excess of the regular forty hour workweek. On call schedules must be submitted to payroll before the beginning of the work week involved; and
- (3) There is a bona fide reason for the employee to be on call.

D. Time and Attendance Record

All CHCC employees shall sign the biometric Time and Attendance Record. The respective Department Managers/Supervisor shall review and approve Time and Attendance Records. The CHCC pay periods shall be identical with those of the CNMI Government. Executive, managerial, professional and exempt employees are expected to work the regular hours of employment but need not time-in or time-out.

E. Payment of Salary

All CHCC employees shall be paid within two (2) weeks after end of every pay period.

F. Temporary Schedule

Temporary shifting of employee's working hours to meet routine needs may be done as necessary and if approved by the Manager or Supervisor. Changes in temporary schedule for more than one-week duration require at least one (1) week's advance notice to employees except in emergency situations, or when the employees waive the need for notice. HR must file the duty station change form in employees OPF.

G. Lunch Period

For most positions, lunch shall be one hour unpaid time, usually from 11:30 am to 12:30 pm. Deviation from the standard lunch time requires the approval of the employee's Supervisor or Manager. Where shift work precludes a lunch break for an exempt position, employee shall be paid for all time on that shift. If employee is on a shift schedule, lunch or dinner break should be complied accordingly based on existing policy.

H. Rest Periods

Employees are entitled to rest periods of fifteen (15) minutes during the first four (4) hours of work and another fifteen (15) minutes during the second four hours of work. The responsibility for scheduling break periods rests with the immediate supervisor. The 30 minutes allotted for break time may not be used to lengthen lunch hours or shorten working days. Rest periods shall not be used to cover late arrivals nor may they be accumulated for scheduled time-off.

I. Changes of Permanent Schedule

All long-term changes to the established work schedules shall be provided to the employees affected at least one (1) week's notice prior to the change, if possible, except in emergency situations or when the employees waive the need for notice. HR must file the duty station change form in employees OPF.

6.2 Recognized Holidays with Pay

A. Holidays with Pay

The following days will be recognized as holidays with pay for all employees. These holidays are subject to change pursuant to Executive Order of the CNMI Governor or by statute.

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New Year's Day (*January 1*)
Martin Luther's King, Jr. Day (*3rd Monday in January*)
President's Day (*3rd Monday of February*)
Covenant Day (*3rd Friday in March*)
Good Friday (*as designated by the Catholic Church calendar*)
Memorial Day (*last Monday in May*)
Independence Day (*July 4*)
Labor Day (*September 4*)
Commonwealth Cultural Day (*2nd Monday in October*)
Citizenship Day (*November 4*)
Veteran's Day (*November 11*)
Thanksgiving Day (*last Thursday in November*)
Constitution Day (*December 8*)
Christmas Day (*December 25*)

B. Holiday Falling on Saturday or Sunday

When a recognized holiday falls on a Saturday, the preceding Friday shall be recognized as the holiday. When a recognized holiday falls on a Sunday, the Monday following shall be recognized as the holiday.

C. Computation of Holiday Pay

1. Employees shall receive their regular straight time rate of pay for recognized holidays if they do not work.
2. Employees who are not managers but who work on the holiday shall receive 1.0 pay for the holiday hours worked. Managers who work on a holiday shall receive a compensatory day off.
3. Holiday during annual, or sick leave. A recognized holiday occurring during the employee's annual or sick leave shall not be counted as a day of annual or sick leave.

D. Forfeiture of Holiday Pay

Employees shall forfeit their right to payment for any holiday if they are on leave without pay (LWOP) or Absent without leave authorization (AWOL) for the entire shift on the last regular work day preceding such holiday or on the next regular work day following such holiday.

E. Pay for Employees who Work on a Holiday

Employees who perform work on a holiday will be compensated straight time pay in addition to the holiday pay. Overtime rate will be applied for hours worked beyond the 40-regular work hours. A work hour is defined as actual hours of performance. Holiday hours are not counted as regular work hours.

6.3 Leave

A. Policy

Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work. Failure by the employee to submit leave applications will result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

B. Annual Leave Accrual

1. Rate

a. Employees shall accrue leave at the following rates:

Four (4) hours a pay period if the employee has zero to less than three years of service;

Six (6) hours a pay period if the employee has at least three but less than six years of service;

Eight (8) hours a pay period if the employee has six or more years of service or is a board certified medical provider.

b. The above rates of accrual shall not be accumulated if the employee was not on full pay status for the pay period. Pay status shall not include LWOP and AWOL absences.

2. When an Employee May Accrue Annual Leave

Leave accrues during the period of time an employee is on paid leave. Such additional accrual shall be canceled if the employee fails to resume duty on completion of his or her authorized leave. Leave does not accrue during periods of LWOP and AWOL.

a. Approval to Use Annual Leave

Employees may request and supervisors may approve any amount of accrued annual leave at the time they desire that will not be detrimental to the Corporation operations. In general, annual leave in excess of 24 hours should be approved 1 week in advance by the Supervisor or Manager. A denial by the Supervisor or Manager may be appealed to the Hospital Administrator or Division Director.

If an employee needs to take annual leave for an emergency, he or she should inform the supervisor or manager as soon as is practicable. The more serious the emergency, the more leeway the supervisor or manager should give in consideration of the request.

The Manager or Supervisor should be cognizant of the leave balances of his or her subordinates and encourage them to space their leave with respect to the colleagues who need to cover for them. If two employees who cannot both be gone at the same time want to take leave at the same time, the supervisor or manager should encourage them to work it out amicably. If they are both adamant that they need to go at the same time, the leave shall be awarded to the employee with seniority to the Corporation.

b. Annual Leave Accrual Limits

Accrued and unused leave may be carried from one year to the next for the purpose of accumulating an annual leave account or reserve; however, on January 1st of any year an employee may not have more than 360 hours leave on his or her leave account. Any annual leave hours in excess of 360 on January 1st of each year will be converted to sick leave.

c. Transfer of Annual Leave

The Corporation will not accept any transfer of annual leave for a new employee. If an employee is separating, the Corporation will transfer any accrued leave to any agency willing to accept it. It is incumbent upon the employee who is separating to determine if the receiving agency will accept the leave transfer. Otherwise, the leave will be paid out in accordance with the Annual Leave at Date of Separation section below.

3. Annual Leave Conversion and Payment

a. Conversion of Excess Annual Leave to Sick Leave

Any annual leave in excess of 360 hours on January 1st of each year shall be converted to the employee's sick leave account.

b. Annual Leave at Date of Separation

Upon separation of employment for any reason, employees shall be entitled to payment of their unused annual leave balance. Such payment shall be made at the rate of 100% of the current value of the employee's leave balance based upon his or her factored hourly rate at time of separation, but in no event, will anything over 360 hours be paid. In addition, any annual leave accrued that needs to be paid out after separation will be paid out in bi-weekly payments. There will be no lump sum payouts of annual leave unless the employee has less than 80 hours of accrued annual leave.

C. Sick Leave

1. Purpose

Accumulation of sick leave is allowed primarily for the purpose of providing an employee with an economic cushion to be used in the event of an illness or lengthy absence for legitimate medical reason.

In addition, in accordance with PL 15-69, as repealed in part by Public Law 15-115, an employee may use sick leave to care for a sick spouse or child. In this case, "sick" means a serious or life threatening illness. HR approval is required to use sick leave in this way. A doctor's certification will be required.

2. Transfer-In of Sick Leave from other CNMI Government Agencies

The CHCC will accept up to 500 hours of sick leave from other CNMI Government agencies.

3. Sick Leave Accrual and Accumulation

Sick leave is accrued separately, like annual leave, on a regular basis. Sick leave is accumulated through conversion of excess hours of annual leave to sick leave as of January 1 of each year and the employee earns sick leave at the rate of four (4) hours for each

biweekly pay period in which the employee is in full pay status for the entire pay period.

4. Use of Sick Leave

- a. An employee eligible for sick leave with pay may use such sick leave for absence due to illness, injury, and exposure to contagious disease. Doctor or dental appointments shall be included as cause for sick leave, for the number of hours or duration of the appointment and reasonable travel time thereto and from.
- b. An employee who is absent from work shall inform his or her immediate supervisor of the fact and reason, and failure to do so within a reasonable time may be cause for disciplinary action. Notification in this context shall mean notification no later than an hour after the accident, emergency or injury, or advance notice if medical and/or dental appointment is being sought. Unit policies shall supercede this section.
- c. Sick leave may not be allowed unless an employee notifies the supervisor of illness within the period of time established within that unit. Sick leave is a privilege, which is granted to provide time-off to an employee with a doctor's appointment or an illness or injury.
- d. Doctor's certificate. The Corporation requires a medical certificate or additional documentation from a practicing physician as proof of sickness after 24 consecutive hours of absence from work due to Sick Leave, or more often, at the written request of the HRM, should the employee's record indicate habitual requests for Sick Leave approval. Sick Leave shall be granted subject to approval of the Supervisor or Manager. In cases of habitual Sick Leave, the Chief Executive Officer may require all future Sick Leave to be reviewed for approval or disapproval by Human Resources. Disallowed sick leave shall be charged as AWOL.
- e. Falsification of Doctor's certification will result in Disciplinary Action, and may lead to termination with cause.
- f. For employees with serious medical conditions resulting in prolonged illness or disability as documented by his/her physician,

unpaid sick leave may be requested under the Family Medical Leave Act (FMLA).

D. Work Related Injury Leave

1. Any employee who is injured in the course of performing his or her duties and who receives Worker's Compensation benefits due to that injury, shall be eligible for unpaid injury leave as provided in this section. If an employee fails to return to work within one year after the date of original injury, the Chief Executive Officer may terminate that employee.
 2. While an employee is on work related injury leave, and the employee was enrolled with the Department of Finance (DOF) Group Health Insurance program at the time of the work related injury, those benefits shall be continued in the manner prescribed by DOF or IAC for the Group Life Insurance. An employee injured on the job will be provided Administrative Leave if a doctor certifies the employee is unable to work due to the injury sustained on the job.
 3. The Corporation's responsibilities under this rule shall terminate upon the occurrence of any of the following:
 - As of the date on which the employee is declared by a physician to be permanently disabled or on which the Settlement Fund effectuates the disability retirement or regular retirement pension benefits to the employee;
 - As of the date on which the employee returns to work with an unrestricted medical release or on which he or she first engages in any occupation for wage or profit; or
 - At the end of the one year following the date of the original injury.
- a. An employee shall be eligible for work related injury leave only upon satisfaction of the following conditions:
 - i. The employee shall make a complete report of the injury to the Department of Commerce, Worker's Compensation Commission (WCC) through the HRM or authorized designee.

- ii. The employee shall cooperate with the HRM or his/her designee to prepare and submit all forms and information related to the employee that the HRM may request;
- iii. The employee shall cooperate fully with the investigator(s) of the Worker's Compensation Commission handling the claim investigation as required by law; and
- iv. The employee has exhausted all sick leave and annual leave before receiving disability benefits from the Settlement Fund, if eligible.

b. Return to Work

Employees returning to work within the time allowed shall be re-employed in their position, or another position in the same class or similar class with the same pay level and rate consistent with these rules.

If an employee is incapable of performing his or her former duties as a result of an illness or work related injury, the Corporation may offer a position to which he or she can perform the essential function, if available. The Corporation is under no obligation to re-employ an employee who does not return within the time allowed.

E. Administrative Leave

An absence from duty administratively, without loss of pay and without charge to accrued leave, is administrative leave. The CEO, or his/her authorized designee, has the responsibility for approving administrative leave requests.

Administrative Leave is permissible under the following circumstances:

Administrative leave is absence authorized under emergency conditions beyond the control of management, e.g., typhoons, or for participation in civic activities of interest to the government, or employment connected examinations, or for such reasons as the Governor may determine (such as a shortened work day on Christmas Eve).

Administrative leaves related to disciplinary actions. Managers may place an employee in non-working status with pay indefinitely for

purposes of an investigation or for up to three work days pending preparation of an appeal of termination.

Administrative leave may be granted to employees serving on government boards and commissions, provided such employees do not receive compensation from the boards and commissions.

F. Court Leave

Employees call for jury duty for the local or federal courts shall be treated as being on approved leave without loss of longevity, leave or pay. Service in court or administrative adjudication proceedings when subpoenaed as a witness on behalf of the Corporation or CNMI government needs shall be treated the same as jury duty. If the employee is subpoenaed on behalf of a private person or corporation, the employee shall apply for annual leave and such request shall be submitted to the Manager or Supervisor in advance. Fees paid by the court, other than those for an employee's appearance at anytime outside the employee's regularly scheduled shift, for travel and subsistence allowance, shall be treated in accordance with Corporation's policy.

An employee shall provide his or her supervisor or manager with a copy of a notice of call for jury duty immediately upon receipt by the employee. When excused or released from jury duty for the day, the employee shall return to work without delay, taking into account the reasonable travel time to arrive at the work site.

An employee may keep his compensation for being a juror or if called as a witness if the court provides it but the employee must apply for annual leave if accepting compensation from the court.

G. Military Leave

Any employee who is involuntarily enlisted, drafted or is called into active service in the armed service of the United States shall be granted military service leave in accordance with this Section and applicable Federal Law. Upon discharge from such service, the employee shall be re-employed with such seniority, status and pay as would have been attained if employment had continued with the Corporation without interruption, provided that the employee's absence has not voluntarily exceeded two (2) years and application for re-employment was made within thirty (30) days of release from active military service.

In accordance with local and federal laws, any employee who enlists or is called to federal active duty, territorial active military service or training duty as a Reserve of the Armed Forces or a member of the National Guard will be granted up to 120 hours of unpaid military leave for the period of active duty upon presentation to Human Resources of Orders into service. This leave shall be granted solely for the purpose of and will continue only for the time stated in the Orders into service and that said employee is actually performing said military service.

