

TITLE 145: DEPARTMENT OF PUBLIC LANDS

SUBCHAPTER 145-20.1

AGRICULTURAL HOMESTEAD WAIVER PROGRAM RULES AND REGULATIONS

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Subchapter Authority: 2 CMC § 4325.

Subchapter History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-4115, established the Marianas Public Land Corporation (MPLC), responsible for the management and disposition of public lands. See 2 CMC §§ 4113 and 4114. 2 CMC §§ 4301-4314 set forth the general statutory provisions governing homesteads in the CNMI and designate MPLC as the agency responsible for implementing homestead laws.

PL 2-13 (effective Feb. 9, 1981), the “Homestead Waiver Act,” is codified as amended at 2 CMC §§ 4321-4328. PL 11-96 (effective Sept. 10, 1999) amended certain provisions of the Homestead Waiver Act. 2 CMC § 4323, as amended by PL 14-66 (effective May 5, 2005) directed the MPLC to waive certain requirements of the agricultural homesteading program.

PL 12-33 (effective Dec. 5, 2000), the “Board of Public Lands Act of 2000,” and PL 12-71 (effective Nov. 13, 2001) transferred the authority to manage, use, and dispose of surface and submerged public land to a new Marianas Public Lands Authority, under the direction of a Board of Public Lands Management. The Marianas Public Lands Authority became the successor agency to the Marianas Public Lands Corporation.

Public Law 15-2 (effective February 22, 2006), codified at 1 CMC §§ 2801-2809, repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands. PL 15-2 created the Department of Public Lands within the executive branch “to manage and administer the Commonwealth’s public lands under the provisions of Article XI of the Constitution” and transferred the powers and duties of the Marianas Public Lands Authority to the Department of Public Lands. 1 CMC § 2801.

PL 15-2 changed all references in the Commonwealth Code from the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Lands to the “Department of Public Lands.” PL 15-2 § 4 [Commission comment to 1 CMC § 2801]. Public Law 15-64, effective May 30, 2007, changed all references in the Commonwealth Code from Board of Public Lands to “Secretary of Public Lands.” PL 15-64 § 4. For a complete history of the authority over public lands in the Commonwealth see the general comment to chapter 10 of this title.

2 CMC § 4325 empowers the Department of Public Lands to promulgate rules and regulations to carry out the purposes of the Homestead Waiver Act. PL 15-2 § 3 (§ 108) requires that the Department of Public Lands “assess the demand

for homesteads and develop a program for meeting that need, to the extent practicable, within the available land base.”
1 CMC § 2808.

The Marianas Public Lands Corporation promulgated the Agricultural Homestead Waiver Program Rules and Regulations codified in this subchapter.

Part 001 - General Provisions

§ 145-20.1-001 Authority

The rules and regulations in this subchapter are hereby promulgated and issued by the Marianas Public Land Corporation (MPLC) pursuant to § 5 of the Northern Mariana Islands Homestead Waiver Act of 1980 (Public Law 2-13, as amended).

Modified, 1 CMC § 3806(d).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

§ 145-20.1-005 Purpose

The purposes of the rules and regulations in this subchapter are to set forth the necessary procedures with respect to agricultural homestead waiver applications; to set out in detail the standards of eligibility; to provide for certain requirements necessary to meet the goals and objectives of the agricultural homestead waiver program; to provide for a system of issuance of notice and hearing process for applicants whose applications have been denied, and to provide a basic format for applications and other documents and instruments necessary to administer and implement the agricultural homestead waiver program.

Modified, 1 CMC § 3806(d).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Part 100 - Agricultural Homestead Waiver Program Requirements

§ 145-20.1-101 Standards of Eligibility

The criteria provided hereinunder shall govern the eligibility of the following classes of applicants for agricultural homestead under Public Law 2-13, as amended:

(a) An applicant must have, prior to January 9, 1978, entered upon, occupied, and improved a certain public land for agricultural purposes with any form of authorization from the government, and actually entered upon, occupied, improved and continually used said public land for agricultural purposes through the effective date of the Northern Mariana Islands Homestead Waiver Act of 1980, as amended; or an applicant must have, prior to January 9, 1978, entered upon, occupied, and improved a certain public land for agricultural purposes for a period of 15 years or more with or without any authorization from the government.