Any employee who is a veteran of a branch of the United States Armed Services will be excused from work duties without loss of pay for the time necessary, not to exceed four (4) hours in any one day, to participate as an active pall bearer or as a member of a firing squad or honor guard in a funeral ceremony for a member of the Armed Forces of the United States whose remains final interment is in the Commonwealth.

H. Compassionate Leave

Each employee shall be eligible for five (5) working days of leave for funeral or death of a member of his or her immediate family. Immediate family includes grandparents; siblings, including natural, step or adopted; parents, including stepparents, mother and father in-law; children, including natural, step or adopted; spouses. Such leave shall not be deducted from the employee's leave account. The compassionate leave shall be taken within 18 calendar days after the death of the immediate family member. The employee shall certify the purpose of the compassionate leave request.

I. Leave Without Pay

The Managers or Supervisors or his/her designee shall be the approving authority for Leave without Pay for less than 80 hours. The CEO needs to approve any LWOP in excess of 80 hours.

It is the responsibility of the employee to apply for leave without pay. If LWOP is not authorized, it is characterized on the employee's payroll as Absent without Leave (AWOL). If an employee believes s/he has been adjudged AWOL improperly, s/he needs to clear that issue with her supervisor or manager (with appeal to the Department Head) within the next pay period after having received the AWOL.

Leave and benefits shall not accrue during leave without pay except as provided in this section. The employer-employee relationship is

maintained during a period of leave without pay, but the Corporation shall pay no other compensation.

J. Family and Medical Leave Act Of 1993

1. General Provision

The Family and Medical Leave Act (FMLA) requires covered employers to provide up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over the previous twelve (12) months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

2. Reasons for Taking Leave

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

3. Advance Notice and Medical Certification

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met. The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable." A request for FMLA form must be completed and submitted to the HRM. An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

4. Job Benefits and Protection

For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan." Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

K. Unauthorized Absence or Absent Without Leave (AWOL)

Absence without Leave ("AWOL") is defined as leave without approval and may subject the employee to discipline. For purposes of this section, AWOL will be evaluated per calendar year. Previous years' AWOL will not apply to subsequent years for disciplinary purposes. Such leave is unpaid.

1. Discipline may be as follows:

- Employees who accrue AWOL hour(s) during any one pay period, shall be issued a reprimand.
- Employees who accrue an additional hour(s) after reprimand in any following pay period shall receive a five (5) day suspension without pay.
- Employees who accrue an additional hour(s) after a five (5) day suspension shall be terminated.
- Employees who accrue eighty (80) hours of AWOL in one year shall be terminated.

2. Abandonment of Position. Any employee absent without approved leave (AWOL), for a consecutive total of ten (10) working days shall be deemed to have resigned without notice by abandonment of position.

Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work. Failure by the employee to submit leave applications may result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

L. Maternity and Paternity Leave

1. Maternity Leave

Maternity leave on account of childbirth shall be granted a female employee for fifteen (15) workdays beginning from the date of delivery or confinement for childbirth and extending to reasonable postpartum period for the care of the newly born child. After using the fifteen (15) days of paid leave, the employee may use accrued sick and annual leave balances, or request to be placed on leave without pay up to 12 weeks under FMLA.

2. Paternity Leave

Paternity leave is a leave of absence from work for male employees whose spouse is pregnant. Paternity leave shall be for a period of five (5) consecutive workdays. Paternity leave shall commence from the date of birth or spouse confinement for childbirth. If childbirth falls on a holiday or weekend, the paternity leave will commence on the next workday.

M. Advanced Leave

An employee may apply for advanced sick or annual leave. The allowable amount is up to one-half of what the employee would accrue in one year or to the end of the grant or contract period, whichever is less. All request will be reviewed by HR Office and approved by the Chief Executive Officer.

N. Sick Leave Bank

1. Donation

CHCC hereby establishes a Sick Leave Bank. Employees may donate annual leave either to a designated employee or to the Sick Leave Bank in general. Employees may donate as much annual leave as they want to the Bank but no more than 160 hours to any specific employee.

2. Use

Employees must be approved by the HRM to use the Sick Leave Bank. In order to be eligible, employees must have a serious or life threatening illness or accident that precludes the employee from working. The employee must have exhausted all other leave, including advanced leave, prior to using the Sick Leave Bank. Employees using either designated time or general Sick Leave Bank time may use no more than 160 hours total during the course of their employment.

6.4 Benefits

A. Insurance Benefits

Employees who are scheduled to work at least 40 hours each week may participate in insurance and medical benefit programs made available and in the manner provided under the Life and Health Insurance Programs (GLHIP) administered through the Department of Finance. Such benefits shall continue to be in effect during absences due to paid leave, up to three (3) months of family and medical leave, and approved leave without pay when the employee pays the insurance premium.

B. Retirement Benefits

1. Employees currently grandfathered in to the NMI Settlement Fund will be able to retire consistent with the NMISF regulations.
2. Full time employees not part of the NMISF will be allowed to participate in the CNMI's 401(a) plan to the same extent as employees of the central government.

6.5 Overtime and Compensatory Time

A. Purpose

The purpose of this section is to provide managers and supervisors with guidance related to the administration of overtime and compensatory time and ensure compliance with the Fair Labor Standards Act (FLSA) and the applicable Commonwealth law and regulations.

B. Scope

Compliance with this policy is the responsibility of all CHCC managers, supervisors, and employees.

C. Coverage

This policy includes, but is not limited to, all regular full-time and part-time non-exempt employees (regardless of source of funding) who occupy positions determined to be eligible for overtime and compensatory time.

D. Definitions

1. **Compensatory Time.** An alternative method of overtime payment for hours worked over 40 for non-exempt employees. It is management's

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discretion whether to provide overtime pay or compensatory time off based upon fiscal availability and operational needs of the work unit and an employee agreeing to such an alternative method of compensation.

2. **Exempt Employees.** A regular or temporary employee deemed to be exempt from the overtime provisions of the FLSA. Exempt status is determined by CHCC using the test set forth in the FLSA. 29 CFR §541.100-§541.402; See also Exempt or Non-Exempt Guideline & FLSA Checklist. While exempt employees are generally not eligible for overtime, CHCC, in exceptional circumstances, may pay additional compensation for exempt employees.
3. **Non-Exempt Employees under the Fair Labor Standards Act (FLSA).** The Fair Labor Standards Act (FLSA) of 1938 is a federal law that requires employers to pay non-exempt employees time and a half for all hours in excess of 40 hours worked per work week.
4. **Hours Not Worked.** Hours not actually worked mean those hours not worked, regardless of whether they were with or without pay.
5. **Hours Worked.** Hours actually worked during a Workweek. This includes all time an employee spends on duty in the course and scope of his/her job, whether on CHCC's premises or at another prescribed place of work. Also included is any time the employee is permitted to work in addition to his/her regular schedule.
6. **Overtime Hours.** Hours Worked in excess of 40 hours in a Workweek are paid at the rate of time and a half for non-exempt employees.
7. **Straight Time Rate.** An employee's hourly base rate of pay exclusive of additional types of pay (e.g., overtime, shift differential, unit based differential).
8. **Workweek.** The standard workweek begins at 12:00:01 a.m. Sunday morning and ends at 11:59:59 p.m. Saturday night. Operating units, however, may establish a different workweek based on the needs of the unit.

E. Policy and Procedure

Policy

Non-exempt (hourly paid) employees who work more than 40 hours during a workweek will be:

- Paid at the overtime rate of one and one half times their regular rate of pay, OR
- Granted compensatory time off at the rate of one and one half times the number of hours worked over 40 in a workweek provided the employee signs the Compensatory Time Agreement (CTA).

The CHCC departments, divisions, offices, sections and units may choose to allow non-exempt, hourly paid employees to accrue and use compensatory time off in lieu of pay for overtime hours worked subject to the approval of the CEO, HRM, or authorized designee. The business needs of the departments will dictate the use of compensatory time.

To provide this form of compensation, the appropriate supervisor or manager must arrive at an agreement or understanding with an employee that compensatory time will be granted instead of cash compensation. The CTA must be signed prior to the performance of work, and must be entered into voluntarily by the employee. Additionally, a record of the compensatory time must be kept together with an explanation justifying the need to perform work outside the regular work time.

Compensatory time is subject to the following provisions:

1. Compensatory time must be credited to the employee at the rate of time and one half times all hours worked over 40 hours in a workweek.
2. Accrued compensatory time may not exceed 240 hours.
3. When an employee has reached the maximum accrual of 240 hours compensatory time, all additional overtime hours worked must be paid at the overtime rate of one and one half times the employee's regular rate of pay.
4. Time off must be scheduled only for overtime which is actually worked and documented on employee time records.

Compensatory time may be accrued only for overtime which is actually worked and documented on employee time records.

The establishment of and changes in employee work schedules are the responsibility of the Supervisors and Managers and the Hospital Administrator.

Non-exempt employees should not work overtime without the prior knowledge and approval of the appropriate supervisors and/or managers. Hourly paid employees should not start working before the beginning of their scheduled time and should not work beyond the ending of their scheduled time without management's prior approval. Similarly, hourly paid employees must not work during their lunch break. Also, hourly paid employees should not be allowed to continue to work at their work stations while having lunch or during established lunch break.

It is important for supervisors and/or managers to monitor overtime and compensatory time violations. If employees fail to adhere to overtime and compensatory time guidelines, disciplinary action should be taken. However, all overtime worked must be compensated, regardless of whether or not it was approved.

Neither employees nor the CHCC may waive their rights or obligations under the FLSA or agree to accept less or pay less than the required overtime rate.

Specific questions regarding completion of time records for non-exempt employees should be directed to the HR Payroll Unit.

Procedure

a. Overtime

1. Eligibility Determination

The Human Resources (HR) office is responsible for determining the FLSA status of all positions.

2. Prior Approval

An employee may work overtime only at the request and prior approval of the employee's manager or supervisor. An employee will be paid for all hours worked, but is subject to disciplinary action if s/he works overtime without prior authorization.

3. Scheduling

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- 3.1 Each manager has the responsibility for scheduling overtime that meets the operational needs of the department.
 - 3.2 All employees are expected to work overtime when requested by their manager or supervisor. Managers will make every effort to assign such overtime on a volunteer basis. However, when no volunteers are available, employees will be scheduled for as needed.
 - 3.3 Refusal to work overtime could be considered as failure to report to work as scheduled and may result in disciplinary action, up to and including termination.
4. Tracking
 - 4.1 Managers have the responsibility for monitoring Overtime Hours Worked by employees reporting to him/her.
 - 4.2 Managers will follow appropriate payroll procedures for documenting Overtime Hours.
5. Calculation of Pay
 - 5.1 Overtime Hours are calculated only on the basis of hours actually worked.
 - 5.2 Hours paid but Hours Not Worked, such as holidays, Paid Time Off (PTO), annual leave, sick leave, administrative leave and Family and Medical Leave, funeral leave, jury duty, inclement weather, and military leave are not considered as time worked when computing overtime.
6. Non-Exempt Employees

Non-Exempt Employees are eligible for overtime and are paid in the following manner:

 - 6.1 Straight time for all Hours Worked up to and including 40 hours in a Workweek;
 - 6.2 Time and one-half for all Hours Worked in excess of 40 hours in a Workweek; and

6.3 For all Hours Worked, but are subject to disciplinary action if they repeatedly work overtime without prior authorization.

7. Exempt Employees

7.1 Generally, Exempt Employees are NOT eligible for overtime and are expected to work hours scheduled plus any additional hours required to fulfill their responsibilities in a professional manner.

7.2 In exceptional circumstances, management may approve certain Exempt positions for recognition of overtime at a rate of 1.0 of regular rate. This may result in the payment of overtime in the following manner:

7.2.1 As straight time or

7.2.2 As 1.0 of regular rate.

7.2.3 As the accumulation of compensatory time.

7.3 Exempt Employees on the time and attendance system may utilize an alternate work period. Employees will receive overtime recognition for Hours Worked in excess of 80 hours in a 14-day period.

8. Exemption Status and Changes in Time Schedule

Exempt Employees who change their work schedule or reduce their standard Hours Worked may cause their exemption status to change to Non-Exempt if their weekly salary no longer meets the minimum salary requirements for Exempt Employees, as defined by the FLSA.

9. Improper Pay Deductions

The CHCC will not make salary deductions that are prohibited under the FLSA. Employees with specific paycheck questions should speak with their manager or the Payroll Supervisor for clarification. If, after speaking with his/her manager or Payroll, an employee still believes an improper pay deduction was made, he/she may go to HR for resolution of the improper pay deduction(s).

b. Compensatory Time

1. Eligibility Determination - Non-Exempt and Exempt Employees

1.1 Non-Exempt Employees

The CHCC's non-exempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this policy provided that:

- 1.1.1 The employee signs a statement agreeing to compensatory time in lieu of overtime; and
 - 1.1.2 The maximum authorized accumulation of compensatory time is 240 hours per year. When an employee has accumulated twenty hours of compensatory time off in a month, the employee must take a compensatory time off for any hours over twenty per month; and
 - 1.1.3 An employee's request to use compensatory time off must be granted within a reasonable time unless the respective supervisor or authorized designee determines that time off will "unduly disrupt" the department's operations; and
 - 1.1.4 Accrued balances of compensatory time off at the termination of employment must be paid at the average basic pay of the employee over the last three years of employment or the final basic pay, whichever is higher.
- 1.2 Exempt Employees

All requests for designation of exempt positions as eligible for Compensatory Time must be approved in advance by the CEO or his/her authorized designee on a case by case basis. In no event will a department implement Compensatory Time for positions without formal approval.

Employees in eligible positions must also maintain sufficient hours of work to meet the FLSA salary provisions.

2. Guidelines

- 2.1 The manager must give advance approval for any time worked that will be eligible for Compensatory Time and is

responsible for approving the Compensatory Time reported on the time sheet.

- 2.2 The maximum number of Compensatory Time hours that may be accrued by eligible employees cannot exceed 240 hours per year.
- 2.3 An employee's request to use compensatory time off must be granted within a reasonable time unless the respective supervisor or authorized designee determines that time off will "unduly disrupt" the department's operations;
- 2.4 All compensatory time earned by exempt employees in any workweek must be taken during the two-month period following the end of the workweek during which the compensatory time was earned. Compensatory time accrued is subject to an accrual limitation of 40 hours. Employees cannot accrue compensatory hours in excess of 40 in a two-month period.

3. Compensatory Hours

The number of compensatory hours accumulated in a workweek is determined in the same manner as are overtime hours.

4. Usage

- 4.1 Compensatory Time may only be taken as straight hours.
- 4.2 An eligible employee may not receive both pay and Compensatory Time for the same hours worked.

5. Recording

Compensatory hours are maintained using the time and attendance system.

6. Payout

Unused Compensatory Time is not paid out upon termination of employment, transfer to a job not eligible for Compensatory Time, or conversion of a position to non-exempt due to a change in time status.

SECTION 7 HUMAN RESOURCES POLICIES

7.1 Informal Grievance Procedure

An employee of the Corporation may submit a grievance regarding any matter involving the interpretation, application, or alleged violation of any HR Rule or Regulation or any other matter concerning general conditions of employment. The aggrieved employee shall first discuss the grievance with the immediate supervisor in an attempt to resolve the issue. If the issue cannot be resolved with the immediate supervisor or manager, the employee should contact the Human Resources Manager. The HR Manager will attempt to satisfactorily resolve the grievance. If the matter has been addressed by the HR Manager, the employee shall not seek contravention of that decision by the CHCC Governing Body.

7.2 Annual Performance Evaluation

It is the policy of the Commonwealth Healthcare Corporation (CHCC) to utilize a performance evaluation program to maximize employee's overall job performance and development of staff through the periodic review of their progress through results oriented performance evaluations.

A. Purpose

1. To establish a Performance Evaluation process for employees that will serve as a formal communication tool between the CHCC employees and their supervisors concerning job expectations and employee performance of those expectations.
2. To periodically record essential information concerning the performance level and strengths/weaknesses of an employee in relation to career development, including potential for advancement and suitability for other jobs and training.

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3. To assist management in making thorough, objective and factual evaluations of the performance of employees under his/her supervision.
4. To assist management in achieving maximum utilization of all human resources, to motivate each employee to seek ways to improve performance where needed, and to enhance overall employee relations.

The CHCC believes that performance evaluations provides managers, supervisors and employees, the opportunity to discuss job tasks, identify developmental needs, encourage and recognize strengths, discuss positive and purposeful approaches to meeting goals. In summary, the objective of the performance evaluation is to:

- Evaluate and improve job performance in terms of meeting goals and job responsibilities
- Facilitate mutual feed-back and communication between the employee and the supervisor
- Identify areas where improvement may be needed to determine if coaching or training is needed
- Ensure position descriptions are accurate
- Provide a basis for salary recommendations and compensate for merit or promotional increases

All full and part time employees will receive a performance evaluation annually. If an employee is transferred or promoted, an evaluation will be given within 90 days after the transfer or promotion.

All newly hired employees will receive a performance evaluation prior to the end of their 90-day introductory period.

B. Frequency and Reporting

Annual Review: Supervisors will meet with and formally review the job performance of each employee in coordination, and prior to, the new fiscal year, annually.

End of Probation Period: A performance evaluation report will be completed by management for all new employees at the conclusion of the ninety-day probation period.

End of Provisional Period: A performance evaluation report by management will be completed for all new employees at the conclusion of the ninety-day probation period.

“Other” Reviews: “Other” reviews may occur at the discretion of the supervisor to review outstanding or unsatisfactory performance. This is to be indicated by checking the block designated as “Other” and any related and appropriate supporting comments in the “Comments” section of the evaluation form. Additional performance factors may be added in the Supervisor’s/Appraiser’s Comments section of the evaluation form.

C. Human Resources’ Responsibility

The Office of Human Resources (HR) will provide a systematic procedure to ensure that a viable performance evaluation program is on-going. HR will monitor the performance evaluation procedure to insure consistency in application throughout the departments, divisions, and offices.

The original copy of all completed performance evaluation forms will be submitted to HR office for career development, professional development/training and review purposes within five working days from the date of the completed evaluation.

D. Supervisor’s Responsibility

It is the responsibility of the supervisor to ensure that the performance of each staff employee is reviewed and recorded in accordance with the prescribed procedure, a minimum of one time per year, or at the employee’s anniversary date.

E. Discussion with Employee

All sections in the Performance Evaluation form have a specific employee development purpose and must be completed by filling in applicable numerical rating on the blank spaces provided.

1. Provide careful objective thought on the individual’s performance for the period being evaluated, NOT previous performance, future predictions, or areas not related to job content.
2. Place special emphasis on the employee's current performance in meeting his/her objectives of the existing fiscal year.

3. Supervisor should establish a date that is acceptable to the employee that will permit an uninterrupted time for discussion of the evaluation.
4. Inform the employee well in advance and suggest that he/she prepare for discussion of the evaluation with questions on topics which he/she wishes to be discussed, with a focus on the employee's career objectives. The "Comments" section is designed to be completed in a constructive coaching manner for discussion with the employee.
5. Encourage open and free discussion during the discussion of the evaluation to maximize beneficial results of the evaluation/evaluation.

F. Completion of Form and Transmission to HR Office

All completed performance evaluation forms will be prepared by the employee's immediate supervisor to insure an accurate evaluation of the employee. It should be reviewed by the appraiser's immediate supervisor prior to any discussion with the affected employee. Differences of opinion on the employee's evaluation should be discussed and resolved if possible.

The formal evaluation discussion is not to occur with the affected employee until the department manager or his/her designee has reviewed the completed evaluation report.

In addition to rating several individual areas of performance, the supervisor must assign an overall numerical performance rating of the performance factors, which reflect CHCC's core values. The appraising supervisor shall complete Sections A through J on the evaluation form.

Following all reviews and signatures, the completed Performance Evaluation form will become a permanent part of the employee's official HR file. Completed forms shall be submitted to HR within five working days from the date of completion the performance evaluation form.

G. Performance Rating Levels

Under the Employee Performance Evaluation form, the five levels of performance with corresponding numerical rating scores used are:
Exceptional – Consistently exceeds all requirements of the job.

Outstanding performance is clearly obvious to all. Unique, exceptional accomplishments that are obviously very far above what is required and

which relatively few employees would be expected to achieve. The numerical rating score for this level is Five (5).

Superior – Frequently exceeds job requirements and is highly motivated. Takes initiative and demonstrates creativity and produces a quality work product. Accomplishments clearly surpass what is required. The numerical rating score for this level is Four (4).

Satisfactory – All aspects of performance are fully acceptable within position essential requirements and supervisor’s requirements. Most qualified incumbents should be able to attain this level. The numerical rating score for this level is Three (3).

Marginal – Does not meet minimum expectations of the job on a consistent basis. The incumbent should improve performance and move up in the range of satisfactory performance or out of the position in a relatively short period of time. At this level, there is an obvious need for improvement. The numerical rating score for this level is Two (2).

Unsatisfactory – Performs job below expectations of supervisor and does not fulfill minimum job requirements. Incumbent should achieve at least marginal level of performance immediately or be moved out of the position. The numerical rating score for this level is One (1).

H. Performance Factors Explanations

1. Job Knowledge. Measures the employee’s understanding of the complete scope and related functions of the job. Knowledge of one’s specialized and technical field of work.
2. Quality of Work Performed. Addresses how well knowledge is applied to generate work outputs and to what degree quality of performance contributes to obtaining expected results with thoroughness and accuracy.
3. Quantity/Productivity. The degree to which the employee produces the acceptable amount of satisfactory work and consistency of output generated compared to reasonable expectations.
4. Initiative. The extent to which the employee effectively and enthusiastically performs and carry out responsibilities independently.

5. Reliability. The degree to which the employee can be relied upon to do the job and to meet work deadlines with minimal or no supervision.
6. Teamwork and Collaboration. The extent to which to employee cooperates or works together with other employees for common goals and purpose.
7. Work Habits. The manner in which an employee conducts himself or herself in the working environment.
8. Communications. Measures the employee's ability to convey ideas and information effectively and courteously to others.
9. Customer Service. The employee's ability to demonstrate a positive attitude and displays high levels of professionalism.
10. Attendance. The extent to which the employee can be depended upon to be available for work and to fulfill position responsibilities.

I. Things to Avoid in Performance Evaluations

The "Halo" Effect. The "Halo" effect occurs when one factor influences ratings on all factors. Examples: An employee's work is of good quality; therefore, other ratings (such as those on promptness or work quantity) are higher than normal. Another employee is frequently absent, with the result that the ratings on other factors are usually low.

The "Cluster" Tendency. The tendency to consider everyone in the work group as above average, average, or below average. Some raters are considered "tough" because they normally "cluster" their people at a low level. Others are too lenient. "Clustering" overall ratings usually indicates that the rater has not sufficiently discriminated between high and low levels of performance.

Length of Service Bias. There is a tendency to allow the period of an individual's employment to influence the rating. Normally, performance levels should be higher as an individual gains training and experience, but this is not always the case.

Personality Conflicts. Avoid judgments made purely on the basis of personality traits. Effective, efficient employees do not necessarily agree with everything a supervisor believes in or states.

7.3 DISCIPLINARY ACTIONS

A. General Policy

The Corporation expects its employees to maintain standards of conduct and behavior appropriate to its mission of service to the public.

All documentation for disciplinary actions issued by the Manager or Supervisor must be provided to the HRM and employee file.

The Administrator/Division/Section heads initiate disciplinary actions through the HRM. The Chief Executive Officer shall issue written disciplinary actions after review by Legal Counsel including suspension, transfer, demotion, or dismissal. The Division Managers may take immediate action to remove an employee from duty only in circumstances involving immediate danger to the health or, safety of Corporation employees or the public.

Examples of unacceptable conduct or performance that may result in corrective actions up to and including dismissal include, but are not limited to the following:

1. Any violations of HIPAA;
2. Habitual attendance problems such as not showing up for work and not calling or using approved leave or habitual tardiness that is more than *de minimis*;
3. Repeated violations of CMS regulations or a single violation if the conduct is egregious;
4. Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out in the Manual;
5. Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance;
6. Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known to the employee;
7. Any breach of duty or trust to the Corporation;
8. Use of obscene or abusive language;

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9. Falsification of employment application;
10. Falsification of certification of providers;
11. Harassment of other employees or the public, or violation of Corporation's sexual harassment policy;
12. Leaving the work site during working hours without permission from supervisory officials;
13. Theft, conversion, or unauthorized removal of corporation's property, or the use of Corporation property without authorization;
14. Fighting and/or acts of violence; or threats of violence constituting assault
15. Abuse or destruction of CHCC property
16. Possession of weapons, explosives
17. Sleeping on duty
18. Unauthorized use of vehicles, equipment
19. Punch another's time card/alter time records
20. Misuse mail, phones, computer system, internet access
21. Ethics Code Violation
22. Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Manager or Supervisor due to arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL).
23. Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance; or
24. Other conduct or failure of performance which the management of

the Corporation reasonably recognizes as justification for serious discipline, including dismissal.

25. Unauthorized removal of property of CHCC or stealing government property while on duty.

Please refer to Appendix C for Table of Penalty Sanctions.

B. Forms of Corrective Action

Progressive corrective action shall be followed when practicable. However, when the severity of the inappropriate conduct warrants and it is in the best interest of the Corporation, the Chief Executive Officer may impose any of the following forms of corrective action.

1. Verbal Reprimand or Warning or Counseling

This type of corrective action is usually the first step in identifying and correcting failure to perform or misconduct and may be carried out by a Manager or Supervisor or office supervisor. A written reprimand may also be given by the Manager or Supervisor or supervisor, however, all other forms of corrective action require action by the Chief Executive Officer. A reprimand or warning and/or oral counseling should be a private conference between an employee and supervisor whereby the problem can be worked out in a constructive manner. The supervisor or manager will advise the employee of the problem, such as misconduct or failure to perform to expectation and present a solution to correct the problem. The supervisor or manager will offer guidance and assistance in an effort to prevent the problem from occurring again. The supervisor or manager will also point out future corrective action that might be taken should the problem continue. Supervisors or managers will document the nature of the problem and retain a record of the problem and the action taken. Such documentation will remain with the supervisor unless it is needed as justification for taking further corrective or other problems.

2. Written Reprimand

A written reprimand is an official notice to the employee of a failure of performance or misconduct. The nature of the breach and all related facts are documented and placed in the employee's official HR Office file (OPF) by the Manager or Supervisor or office supervisor. A copy shall be given to the employee. Unless circumstances do not permit

the supervisor and employee shall meet to discuss the problem before issuance of the reprimand to allow the employee an opportunity to respond.

3. Immediate Suspension Without Pay

Employees shall be immediately suspended, upon verbal notice, when the nature of the breach of discipline or misconduct makes it imprudent or hazardous for a supervisor to allow an employee to remain on the job. Supervisors or managers shall immediately, before taking any immediate suspension action, shall unless circumstances do not permit, advise the Chief Executive Officer to discuss the nature of the discipline problem and the suspension. An immediate suspension is without pay. In any event, the immediate suspension shall be followed up with a written notice to the employee within five (5) working days in accordance with the notice requirement under these rules. If more time is required to provide the employee written detail/support about the suspension, the employee will be notified. A copy of the notice of immediate suspension shall be placed in the OPF. An immediate suspension may be followed by additional corrective action based on the same incident.

An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon determination that the employee is not at fault or the successful appeal of the suspension.

4. Regular Suspension

An employee may be suspended without pay for a repeated offense or a serious failure of performance or misconduct. A regular suspension generally will not exceed 20 working days. When legal issues prevent the closure of a case pertaining to an employee's performance or action, the suspension may be longer than 20 working days. The employee shall be given the opportunity to respond to the allegations of misconduct or failure of performance prior to suspension.

Subsequently, if the suspension is warranted, the employee shall be notified in writing in accordance with the provision of these rules and a copy shall be placed in the OPF. An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon successful appeal of the suspension. An employee charged with a criminal offense may be

suspended without pay if the offense arises in connection with the employee's job responsibilities or is an offense which in the Corporation's opinion, would affect continued job performance or bring discredit to the Corporation.

5. Demotion

The Chief Executive Officer may demote an employee for misconduct, failure of performance, or other reason as set out in Section 1 of this rule. A disciplinary demotion shall result in a reassignment of the employee to a position in a lower classification at a lower pay band.

6. Dismissal

Employment may be terminated when previous corrective actions have failed to bring about correction or when serious misconduct or failure to perform occurs. The employee shall be given notice of the decision to terminate employment. The dismissal will take effect only in accordance with the procedures in these rules.

C. Corrective Action Reporting

Action Notice for Written Reprimands

All reprimands shall be documented on a corrective action report form. A record of the date, time and subject of a written reprimand shall be maintained in the official HR employee file. The employee shall be given an opportunity to review the report with his or her Manager or Supervisor. If the employee disagrees with the facts or conclusions contained in the report, he or she shall be permitted to submit, within ten (10) workdays after receiving the report a statement of disagreement. The statement shall clearly and concisely set forth the employee's reasons for disagreeing with the report. One copy of the employee's statement shall be appended to the report and shall become a part of it. If the employee has no comment or has not responded within the required time frame, the report shall be forwarded to the HRM. Upon completion of the approvals section of the disciplinary action report form, one copy shall be forwarded to the HRM for filing of the record to the official HR Office file of the employee.

The Manager or Supervisor will, if appropriate, complete periodic reviews of the employee's progress in correcting the cause of the original discipline. Such reports shall be made a part of the employee's official HR Office file.

D. Corrective Action Procedure and Appeals

1. A suspension without pay, demotion, or dismissal, shall be accomplished and reviewed only in accordance with the procedures stated in this section.
2. The process of discipline begins with the immediate supervisor reporting misconduct or failure of performance with concurrence to the Section Head and HR Manager.
3. Before the Chief Executive Officer issues a notice to terminate employment, demote with a reduction in pay, or suspend without pay an employee, the Chief Executive Officer shall require HRM or designee to investigate the basis for the proposed corrective action. The investigation shall include an interview of the employee with Legal Counsel unless the employee has made him or herself unavailable. The employee shall be invited to submit a response in writing after the interview and it shall be included in the record of the matter. The findings and recommendations for action shall be prepared by HRM, or designee, and reviewed by Legal Counsel. In deciding what type of disciplinary action should be taken, the following shall be considered:
 - a. Seriousness of the breach of discipline, misconduct, or failure of performance.
 - b. The circumstances surrounding the incident.
 - c. The past service record of the employee. The conduct should be considered within the context of the employee's total record. If the employee's record includes past misconduct, the action taken will ordinarily be more severe.
 - d. The HRM will consult with the Legal Counsel concerning action to be taken.
4. The HRM shall issue a notice of action for all warnings and counseling.
5. The HRM, with the endorsement of the CEO and Legal Counsel, based on the investigation, any follow-up after receiving the HRM report and after review of the proposed action by Legal Counsel, shall issue all notices of suspension or termination. The notice shall state any and all factual findings and reasons for the corrective action completely and concisely.

7.4 Separation

An employee may be separated from employment with the CHCC by resignation, retirement, involuntary termination, or lay off.

A. Resignation

1. A permanent employee shall submit a written resignation at least thirty (30) calendar days notice prior to the effective date of separation to the Chief Executive Officer. The period of notice may be reduced or waived by the Chief Executive Officer.
2. A contract or federal grants employee must give sixty (60) calendar day notice prior to the effective date of separation to the Chief Executive Officer. The period of notice may be reduced or waived by the Chief Executive Officer.
3. Withdrawal of Resignation. An employee may withdraw his or her resignation only with the written approval of the Chief Executive Officer. Approval shall be obtained before the effective date stated in the resignation.
4. Failure to give adequate notice. Failure to give adequate notice of resignation shall be considered separation not in "good standing" and shall preclude consideration for future employment with the Corporation.
5. Effective Date of Separation. The effective date of separation shall be at the close of business on the last day on which the employee works or uses approved leave.

B. Retirement

Employees retiring from the Corporation are required to provide a written notice the same as if they were resigning. This advance time is needed so that retirement benefits can begin as soon as possible following date of retirement and to allow management to plan for the departure of the retiring employee. Employees should submit a letter indicating the date of retirement to the Chief Executive Officer accompanied by a letter from the Northern Mariana Island Settlement Fund indicating eligibility for retirement.

C. Austerity/Reduction in Hours

If the need arises for austerity, employees may have their hours reduced. The Notice shall be given 30 days in advance of the beginning of the austerity. The CEO may exclude certain positions from the austerity. His or her decisions to exclude or not to exclude positions for austerity are not grievable.

D. No Lump sum Payment upon Separation

In general and in most cases other than termination, Employees will not be paid out for unused annual leave. Employees are expected to be aware of their leave balances and to plan appropriately to exhaust their annual leave prior to their separation date. If an employee has leave s/he is not able to use due to short staffing or some other emergent condition, the employee shall seek the approval of the Supervisor or Manager and the Chief Executive Officer to get approval to have those funds paid out.

Moneys the employee owes the Corporation shall be deducted from the final paycheck. Deductions from accrued leave pay may be made for the replacement value or fair market value of the Corporation's property not returned by the employee on or before the effective date of separation

1. Final paycheck for separation on account of death of employee shall include final wages or salary and other payments the corporation owes the employee, e.g., reimbursable travel advances and other similar payments made by the employee on behalf of the Corporation.
2. Final paycheck shall be paid only to the beneficiary designated in writing filed by the employee before death or to the employee's estate. Commonwealth law does not recognize common-law spouses. If no beneficiary has been designated final payment should be made to surviving legal spouse; if no legal spouse, to surviving children, or guardian of any minor children in equal shares; otherwise to father and/or mother in equal shares; if parents are not living, then to brothers and sisters in equal shares; if no surviving next of kin, payment should be made to the Corporation as escheat.

E. Medical Separation

An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and CHCC policies (sick leave, annual leave, and FMLA leave) shall be separated from employment.

7.5 Policy of Non-Discrimination

It is the policy of the Corporation to recruit, employ, train, retain, compensate, promote, and make decisions regarding all other conditions of employment on the basis of an individual's qualification and ability to perform in his or her respective position without regard to race, disability, color, religion, national origin, sex, pregnancy related condition, status as a disabled veteran or veteran of the Vietnam era, or age, except where age or sex are essential, bona fide occupational requirements. Neither discrimination nor harassment will be permitted in the Corporation.

Each Manager, Director, Administrator and Supervisory official, who exercises management functions by virtue of their delegated authority within the Corporation, shares the responsibility for the implementation of this policy. This includes initiating or supporting programs and practices designed to develop understanding, acceptance, commitment and compliance with all legal requirements and changes in the law or its interpretation.

7.6 Policy Against Sexual Harassment

A. Prohibition Against Sexual Harassment

It is the policy of the Commonwealth Healthcare Corporation (CHCC) that all our employees shall enjoy a work environment free from sexual harassment and all forms of discrimination.

B. What is Sexual Harassment

Sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature which creates an intimidating, hostile or offensive work environment which impacts on an employee's work performance. Conduct of a sexual nature includes: offensive sexual flirtation,

verbal sexual harassment, direct or indirect pressure for sexual activity, degrading comments about a person or that person's appearance, physical assault and battery, the display of sexually explicit or suggestive objects or abusive contact.

C. Sexual Harassment is Illegal

Sexual harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11 and is prohibited.

D. Policy Against Sexual Harassment

Sexual harassment is specifically prohibited and will not be tolerated, regardless of whether the offensive conduct is committed by supervisors, managers, non-supervisors (co-workers) or non-employees (consultants, contractors, general public).

All employees are encouraged to report any violation of this policy. Management cannot address sexual harassment in the work place until incidents of sexual harassment are reported. Employees will not be retaliated against for making truthful statements about alleged harassment.

No employee will be denied or receive employment opportunities and/or benefits because of a sexual relationship of a co-worker or supervisor. No employee or non-employee shall imply to an employee or applicant for employment, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement or any other condition of employment.

Supervisors, by law, are responsible for the acts of sexual harassment in the work place when they know or should have known of the prohibited conduct.

Each division manager is required to distribute this policy to every employee and post this policy in an accessible location.

All supervisors will be provided training on conducting an investigation and resolving cases of harassment.

E. Sanctions Against Sexual Harassment

The CHCC will take immediate and appropriate action for acts which violate this policy against sexual harassment. Such actions will include, if warranted, suspension without pay and/or termination.

F. Reporting Procedure

1. Report all sexual harassment to the division manager, unless he or she is the harasser, and/or Legal Advisor for Human Resources. You may make a verbal report first and if you need assistance, he or she will help you prepare the written report of the incident(s).

e. The written report must contain the following information:

- The identity of the aggrieved employee and the organization in which the employee works;
- The details of the grievance;
- The corrective action desired; and
- The name of the employee's representative, if any.

2. The management will examine the grievance, conduct an investigation, discuss it with the grievant or representative and the alleged harasser, and render a decision, in writing, within fourteen (14) calendar days after receiving the grievance.

If management is not successful in settling the grievance to the employee's satisfaction within fourteen (14) days after it is presented to the employer in writing, the employee shall, within fifteen (15) calendar days after receiving written notification of the decision, submit a grievance to the HR Office Committee through the HRM.

G. Equal Employment Opportunity Commission

If your grievance is not acted upon to your satisfaction, you may file a complaint with the Equal Employment Opportunity Commission (EEOC).

The EEOC in Hawaii is located at 300 Ala Moana Blvd., Room 7123A, Box 50082, Honolulu, Hawaii, 96850, or call (808) 541-3120.

The EEOC in San Francisco, California is located at 901 Market Street, Suite 500, San Francisco, California, 94103, or call (415) 356-5100.

7.7 Policy On Use of CHCC Vehicles

A. Introduction

The Commonwealth Healthcare Corporation (CHCC) requires all employees who drive a CHCC vehicle to obtain a CNMI Government Driver's License. The CHCC requests employees who drive on behalf of the Corporation to operate vehicles safely for the protection of the public. In addition, the CHCC reminds its employees who drive to operate vehicles responsibly and maintain the vehicles so that they are available to the CHCC work force and costs of maintenance, repair and replacement are kept to a minimum.

B. Driver Responsibilities

1. Documents Driver Must Carry When Driving

- a. Valid CNMI Driver's License
- b. Current Government Driver's License
- c. Current Vehicle Registration
- d. Authorization to Drive After Regular Working Hours if driver is assigned to drive after 4:30pm Monday-Friday or on Saturday, Sunday or holidays.

2. Driver's Responsibility for Condition of Vehicle

- a. Driver is responsible for ensuring that the vehicle is fueled and that the proper fuel is put into the vehicle.
- b. Driver is responsible for inspecting the vehicle daily to identify and correct or report obvious problems including oil level, tire inflation, signal, head and taillights, wipers.
- c. Driver is responsible for reporting any damage to the vehicle immediately to the supervisor.

- d. Driver is responsible for operating the vehicle properly, so that the condition of the vehicle is not diminished as a result of improper operation.

3. Safety Rules Drivers Must Know And Follow

- a. All CNMI driving laws;
- b. Laws regarding vehicle safety;
- c. Law regarding restrictions on use of government vehicles.

C. Prohibitions

No CHCC employee driving a CHCC vehicle shall drive any non-CHCC person in the CHCC vehicle unless that person is a federal employee working with the CNMI employee or the passenger is integrally involved in a presentation or conference with the CHCC employee.

No CHCC employee shall drive his or her spouse or child in a CHCC vehicle.

No CHCC employee shall take a vehicle home unless he or she is authorized by the CEO to use the vehicle on a 24 hour basis. That approval must be in writing in accordance with the CNMI Government Vehicle law.

No CHCC employee shall drive a CHCC vehicle while intoxicated from alcohol or under the influence of illegal drugs.

Any violations of these prohibitions are grounds for immediate termination.

7.8 Travel Policy

A. General Guidelines/Policy Objectives

It is the objective of the CHCC Travel Section to achieve efficiency and consistency with the travel policy for the CHCC of the CNMI. Travel by the CHCC Board Members, Management and employees must be limited to what is necessary to accomplish the mission of the corporation. Travel for CHCC should be taken in the most

economical and cost-effective manner and in accordance with this policy objective and the following travel rules. The traveler will be responsible to pay any fees associated with the cancellation or rebooking/rerouted of a reservation that is confirmed by the Travel Section, unless travel cancellations or rebooking is approved by the Chief Executive Officer (CEO).

B. Definition of Terms

1. **Actual Expense:** Actual amount incurred for transportation and other expenses related to travel which are reimbursed in full to the traveler. Entitlement to reimbursement is contingent upon entitlement to per diem and is subject to the same rules governing per diem.
2. **Board Member:** An individual appointed and confirmed as member of the Board of the Commonwealth Healthcare Corporation for a fixed term.
3. **Conference:** A meeting, retreat, seminar, symposium or event that requires attendees to travel. It also applies to training activities.
4. **CHCC Employee:** An individual who is an employee of the Commonwealth Healthcare Corporation, whether part-time or full-time. Excludes consultants.
5. **Recruitment:** The hiring of staff from outside the CNMI.
6. **CHCC Purpose:** Relates to active conduct of CHCC's trade or business which includes but is not limited to:

Attendance at training, conferences, workshops, utility organization meetings and events outside of the employee's official post or assignment which will result in enhancing the employee's knowledge and skills that would benefit the corporation.

7. **Official Station:** Municipal limits of the island in which the Board Member or Employee is stationed.
8. **Per Diem:** A daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses.

The per diem allowance is separate from transportation expenses and other miscellaneous expenses.

9. Training: Includes job-related training and developmental programs offered by reputable firms locally and off-island.
10. Travel: Authority given to a Board Member or an Employee to stay temporarily on a location away from his/her official station or assignment for purposes beneficial to the Corporation or the public.
11. Travel Authorization (TA): Written permission to travel on official business.
12. Travel Voucher: A written request supported by documentation and receipts where applicable, for reimbursement or reporting of expenses incurred in the performance of an official travel.
13. Travel Advance: A form that indicates the amount of funds to be given to a traveler at the time of travel. It can be for a 100% or 80% of the total Per Diem as approved by the Chief Executive Officer.

C. Guidelines

1. Factors to be Considered in Authorizing Travel
 - a. The need for travel as it relates to CHCC purpose.
 - b. The most cost-effective routing and means of accomplishing travel.
 - c. The employee's travel plan, including plans to take leave in conjunction with travel.
 - d. Availability of budget.
2. Approval Flow
 - a. Director or Manager or Supervisors initiate travel requests indicating purpose and period of travel. For Board members, the Chair initiates the request.

- b. Travel request is submitted to Accounting Section for certification of availability of funds.
- c. Travel Request is then submitted to Travel Section for processing of a Travel Authorization.
- d. Travel Authorization is then routed for proper signatures.
- e. Travel Authorization is entered into the JD Edwards system to generate a TA number.
- f. Travel Section prepares the calculation of per diem according to the official itinerary and prepares the Travel Advance form for proper signatures. (Attachment C)
- g. Travel Section will then deliver the Travel Advance to Treasurer for issuance of funds to the traveler before the travel date.

3. Guidelines

a. Flight Accommodation

i. Use of Economy/Coach Class

Official travels by the Commonwealth Healthcare Corporation are to be accommodated on economy/coach class service. This guideline applies to all individuals traveling at the expense of CHCC. Any memorandums issued by the Chief Executive Officer may supersede any existing relevant policies.

ii. Available Classes of Airline Accommodations

Coach Class: The basic class of accommodations offered to a traveler that is available to all passengers regardless of fare paid. This term applies when an airline offers one or more classes of accommodations, which includes tourist or economy.

Premium Class: Any class of accommodations above coach, e.g. first or business.

First Class: The highest class accommodations on multiple class airline flight. When an airline flight only has two classes of accommodations, the higher-class, regardless of the term used for that class, is considered to be first class.

- iii. Traveler liability for opting for a higher class of accommodation

If an economy class accommodation was available but the traveler went on a higher class accommodation for his/her own convenience or other reasons which did not meet any of the preceding unavoidable situations, the traveler shall make his/her own arrangement with the travel agent concerned and pay for the difference. The CHCC will pay only for the cost of the economy class.

- iv. New Employees (employees on probationary period)

A newly hired employee within their 90-day probationary period will not be allowed to travel, unless an advanced approval has been obtained by the CEO prior to routing the Travel Authorization. The approval memo must be attached to the TA to support the newly hired employee's TA request.

b. Routing of Travel

- i. A traveler must travel to his/her destination by the usually traveled route, as determined by CHCC unless CHCC authorizes or approves a different route.
- ii. If the traveler, for personal convenience, travels by an indirect route or interrupts travel by an official direct route, the reimbursement will be limited to the cost of travel by a direct route or on an uninterrupted basis. Traveler will be responsible for any additional costs.

c. Travel Cancellation

When a Travel Authorization (TA) is cancelled, the original TA together with the unused ticket and cash advances must be returned to the Travel Section on the day of the cancellation. A cover memorandum explaining the reason for the cancellation must accompany the original TA.

d. Travel Authorization

i. Purpose

- 1) Provide the employee with information regarding what expenses will be paid.
- 2) Provide travel service vendors with necessary documentation.
- 3) Identify purpose of travel.

ii. The form "Travel Authorization" is prepared by the Travel Section once the travel request from the department concerned is approved by the Director or the Chief Executive Officer. This must have all the required information, approval by authorized Director or the Chief Executive Officer, and certified for funds availability prior to commencement of travel. A TA is required for all official travels.

iii. The Travel Advance Form will be filled out as soon as the Travel Authorization has been routed. Travel advance funds is calculated using the JD Edward's System Per Diem Calculator, and will then be routed for traveler signature and the CEO.

iv. Requirements

- 1) All TA forms must be fully completed along with all supporting documents including but not limited to programs, itinerary, agenda, pertaining to purpose of travel. The TA must include the employee number of the traveler.

- 2) Any type of fee associated with the purpose of the travel shall be included on the TA; for example, registration fee for a conference, training, seminar, car rental, ground transportation.
- 3) Travelers traveling on a ZERO TA must route a TA for approval and submit a Travel Voucher upon completion of the travel.
- 4) Travelers whose TA's are paid for by a different department other than the CHCC should route the TA to CHCC for concurrence from the CEO before routing for other approval signatures.

v. Processing Time of Travel Authorization

All approved travel requests must be submitted to Travel Section at least three (3) weeks prior to the planned departure date to give ample time for Travel Section to process the request. Only approved travel requests for emergency cases shall be processed immediately.

e. Per Diem

- i. The per diem allowance is a daily payment instead of a reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from transportation expenses and other miscellaneous expenses. The per diem allowance covers all charges, including any service charges where applicable for:
 - 1) Lodging – Includes expenses for overnight sleeping facilities, baths, and personal use of the room during daytime. Lodging does not include accommodations on airplanes, trains, buses or ships. Such cost is included in the transportation expense and is not considered a lodging expense.
 - 2) Meals – Expenses for breakfast, lunch, dinner and related tips and taxes. Excluded are alcoholic beverages and entertainment expenses and other expenses incurred for other persons.

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ii. Per Diem Rates

The amount of per diem allocated for individual travelers varies by destination, and is calculated based on the following scale.

<u>Location</u>	<u>Rate</u>
Within the CNMI	
Saipan	175.00
Rota	125.00
Tinian	100.00
Guam	175.00
US Mainland (excluding Hawaii, California, New York and Washington DC)	200.00
Hawaii, CA, NY, DC	250.00
Far East & Southeast Asia	200.00
Japan (all locations)	275.00
FSM, Palau, and Marshalls	150.00

iii. Eligibility for Per Diem

- 1) The traveler is made to perform official travel away from his/her official station, or other areas.
 - a. The traveler incurs per diem expenses while performing official travel; and
 - b. Traveler is in a travel status for more than 10 hours. (if travel is less than 10 hours, the employee can get a subsistence allowance of \$15.00)

iv. Start/Stop of per diem entitlement

Per Diem entitlement starts at the time the traveler departs from his/her official station and ends on the day of his/her return to his/her official station.

Travel time is computed using the JD Edwards System.

v. Maximum amount of Per Diem

A traveler may receive a travel advance for up to 30 days at a time to cover expenses allowed.

vi. Limit to amount of travel advance

An advance is limited to 80% of the total estimated per diem and other expenses as shown on the travel authorization. The remaining 20% of the per diem will be due to the traveler upon submission of a Travel Voucher provided all supporting documents are submitted with the Travel Voucher.

vii. Exclusions

Employees on recruitment, change of duty station, termination or repatriation travel are not entitled to travel advance.

viii. Travel Advances can be made only when a TA provides for the payment of the established per diem rate. Travel advances are not based and are not authorized, on other allowances such as subsistence, stipend, transfer allowance, honorarium, and incidental expense allowance which are paid when actually earned.

ix. Cancellation of a travel

If travel is cancelled for any reason after the travel advance is issued, the traveler is required to return the travel advance he/she received. Failure to return the travel advance will result in an automatic payroll deduction to recover the travel advance initiated to the traveler. The recovery of the travel advance through

payroll deduction takes priority over all other allotments the traveler may have.

f. Ground Transportation

Car Rental. If a traveler is authorized a car rental, item #18 (Other) on the TA form is check marked. If this section is not signed, the traveler will not be compensated for any amount.

g. Travel Voucher

i. Purpose and requirement

A Travel Voucher Form is required to be submitted when funds for per diem and other expenses, honorarium, and travel allowance have been obligated on a travel authorization. Whether or not a travel advance was received in connection with the travel, the filing of a travel voucher is mandatory.

ii. Procedure

- 1) The traveler is responsible to prepare and submit a travel voucher within 5 working days after the completion of travel. The non-filing of travel voucher when due, may require the Travel Section to refuse further issuance of travel authorization to an individual. A set of travel voucher consists of an original and two copies.
- 2) The local date and time of arrival and departure from the terminal points must be shown on the form.
- 3) Itemization of all expenses is required to be noted on the form and amounts.
- 4) Required attachment to travel voucher
 - (a) Copy of TA
 - (b) Boarding Passes
 - (c) Car rental Receipts

- (d) Registration Fee Receipt (if applicable)
- (e) Certificate of attendance (if applicable)
- (f) Brief Trip Report
- (g) Ground Transportation receipts (if applicable)

h. Trip Report

Trip reports should be as brief as possible to provide information as to the actual activities covered by the trip.

i. Travel Reservations

Travel reservations can be made by the traveler, however Travel Section will make all the necessary changes/booking to ensure adherence to this Travel Policy.

**SECTION 8
SPECIAL PROVISIONS**

8.1 Outside and Dual Employment

- A. No employee shall engage in any employment other than that assigned by the Corporation whether public, private or self-employment, during scheduled work hours, nor outside scheduled work hours if such employment conflicts with the Corporation's interests or adversely affects the employee's availability or productivity.
- B. Any employee who wants to engage in outside employment with a company that may engage in business dealings with the Corporation directly or indirectly shall request approval from the Chief Executive Officer in writing. The Chief Executive Officer shall decide for or against the outside employment request according to the concept of conflict of interest under the CNMI Laws.
- C. No employee may hold two positions within the central CNMI government or any agency thereof or its autonomous corporations.

8.2 Certification of Employment

No disbursing or certifying officer or cognizant authority of the Corporation shall make, approve or take any part in committing the Corporation or approving on behalf of the Corporation any payment for

personal services to any person holding a position in the corporation unless the HRM has certified that the person named therein has been appointed and employed in accordance with the provisions of the classification and compensation plan of the HR Office rules and regulations.

8.3 Unlawful Acts Prohibited

- A. No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment held or made, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the HR Office rules and regulations.
- B. No person seeking appointment to, or promotion in, the non-exempt service shall either directly or indirectly give, promise, render or pay any money, service or other valuable thing to any person for, or on account of, or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.
- C. No employee, examiner, or other person shall defeat, deceive or obstruct any person in his or her right to examinations, eligibility certification or appointment under these rules, or furnish to any person any special or secret information for the purpose of affecting the rights of prospects or any person with respect to employment in the non-exempt service.
- D. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspects of HR Office administration because of race, color of skin, creed, sex, religion, national origin or ancestry, age and disability except where physical requirements constitute a bona fide occupational qualifications necessary to proper and efficient administration, is prohibited.

8.4 Gifts and Gratuities

The Corporation shall adopt the CNMI Government's Government Ethics Code relating to gifts and gratuities. It is the responsibility of each Corporation employee to remain free from indebtedness or favors which could tend to create a conflict of interest on the part of such employee. If employee does not have any authority in the business transaction between the CHCC and the vendor, employee is not conflicted.

8.5 Nepotism – Employment of Relatives

Relatives of employees of the Corporation may be employed by the CHCC in accordance with the following provision:

Relatives may be employed within the same division or department, provided there is not a direct reporting relationship between relatives who are immediate family. Immediate family includes grandparents; siblings, including natural, step or adopted; parents, including stepparents, mother and father in-law; children, including natural, step or adopted; spouses.

Conflicts may be resolved in a reorganization of reporting relationships at the discretion of the Chief Executive Officer, or the Board should the Chief Executive Officer recuse himself.

8.6 Political Activity

The Corporation shall adopt the CNMI Government's Government Ethics Code relating to political activity.

8.7 Safety Programs

All employees are responsible for following all federal and CNMI occupational safety and health regulations and all CMS and other federal regulations applicable to hospitals.

8.8 Conflict of Interest

A conflict of interest exists when an employee's loyalties become divided between the Corporation's interests and those of another, such as a competitor, supplier, colleague, associate or customer. Employees are expected to devote their best efforts and attention to the performance of their jobs. Employees are also expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between the employee's personal interests and the interests of the Corporation. Employees must refrain from taking part in, or exerting influence over, any transactions in which their own interests may conflict with the best interests of the Corporation.

Management reserves the right to determine when an employee's activities represent a conflict with the Corporation's interests and to take whatever action is necessary to resolve a conflict of interest, including discharge of an employee. If determined to be a conflict of interest,

employee must be given a written warning that such activity is a conflict of interest.

The list below provides examples of some activities that would reflect negatively on an employee's ability to perform job duties and responsibilities in an ethical manner:

- a. Accepting substantial personal gifts or excessive entertainment from competitors, customers, suppliers, colleagues, associates or potential suppliers;
- b. Working for a competitor, supplier, colleague, associate or customer while simultaneously employed by this Company;
- c. Engaging in competition with the Company;
- d. Having a direct or indirect financial interest in the business of a competitor, customer, supplier or associate, except that ownership of less than two percent (2%) of the publicly traded stock of a corporation will not be considered a conflict of interest;
- e. Using Corporation assets or labor for personal use;
- f. Borrowing money from competitors, suppliers, customers, associates or potential suppliers other than recognized loan institutions (i.e., banks); or
- g. Misusing one's position in the Corporation for personal gain to the detriment of the Corporation.

Employees who are uncertain whether a transaction, activity or relationship may create a conflict of interest should discuss the situation with their supervisor for feedback without detriment to their employment.

8.9 Whistleblower's Policy

A. Reprisal Prohibited

No CHCC employee or Board Member shall engage in reprisal against an employee for disclosing a violation or suspected violation of a CNMI or federal law, or a regulation promulgated by CHCC pursuant to CNMI law.

B. Application

An employee who reports, or who is known by any person in a management or supervisory position to have indicated to report, such violation or suspected violations shall be protected by this rule, unless the employee knew the report was false. This protection shall extend to employees who participate, or who have indicated an intent to participate, in an investigation, hearing or inquiry conducted by a public body, and to employees who participate, or who were known by management or supervisor to have indicated an intent to participate in a court proceeding.

C. Forms of Reprisal

Reprisal includes such actions as discharge, threats of discipline, or arbitrary and capricious changes in the conditions of employment.

**SECTION 9
DRUG AND ALCOHOL ABUSE POLICY**

9.1 Basis for the Policy

The Commonwealth Healthcare Corporation (CHCC) is committed to protecting the safety, health and well-being of its employees and of all people who come into contact with its workplace(s) and property and/or use its services.

Drugs and alcohol pose a direct and significant threat to our goal. An employee who uses drugs and alcohol and then goes to work at CHCC puts his or her life in danger and threatens the lives of co-workers and of the public. Drugs and alcohol do not allow us to reach our full potential. Drug and alcohol abuse prohibits us from having a safe and efficient workplace.

9.2 The Rules of a Drug-Free Workplace

A. Application

This policy applies equally and without exception to all Commonwealth Healthcare Corporation HR Office no matter what position or employment status, including all management employees, contract employees and part-time employees.

B. Prohibitions

1. The Commonwealth Healthcare Corporation prohibits the use, possession, sale, conveyance, distribution or manufacture of illegal drugs, intoxicants or controlled substance in any amount or manner while engaged in work or work-related activities or in any pay status. In addition, the Commonwealth Healthcare Corporation strictly prohibits the abuse of prescription drugs.
2. Drugs and alcohol are strictly prohibited from CHCC vehicles.
3. Employees may not accept from anyone (an employee, boss, customer, friend, relative, etc.) any drugs or alcohol, or money to purchase illegal drugs during working hours or while the employee is operating or riding in a CHCC vehicle.
4. Employees who are on "stand by" are prohibited from drugs or alcohol usage. Do not come to work under the influence of drugs or alcohol.
5. Refusing to submit to drug testing as provided for in this policy is a violation of work rules. Refusal to submit means the employee:
 - Makes a verbal declination after being given a clear and specific order to submit to urine and/or breath testing.
 - Fails to provide adequate breath for testing or does not produce a urine specimen without valid medical explanation after he or she has received notice of the requirement to be tested.
 - Engages in conduct that clearly obstructs the collection process.
6. Refusing to submit to treatment, or to meet the requirements of the treatment program, is a violation of this policy.
7. An employee adversely affected in his or her use of any legally obtained drugs (prescription or non-prescription drugs) cannot

be allowed to perform a safety sensitive job (as described in Section III, A, 1). Prior to commencing work, each employee must report immediately to his or her supervisor/manager the use of any prescription drug which may affect performance or that contains a cautionary label regarding the operation of equipment or vehicles.

C. Consequences of Conduct in Violation of Policy

The Corporation recognizes the need to offer treatment to employees with substance abuse problems. However, CHCC will not accept employee conduct that interferes with the Corporation's goal of having a drug and alcohol free workplace.

Therefore any employee who:

- Refuses to submit to a drug or alcohol test authorized by this policy,
- Refuses to participate in, meet program requirements and complete a CHCC approved drug or alcohol treatment program, or
- Uses a prohibited substance (verified by a "positive" drug or alcohol test) *after* having been referred previously to an approved drug or alcohol program because of a positive drug or alcohol test or an admission of substance abuse will be terminated under the applicable HR Office procedures.

9.3 Drug and Alcohol Testing

The Commonwealth Healthcare Corporation asserts its legal right and prerogative to test employees for substance abuse. Employees may be asked to submit to medical examination and/or to submit urine and/or breath to be tested for drugs or alcohol.

A. Basis for Testing

To ensure the safety of both CHCC's employees and the public, employees will be required to undergo drug and/or alcohol testing under the following circumstances:

1. Employees who perform a safety-sensitive function or whose work exposes others to risk will be tested when hired and

randomly thereafter. Safety-sensitive function means performing work involving hazardous tasks directly affecting the safety of others.

2. For the purposes of this policy listed on Attachment A are included but not limited to those designated as safety-sensitive.
3. Any employee may be tested for cause following an accident.
4. All employees will be subject to drug/alcohol testing if there is reasonable suspicion to believe the employee may be under the influence of some drug or alcohol. Reasonable suspicion for drug/alcohol testing means specific, articulated observations concerning the appearance, behavior, speech or body odors of the employee. In other words, a reasonable suspicion decision consists of specific facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a trained supervisor to reasonably conclude an employee may have engaged in on the job drug or drug/substance including alcohol.

B. Referral

An employee who tests positive for any prohibited substance will be referred to treatment. Referral to treatment will be confidential with the exception of those management HR Office necessary for the implementation of this policy. Refusal to accept treatment, or a second positive test are grounds for adverse employment action. Employees are allowed the opportunity for rehabilitation under the following conditions.

1. Voluntary self-referrals by the employee, prior to any type of incident or accident/incident or notification of random testing.
2. Management intervention/referral prior to any incident or accident/incident. Employees who are referred as part of a supervisory performance counseling or intervention based on admitted substance abuse problems are assured of confidentiality. Only those in the chain of responsibility may be aware of a referral/treatment request.
3. Positive test referrals If any employee tests positive for the

presence of alcohol or prohibited drugs, they shall be referred to a substance abuse professional for assessment and will be required to fulfill specified steps of treatment before being considered ready for evaluation for return to duty to any position at CHCC.

C. Return to Duty

An employee, either referred by CHCC or self-referred, having previously tested positive for drugs or alcohol or voluntarily acknowledged being under the influence of drugs at any time or alcohol while on duty, will not be allowed to return to work until the employee:

1. Successfully completes a program of treatment; and
2. Tests negative for covered substances and is evaluated and released for duty by a substance abuse professional or a doctor; or
3. Is released by a substance abuse professional (if the referred was alcohol related).

Any employee, returning to duty after drug or alcohol treatment, may be subject to unannounced drug or alcohol tests for up to 60 months after returning to work.

9.4 New Hires: Pre-employment Testing

All new hires are required to submit to a pre-employment drug test. No employee will be placed on duty until testing is performed. Failure to pass this drug test shall result in denial of employment.

9.5 Notification of Criminal Convictions

Any employee convicted of a violation of a criminal drug statute must notify the Commonwealth Healthcare Corporation in writing within-five (5) calendar days for the conviction.

9.6 Searches

When the Commonwealth Healthcare Corporation has reasonable suspicion that an employee has illegal drugs or alcohol on CHCC premises or in a CHCC vehicle, CHCC may conduct an inspection at any

time, including during breaks and lunch period while the employee is on the Corporation's premises or property, or while conducting Corporate business.

The search areas may include at the employee's work area and CHCC vehicle, his or her locker, desk, work station, vehicles, or any other CHCC property he or she uses, or has access to available for inspection. Entry on to Corporate premises constitutes implied consent to reasonable search and inspection. An employee who refuses to consent to a reasonable search or inspection when requested by the Commonwealth Healthcare Corporation violates Corporate policy and is subject to adverse employment action.

9.7 Employee Assistance

The Corporation makes available to all employees a confidential rehabilitation program through the Commonwealth Health Center's Substance Abuse/Addiction Treatment Program. This program is available at low cost to employees and their departments, and includes initial assessment, referral and counseling.

The Substance Abuse/Addiction Treatment Program includes family support, counseling and reinforcement, all of which can be critical to the successful rehabilitation of a substance abuser.

Any subsequent treatment, after referral from the Substance Abuse/Addiction Treatment Program to an outside treatment provider, may be covered under the employee's health coverage. The costs of continuing or long-term rehabilitation services, whether covered by the employee's medical plan or not, are the ultimate responsibility of the employee.

9.8 Policy Communication

All current employees will receive a copy of this policy and any amendments which they will acknowledge receipt of by signature. In addition, the policy will be posted in all work places where employees are covered by this policy.

All new employees will be given a copy of this policy as part of new employees' orientation on or before their first day of employment. New employees will acknowledge they have read the policy and such acknowledgement will be noted by signature in employee HR Office file.

The person designated to answer questions for covered employees about the drug and alcohol regulations is the CHCC Legal Advisor.

9.9 General Responsibility

Substance abuse prevention is everyone's responsibility. The Commonwealth Healthcare Corporation expects all of its employees to recognize and accept this responsibility, and to do their part to assure that, working together, we can achieve and maintain a drug-free working environment for all Commonwealth Healthcare Corporation employees.

9.10 Confidentiality

The result of drug tests, the facts or referrals to treatment and employees' voluntary statements concerning drug use are strictly confidential. Information shall be limited to the Chief Executive Officer, the HRM, and the Corporation Legal Counsel and confidential. Such information is to be used only provided in this Policy. Any disclosure of confidential information received under the terms of this policy by any CHCC employee shall be grounds for disciplinary action, up to and including termination of employment.

9.11 Violation of Policy

Violation of this policy shall result in adverse employment action up to and including dismissal and referral for criminal prosecution.



Commonwealth of the Northern Mariana Islands
Office of the Secretary of Public Works
 2nd floor - Oleai Joeten Commercial Center
 Saipan, MP 96950



Public Notice of Proposed Amendments to the Public Rights-of-way and Related Facilities Regulations for the Department of Public Works


Notice of Intended Action: The Department of Public Works hereby approves the publication of the following amendments to its Public Rights-of-way and Related Facilities Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

Authority: These amendments are promulgated under the authority of 1 CMC § 2403(a), which authorizes DPW to maintain public roads, and 1 CMC § 2404, which grants DPW the authority to adopt rules and regulations.

Terms and Substance: These proposed amendments would allow DPW to take administrative action to prevent the impairment of public rights-of-way, and would modify the requirements for receiving a permit to work in a public right-of-way.

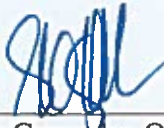
Directions for Filing and Publication: These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

Comments: Interested parties may submit written comments on the proposed regulations to James Ada, Secretary of Public Works, via U.S. mail to CNMI Government, Department of Public Works, 2nd Floor, Oleai Joeten Commercial Center, Saipan, MP 96950, or via email to james.dpwsecretary@gmail.com . Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by: 

 James Ada, Secretary
 Department of Public Works

Date: 2/2/17

Received by: 

 Shirley Camacho-Ogumoro
 Special Assistant for Administration

Date: 2/8/17

Filed and Recorded by:



Esther SN. Nesbitt
Commonwealth Register

Date: 02-08-2017

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Edward Manibusan
Attorney General

Date: 2/8/17

y

Commonwealth of Sangkattan Na Islas Mariãnas
Ofisinan Sekretarian I Public Works
2nd Biblienda – Oleai Joeten Commercial Center
Saipan, MP 96950

Nutisian publiku put i manmaproponi na Amendasion siha para i Publiku Rights-of-Ways yan i asociãt na Regulasion Fasilidãt siha para i Dipãttamenton Public Works

Nutisian i Aksion ni Ma'intensiona: I Dipãttamenton Public Works, ha aprueba i publikasion i tinattiyi na amendasion siha para iyon-niha Public Rights-of-Ways yan i asociãt na Regulasion Fasilidãt siha. I intensiona para u ma'adãpta esti siha na regulasion komu petmanienti gi sigun para i Akton Administratvie Procedure, 1 CMC § 9104(a). Komu ma'adãpta, esti na amendasion siha siempri mu ifektibu gi hãlom dies (10) dihas dispues di mapublikã i Nutisian i Adãptasion gi hãlom Rehistran Commonwealth. 1 CMC § 9105(b).

ÅTURIDÃT: Esti na amendasion siha macho'gui papa'aturidãt i 1 CMC § 2403(a), ni ma'aturisa i DPW para u mentieni i chãlan publiku, yan 1 CMC § 2404, ni manã'i i DPW i aturidãt para u adãpta i areklamentu yan regulasion siha.

I TEMA YAN SUSTANSIAN I PALÅBRA SIHA: Esti i manmaproponi na amendasion siha ha sedi i DPW para u cho'gui aksion atministrasion ni para u pruhibi i impairment nu i public rights-of-way, yan siempri mamodifika i mamprisisu siha na permit cho'chu' ni marisisibi para gi hãlom public rights-of-way.

DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA: Este i manmaproponi na amendasion siha debi na u mapublikã gi hãlom i Rehistran Commonwealth gi seksiona ni maproponi yan i ñuebu na ma'adãpta na regulasion siha (1 CMC 9102(a)(1) yan u mapega gi mankombinienti na lugãt siha gi hãlom civic center yan gi ofisinan gobietnamentu siha gi kada distriton senadot, parehu gi Englis yan prinsipãt na lengguãhen natibu (1 CMC 9104(a)(2)).

OPIÑON SIHA: UPIÑON SIHA: I manintirisão na petsona siha siña manna'hãlom tinigi' upiñon siha gi manmaproponi na regulasion siha guatu as Siñot James. A. Ada, Sekretarian i Public Works, via U.S. mail para CNMI Government, Department of Public Works, 2nd Building, Oleai Joeten Commercial Center, Saipan, MP 96950, pat via email para james.dpwsecretary@gmail.com. I upiñon, data, views, pat agumentu siha nisisita u fan hãlom gi hãlom trenta (30) dihas ni tinattiyi gi fetchan kalendãriu gi publikasion nu esti na nutisia. 1 CMC 9104(a)(2).

Nina'hãlom as:


James A. Ada, Sekretaria
Dipãttamenton Public Works


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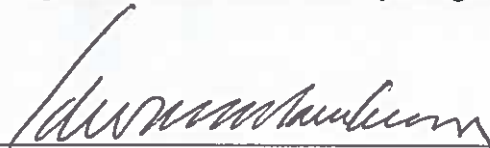
Rinesibi as: 
Shirley P. Camacho-Ogumoro
Espisiât Na Ayudânti Para I Atministrasion

2/8/17
Fetcha

Pine'lo yan
Rinekot as: 
Esther SN. Nesbitt
Rehistran Commonwealth

02.08.2017
Fetcha

Hu Settifica, sigun para i 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na u ribisa yan aprueba esti na regulasion siha komu fotma yan ligât sufisienti.


Edward Manibusan
Abugâdu Henerât

2/8/17
Fetcha

Commonwealth Téél Falúw kka Efáng Ilól Marianas
Bwulasiyol Sekkretóriyal Public Works
2nd Floor Oleai Joeten Commercial center
Seipél, MP 96950

**Arongorongol Toulap reel Pommwol Liiwel ngáli Public Rights-of-Way me
Mwóghutughutúl Facilities ngáli Depattamentol Public Works**

Arongorong reel Mángemángil Mwóghut: Depattamentol Public Works re atiiwligh reel akkatééwowul liiwel kka e amwirimwirtiwi faal ngáli aar Public Rights-of-Way me Mwóghutughut ikka e schuu. E mángemángil rebwe adóptááli mwóghutughut ikka bwe ebwe lléghló fféerúl, sáangi Administrative Procedure Act, 1 CMC § 9104(a) Ngáre re adóptááli, ebwe bwungló liiwel kkal llól seigh (10) ráál mwiril aal akkatééwow reel Arongorongol Adóptáá me llól Commonwealth Register. 1 CMC § 9105(b).

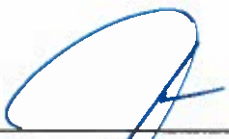
Bwángil: Liiwel kkal nge aa ffil reel fféerúl faal bwángil 1 CMC § 2403(a), iye e ngáleer bwángil DPW bwe rebwe aghatchú aal, me 1 CMC § 2404, iye aitingáliir DPW bwángiir bwe rebwe adóptáánil allégh me mwóghutughut kkal.

Kkपाल me Aweewel: Pommwol liiwel kkal nge ebwe ngáleer DPW bwe rebwe lighiti reel mwóghutughutúl administrative reel igha rebwe atippa reel fféerúl rights-of-way, me rebwe fféerú sefáaliy requirements reel igha rebwe bweibwoogh permit bwele rebwe tarabwaagho reel public right-of-way.


Afal reel Ammwelil me Akkatééwowul: Ebwe akkatééwow pommwol liiwel kkal llól Commonwealth Register llól tánil pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnamento reel senatorial district, fengál reel kkasal English me mwaliyáásch (1 CMC § 9104(a)(1)).

Kkपाल: Schóó kka re mwuschel rebwe isiislong ischil mángemáng reel pommwol mwóghutughut kkal rebwe bwughiló reel Mr. James A. Ada, Sekkretóriyal Public Works, féléféel iye CNMI Government, Depattamentol Public Works, 2nd Floor, Oleai Joeten Commercial Center, Seipél, MP 96950, ngáre email-li ló reel james.dpwsecretary@gmail.com . Kkपाल, data, views, me angiiingi ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).


Tel. No's: 235-5827/9570 Fax: (670) 235-6346

Isáliyalong: 
James A. Ada, Sekkretóriya
Depattamentol Public Works

Ráál: 2/7/17


Bwughiyal: 
Shirley P. Camacho-Ogumoro
Special Assistant ngáli Administration

Ráál: 2/8/17

Ammwelil: 
Esther SN. Nesbitt
Commonwealth Register

Ráál: 02.08.2017

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe I ya takkal amwuri fischiiy me átirow reel mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.


Edward Manibusan
Soulemelemil Allégh Lapalap

Ráál: 2/8/17

Part 100 - Public Rights-of-way

§ 155-20.1-101 Public Rights-of-way; In General

(a) The public rights-of-way available for Commonwealth roads, streets, and other rights of way shall be held inviolate for Commonwealth right-of-way purposes, except as provided in the regulations in this subchapter.

(b) These regulations shall not interfere with the following publicly beneficial use by the following entities, as provided herein:

(1) The entities:

(i) The CNMI government and/or its political subdivisions, agencies, and instrumentalities;

(ii) A public utility; and/or

(iii) A private telecommunication entity.

(2) The use:

(i) Use of a public right-of-way for the purpose of laying or erecting pipelines, sewers, wires, cables, poles, ditches, drains, railways, for a public purpose, under an existing agreement or permit, or such agreement or permit hereinafter made by the Department or pursuant to a statute or regulation;

(ii) Provided that:

(A) Such use does not interfere with the public's use of the property, as provided in these regulations, except for reasonable interferences during permitted construction; and

(B) No private telecommunication or electrical cable or wire shall be placed in, on, or over the right-of-way until the person seeking to do so first had secured a permit and provides a bond or similarly secure undertaking payable to the Department in an amount to be determined by the Secretary.

§ 155-20.1-105 Prohibition on Closure of Public Right-of-Way

(a) No person shall close a public right-of-way. Except that a person may secure from the Department a permit to close a public right-of-way to a limited extent for public purposes over limited periods of time.

(b) An unauthorized closure of a public right-of-way is a public nuisance, and, for the purposes of the regulations in this subchapter, may be treated as an encroachment and/or obstruction

§ 155-20.1-110 Prohibition on Encroachments, Impairments, and/or Obstructions

(a) No person shall encroach upon, ~~or obstruct~~, or impair a public right-of-way. Except that a person may secure from the Department a permit to obstruct, impair, or encroach upon a public right-of-way.

(b) It is unlawful for any person to commence work in a public right-of-way until DPW has approved the application and until a permit has been issued for such work, except as specifically provided to the contrary in this specification. Duration of the permit shall be set at the time of issuance of the permit. If work is not completed pursuant to Permit Application, the permit will expire. An extension may be applied for and must be issued prior to commencement of any further work. An unauthorized encroachment upon, impairment or an obstruction of, a right-of-way is a public nuisance.

(c) The Department shall issue a "Cease and Desist Order" directed to any person or persons doing or causing any work to be done in the public way without a permit. Any person found to be doing any work in the public way without having obtained a permit, shall be required to pay the applicable permit fee and penalties authorized by these regulations. Unless otherwise explicitly stated, nothing in the regulations in this subchapter shall be construed to require as a precondition to the Department's determining an encroachment or obstruction:

- (1) The notification thereof to the encroaching or obstructing person;
- (2) A special injury; or
- (3) A financial loss.

(d) The determination of an impairment, obstruction or encroachment shall be without regard to:

- (1) Degree or type;
- (2) Permanence or temporary nature;
- (3) Whether the property interest obstructed or encroached upon is claimed to be in fee, or through lease, license, designation, or easement;
- (4) Whether the impairment, obstruction or encroachment is in fact owned, leased, pledged, designated, or licensed; and
- (5) Whether a person directly ~~created~~ created the impairment, encroachment or obstruction him/herself or employed another to do so, or was employed by another to do so.

(e) It is unlawful for any person to erect a fence, scaffold, or other structure, or to occupy or use any portion of a public way for the storage of construction or landscaping material and/or equipment without first making application for and receiving a permit from the Department. The permit may set forth such restrictions and or conditions as the Department deems necessary or appropriate in its sole discretion. No fence construction and no building material shall remain in place in any public way after the ending date of the permit.

~~(e)~~ (f) Nothing in these regulations shall be construed to prohibit the valid and authorized exercise of the rights of free speech and assembly, as provided under the U.S. and Commonwealth Constitutions and the laws of the Commonwealth.

Part 200 - Permits for Closure or Restriction from Department for Public Purposes

§ 155-20.1-201 Power and Authority

The Department may, by permit, provide for the closure of a public right-of-way to some, but not all, uses for public purposes.

§ 155-20.1-205 Prohibition on Closure for Private Purpose

The Department may not permanently close a public right-of-way for private purposes.

§ 155-20.1-210 Permits

The Department shall provide an application form for a permit to close a public right-of-way. Any person may seek a permit. The Department may grant a permit for the following purposes and reasons, as requested or with conditions. Conditions may include, but are not limited to, the provision of a bond, deposit, undertaking, or other security.

(a) Bases for granting a permit.

(1) Short term permit. The Department may grant a permit for a period less than 8 days for a person who seeks to hold an event of a temporary nature for substantially public purposes, including:

- (i) A parade, assembly, speech making, or cultural or religious event;
- (ii) A festival, fair, or other public amusement; or
- (iii) An event of a cultural or familial nature that is limited in duration and for which a suitable private venue is not available.

(2) Long term permit. The Department may grant a permit for a period greater than seven days for a person who seeks to hold an event of a temporary, but repeating, nature for substantially public purposes, including a festival, fair, market, cultural presentation, or other public amusement.

(b) Special use district permanent permit.

(1) For a special use district which has been declared by the Governor:

- (i) The Department may grant a permanent permit for a person who seeks to provide to the public an integrated group of uses of a repeating nature.
- (ii) The Department shall grant a permanent permit to an instrumentality of the Commonwealth for the use of a special use district, including but not limited to planning and/or improvement districts for the Garapan District designed to create a pedestrian mall and related facilities, and/or drainage treatment, and/or cultural center and related facilities.

(2) In order to issue a permanent permit, the Department shall determine that the proposed use/s will likely:

- (i) Be accessible to the public;
- (ii) Enhance the character of the district;
- (iii) Contribute to the CNMI's economic or cultural development;
- (iv) Reasonably balance the uses of the public and the needs of contiguous businesses and residences;
- (v) Not unreasonably burden public agencies to provide utility or public safety services.

(3) A subdivision of the Department tasked with construction and/or maintenance may apply for such a permit.

(4) The permanent permit shall be subject to review for renewal, termination, or modification on a periodic basis. For the first year such review shall be conducted on a quarterly basis. For succeeding years such review shall be conducted on an annual basis.

(c) Notice of permit applications. The Department shall provide notice of a permit request to the Secretary of a Department directly affected by the permit, and, upon request, to the offices of the local Mayor and the Governor. In all cases the Department shall provide notice of the permit request to the Secretary of the Department of Public Safety.

(d) Objections to a permit. A person having an interest in the closure of a right-of-way and objecting to closure shall have the right to complain to the Department, pursuant to the procedures provided in the regulations in this subchapter for complaints.

Part 300 - Permits for the Obstruction, Impairment or Use of a Public Right-of-way

§ 155-20.1-301 Applications for and Granting of a Permit

(a) A person seeking to impair, obstruct or encroach upon a public right-of-way shall obtain a permit from the Department. The Department shall provide for permit applications, forms, and fees. Any person desiring to perform any work of any kind within a public right of way shall be subject to these regulations and shall make application for a permit. Such application shall be filed with the Department. Any work involving installation or alteration in the public right of way will require plans, traffic plans, and specifications showing the proposed work in sufficient detail to permit determination of [such relationship and compliance]; and the application shall not be approved until such plans or sketches are filed with and approved in writing by the Department. The Department may deny issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance (or lack thereof) that they will not consistently conform Department requirements.

(b) A traffic plan must be submitted by the permittee together with its application. Permittee's traffic plan must be in conformance with current "MUTCD" and approved in writing by the Department prior to excavation, construction, or any occupation of the public right-of-way.

§ 155-20.1-305 Public Notice of Application for a Permit to Encroach

The Department may, when it deems appropriate, require or provide for the publication, including or

limited to posting, of a request for a permit. In deciding whether to require publication, the Department shall consider the impact on the public, the extent of public use of the location, type of use, the permit requestor's history for and ability to follow permit conditions, length of use, and likely cost of publication.

§ 155-20.1-310 Time Limits

The Department shall act on a request for a permit as ~~expeditiously as possible~~ with reasonable expediency. If no technical investigation is required, the permit decision shall be made as a determination within seven days. ~~Failure to issue a permit within said period shall constitute a granting of the requested permit, except if the Department has requested an additional seven days to process the request.~~

§ 155-20.1-315 Procedure; Form for Application

(a) The Department shall develop forms for requesting a permit.

(b) The forms shall secure the information which is reasonably necessary for the Department to render an accurate, balanced, and fair decision. Forms shall include a provision for swearing that the statements made to secure the permit are true and correct and made upon the penalties for perjury.

~~(c) The Department shall provide for applications in hard copy or by fax, email, or the internet, as its facilities allow. A faxed, scanned, or electronic signature shall have the same effect as an original signature unless otherwise prohibited by law or unless there are reasonable grounds to question the veracity of the signature.~~

§ 155-20.1-320 Conditions for Issuance of a Permit

(a) The Department may condition the issuance of a permit on the payment of a fee, a security deposit, bond, and/or undertaking, and public liability insurance.

(b) Where the applicant seeks to modify physically the public right-of-way, or where the Department reasonably anticipates expenses to supervise or monitor the requested use, the Department shall require the payment of a refundable security deposit.

(c) Where no modification of the public right-of-way is intended or likely, the amount of the deposit and/or insurance shall not be so high as to unreasonably interfere with the exercise of a First Amendment right.

~~(d) If insurance is required, the policy shall name~~ Applicants shall provide evidence of liability insurance naming the Commonwealth as an additional insured in such amounts as may be requested by the Department in its sole discretion.

(e) Security for permits and permitted uses.

~~(1) When the Department determines that security is reasonably required to secure the performance required in a permit, the Department may require as a condition to a permit a bond, insurance, or secure undertaking payable to the Department in an amount to be determined by the Secretary, or according to a schedule which the Secretary shall issue.~~ Persons desiring to perform work in the public way shall be properly licensed in the Commonwealth of the Northern Mariana Islands and shall post a performance bond. The bond amount shall be in an amount no less than the greater of 150% of the total contracted cost of the permitted work OR \$50,000, and shall remain in full force and effect for a period of one year after the date the work is completed and accepted by the Department in writing. A single bond may be posted by a permittee to guarantee performance for one or more permits if approved by DPW and agreed to, in writing, by the bonding company. The minimum bond amount shall be assessed based on the number of permits issued to each permittee.

(2) Such bond or undertaking shall be calculated to cover the Department's costs in:

- (i) Completing, repairing, and/or maintaining a site or an excavation and/or other works in order to place property in no worse a state than prior to the permitted activity; and
- (ii) Compensating persons for torts directly related to and caused by the works for the placement.

(f) Specifications

All rights-of-way shall be restored in accordance with Department specifications as set forth in Schedule 320.1

(g) Permit Closeout:

Upon completion of project, permittee shall inform DPW of project completion and request for final inspection. A final closeout report and acceptance by DPW shall be issued upon satisfaction of work.

(h) Safety

Permittee must be in compliance with Occupational Safety & Health Administration (OSHA) on job site. Workers/employees have a right to a safe workplace.

§ 155-20.1-325 Name of Permittee

The Department shall issue the permit in the name of the applicant and/or other party it deems responsible. Except that for a cutting or trenching permit issued pursuant to 2 CMC § 4133 the permit shall be issued in the name of the company if the applicant is a corporation or in the name of the individual if the applicant is other than a corporation. In the case of a road cutting permit, the Department shall issue the permit in the name of both the beneficiary of the permit and the contractor performing the permitted work (ex. Commonwealth Utilities Corporation AND contractor) both of whom shall be jointly and severally liable for violations and/or defects in restoration construction.

§ 155-20.1-330 Fees

(a) For road cutting permits DPW shall charge and the Permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit as outlined in the Fee Schedule attached as Schedule 330.1. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the Public Way, or diminution of the useful life of the Public Way, and other costs associated with the work to be done under the permit. All costs shall be assessed in a non-discriminatory manner.

Additional charges to cover the reasonable costs and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by DPW to each permittee, in addition to the permit fee.

For other Use Permits, the Department may charge a fee for a permit that is reasonably calculated to cover the costs indicated below. Provided, however, that the Department may charge no more than the following for the following purposes:

- (1) Use periods of less than one day or CNMI agency: No charge.
- (2) Use periods of less than four days: No more than \$ 50.00;
- (3) Use of a special district or specially designated events area: No more than \$ 500.00.

(b) The costs upon which a permit fee may be based are for:

- (1) Issuing the requested permit;
- (2) Supervising, as required, the permitted activity;
- (3) Publication of notice;
- (4) Required investigation or technical review; and/or
- (5) The conduct of a hearing.

(c) For the purpose of this section the Department shall create and maintain for public inspection a list and description of special districts and specially designated events areas, and the permit fees for each.

§ 155-20.1-335 Revocation, Suspension and Penalties

(a) The Department shall deny or revoke a permit for any of the following reasons:

- (1) Discovery that false or misleading information was given on an application, or material facts were omitted from an application. False or misleading information does not include information which the applicant reasonably believed, after exercising due diligence, was correct at the time of the application;
- (2) The permittee was or has become ineligible to obtain a permit;
- (3) Any cost or fee required to be paid by the regulations in this subchapter has not been paid;
- (4) The permittee knowingly provides, or with the exercise of due diligence should have known that s/he was providing, the permitted use to another person who uses the right-of-way in violation of the terms of a permit;

- (5) The use of the permit will result, or has resulted, in an unsafe or hazardous condition, or a condition injurious to the public health, safety, or welfare;
- (6) The permittee knowingly denies, or through the exercise of due diligence should have known that he/she was denying, access to law enforcement personnel or Department personnel during business hours to any portion of the permitted premises;
- (7) The permittee attempts to transfer a permit or any interest in a permit;
- (8) The permittee fails to maintain the premises in the condition provided in the permit;
- (9) The permitted use will violate, or has violated, a statute, ordinance, rule, or regulation of the CNMI; and/or
- (10) The permittee has knowingly violated the terms of another Department permit and there is no evidence that the permittee will follow the requirements of the requested permit.
- (11) Provided that, notwithstanding any other provision of these regulations, for violations of 2 CMC §§ 4133 - 36 (cutting and trenching roads) any person who violates these code provisions shall be denied a permit until such person complies with the provisions.

(b) The Department may revoke a permit for any of the following reasons:

- (1) The permittee knowingly uses, or with due diligence should have known that the permittee was using, the right-of-way in violation of the terms of a permit;
- (2) The permittee attempted to transfer his/her permit or any interest in his/her permit to someone else without prior Department approval;
- (3) Another application for a permit to do the same thing or the application for the renewal of a permit to do the same thing was denied and the administrative denial became final; or
- (4) Any cost, fee, or fine required to be paid has not been paid.

(c) The Department shall revoke a permit for any of the following reasons:

- (1) Discovery that false or misleading information or data was given on any application, or material facts were omitted from any application. False or misleading information does not include information which the applicant reasonably believed, after exercising due diligence, was correct at the time of the application;
- (2) The permittee has become ineligible to obtain a permit;
- (3) The permittee knowingly denies, or through the exercise of due diligence should have known that s/he was denying, access to law enforcement personnel or personnel of the Department during business hours to any portion of the permitted premises; or
- (4) The permittee has been found by the Department to have violated the terms of the permit more than twice within a period of twenty-four months, not including any period of suspension.

(d) A person whose permit is revoked shall be ineligible to receive a permit for one year from the date of revocation. For this purpose, "person" includes the permittee, its owner/s and principals, a relative thereof, and/or another person owned or controlled by them.

(e) The Department may either fine a permittee, suspend a permit, or both fine and suspend, for any of the following reasons:

- (1) Any cost, fee, or fine required to be paid has not been paid;

- (2) The permittee fails to maintain the permitted premises in the condition contemplated by the permit or in a safe condition;
- (3) The permit has otherwise been violated;
- (4) There is a ground for suspension of the permit; or
- (5) There is a ground for revoking the permit.

(f) The Department shall immediately suspend a permit if it finds:

- (1) A ground for revocation.
- (2) The permittee has apparently violated the terms of the permit, and the public safety, health, or welfare requires immediate suspension.

(g) Fine for failure to obtain a permit. The Department, upon notice and an opportunity for a hearing, may shall fine a person who should have secured, but did not secure, a permit. Any fine may be appealed to the Secretary of the Department within thirty (30) days of issuance thereof.

(h) Penalties for violation. Upon finding a violation the Department may:

- (1) Impose a civil fine of up to five hundred dollars per day; and/or
- (2) Suspend the permit for periods of not less than seven days and no longer than twenty-eight days.
- (3) Provided that, for violations of 2 CMC §§ 4133 - 36 (cutting and trenching roads) the penalties shall be as provided in the code: follows: [insert] set forth on Schedule 335.1.

(l) Violation of Specifications: If DPW Inspectors determine construction practices and/or materials, i.e., backfill, road base, asphalt and/or concrete, do not meet specifications, DPW Inspector may:

- (1) Suspend or revoke the permit;
- (2) Issue a stop work order;
- (3) Order removal and replacement of faulty work;
- (4) Require an extended warranty period;
- (5) Negotiate a settlement to be applied toward future maintenance costs;
- and/or
- (6) Make demand upon the permittee's bond to correct faulty work.

Settlement of trench backfill, road base, asphalt and/or concrete will be incontrovertible evidence of inadequate compaction of fill material.

§ 155-20.1-340 Affirmative Defenses Reserved

~~A person may affirmatively prove as a defense to an alleged violation that:~~

~~(a) S/he did not know, or through the exercise of due diligence could not have known, of a user's acts or emissions; or~~

~~(b) If the permittee knew or should have known that a user was violating a permit, s/he was powerless to prevent the violation and has taken adequate steps to correct the violation.~~

~~(c) Affirmative defense. The permittee may affirmatively prove as a defense to an alleged violation of a permit that the permittee did not know, or through the exercise of due diligence could not have known, that his/her acts or a permit user's acts would violate the permit or that the permittee was powerless to prevent a continuing unsafe or violative condition.~~

§ 155-20.1-345 Finality

A determination shall become final if not appealed within thirty days.

§ 155-20.1-350 Stays of Determination

The fact that the Department's determination or a trial court's judgment relating to the Department's determination is being appealed shall not automatically stay or have other effect, and the determination shall stand until such time as the judgment of the trial court is reversed. The Department, the Secretary, or a court may, upon application, stay a determination of the Department.

Schedule 330.1

ROAD CUTTING AND TRENCHING FEE SCHEDULE

Check Applicable Box	Description:	Fee:
	Application	\$25.00
	Road Cutting and Restoration	\$100.00
	Site Inspection	\$100.00
	Re-Inspection	\$50.00
	Final Inspection Per Location	\$100.00
	Amendment to Permit	\$25.00

Schedule 335.1

Civil Fines:

Description:	First Offense:	Second Offense:	Third Offense:
Section 4922 – Permit Required	\$500.00	\$2,000.00	\$5,000.00
Section 4923 – Permit Application	\$500.00	\$2,000.00	\$5,000.00

Civil Penalty:

Description:	Amount:
Section 4924 – Repair of Road	Per Day Penalty not less than \$150.00 or \$250.00

P.L. 5-41 and as Amended P.L. 18-23 - Section 2. [2 CMC Section 4132 (a)]

P.L. 5-41, Section 4926 - Penalties

2 CMC § 4133 – Permit Required (\$5,000.00)

2 CMC § 4135 – Repair of Road (\$250.00)

Non-compliance shall be issued applicable penalty/fine:



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Ralph DLG. Torres
Governor

Victor B. Hocog
Lieutenant Governor

EXECUTIVE ORDER NO. 2017-02

SUBJECT: DECLARATION OF A STATE OF SIGNIFICANT EMERGENCY

AUTHORITY: I, RALPH DLG. TORRES, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution and P.L. 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State of Significant Emergency for the Commonwealth of the Northern Mariana Islands due to the imminent threat of the inability of the Commonwealth Utilities Corporation (“CUC”) to provide critical power generation, water, and wastewater services to the CNMI and considering the harm such condition would pose to the community, environment, and critical infrastructure of the Commonwealth of the Northern Mariana Islands.

WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER to the Government of the CNMI, including all public safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the CNMI’s businesses and homes. While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than that used for CUC power.

WHEREAS, WITHOUT CUC ELECTRICITY:

- (1) Most CNMI economic activity would come to a halt, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;
- (2) The CNMI’s health and safety would immediately be at risk because traffic signals and street lighting would cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited fuel supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;

- (3) The public schools and the Northern Marianas College would close. Other educational institutions would close as their backup fuel supplies for emergency generators were exhausted; and
- (4) Water and sewage treatment would soon end. One of CUC's largest electric customers is the combined CUC Water and Wastewater Divisions. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflow, contaminating land and water.

WHEREAS, THERE EXISTS A FINANCIAL CRISIS:

- (1) CUC is owed over \$20 million by the public school system ("PSS") and the Commonwealth Healthcare Corporation ("CHC") and is owed over millions more by other users;
- (2) Although the commonwealth economy has recently improved, the improvement is only marginal and the economy and the government's finances are still fragile. This government strains to meet its obligations.
- (3) CUC often only has days' worth of purchased diesel fuel to power its system because it lacks the funds to buy oil from its sole, cash-only supplier. CUC has no credit or other means to buy fuel than the revenue it collects from its customers;

WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:

- (1) CUC faces a manpower crisis. Skilled worker and a responsive support system are key to the success of the operation, particularly for preventative maintenance. At present, CNMI law at 3 CMC §§ 4531 and 4532 prohibits CUC from hiring any more non-U.S. technical workers;
- (2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency ("EPA"), pursuant to two sets of consent, or "Stipulated Orders." Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;
- (3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;

- (4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC's ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen foreign workers and reinstating a moratorium on the government's hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The CUC Act, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law.* 4 CMC § 8123(h);
- (5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidate;
- (6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team with all expenses charged to CUC customers.
- (7) CUC's renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC's systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth. The legislature is urged to address this matter by way of amending local law to allow CUC to continue employing the services of foreign workers for such technical positions difficult to fill and to provide for a reasonable transition period.

WHEREAS, BY THIS DECLARATION OF A STATE OF SIGNIFICANT EMERGENCY, I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

NOW, THEREFORE, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and P.L. 18-4 § 104(c), to take all necessary measures to address the threats facing the Commonwealth of the Northern Mariana Islands.

It is hereby **ORDERED** that:

This Declaration of a State of Significant 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 the Executive Order unless I, prior to the end of the thirty (30)-day period, terminate the declaration of a state of significant emergency. P.L. 18-4, § 104(g)

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 237-2200 Facsimile: (670) 664-2211/2311

Under authority of this Declaration and the goal of mitigating or ameliorating the above described crises, I immediately direct the following:

DIRECTIVE: Insofar as it applies to CUC, 3 CMC § 4531 is hereby suspended. As a result of the suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

The above described Directive is in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

SIGNED AND PROMULGATED on this 16th day of February, 2017.



RALPH DLG. TORRES
Governor