- (b) An applicant must be 18 years or older at the time he/she entered upon, occupied, and improved either with or without government authorization, a certain public land for agricultural purposes.
- (c) An applicant or his/her spouse must not own or have more than one agricultural homestead.
- (d) An applicant or his/her spouse must not own or have an interest in land within the Northern Mariana Islands that equals or exceeds the land area allowable at the time he/she entered upon, occupied, and improved a certain public land for agricultural purposes.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

§ 145-20.1-105 Application Procedure

- (a) All applicants for waiver of agricultural homestead shall fill out an agricultural homestead waiver application form provided for by MPLC. The said form is attached hereto as appendix “A.” All applications shall be submitted no later than one year from the date of the final publication of the rules and regulations in this subchapter.
- (b) All applications shall be signed and acknowledged before a notary public or declared under penalty of perjury.
- (c) All applications must be accompanied by a \$200.00 application fee.
- (d) After submission of an application, MPLC shall review and verify the eligibility of the applicant and all essential facts set forth in the application, including but not limited to investigation of records, interviewing of applicants and witnesses, inspection of premises and improvements or developments, etc.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: In subsection (a), the Commission moved the period after “A” inside of the closing quotation mark.

§ 145-20.1-110 Issuance of Permit and Deed

An applicant whose application has been reviewed, verified, approved, and found to meet the agricultural homestead requirements, rules, and regulations to the satisfaction of MPLC shall be issued an agricultural homestead permit upon completion of the necessary survey work, preparation of an official survey plat and payment of 10% of the survey cost incurred by MPLC, however, not to exceed \$100 per hectare, whichever is lower. The said form is attached hereto as

appendix “B.” Upon issuance of the permit, a deed to the applicant shall be issued and delivered to the said applicant. The said form is attached hereto as appendix “C.”

Modified, 1 CMC § 3806(f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: The Commission moved the periods inside of the closing quotation marks.

§ 145-20.1-115 Notice and Hearing

An applicant whose application for an agricultural homestead waiver has been received, verified, and found not eligible, shall be informed in writing, in the language the applicant is conversant with, of such decision, the reason therefore, and the right of each applicant to appear before the hearing committee set up by the Corporation to hear and determine why his/her application should not be denied. Such a hearing shall be held no later than 90 days after receipt of such notice by the applicant. If the applicant has reasons to believe that his/her application should not be denied, he/she should present his/her case before the committee for consideration. No later than 30 days after the hearing, the committee, on behalf of the Corporation, shall issue its decision. If the committee finds that it should deny the application, a written decision to that effect shall be prepared and given to the applicant. Such a decision shall be deemed final for MPLC. The applicant has the right to be represented by a counsel of his/her choosing and to bring witnesses at the said hearing.

Modified, 1 CMC § 3806(f).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Appendix A

Application for Waiver of Agricultural Homestead Requirements
Marianas Public Land Corporation

P. O. Box 380
Saipan, CM 96950

Application For Waiver of
Agricultural Homestead Requirements

A. Bio Data

1. Name of Applicant(s): _____
(Last) (First) (Middle)

(Spouse's Maiden Name) _____
(Last) (First) (Middle)

2. Place of Birth: (Applicant) _____
(Spouse) _____

3. Date of Birth: (Applicant) _____ Age: _____
(Spouse) _____ Age: _____

4. Date of Marriage: _____

5. Home Address: _____

6. Mailing Address: _____

7. Telephone Number: (Home) _____
(Work) _____

8. Number of dependent children (under 18 years) _____

9. Occupation(s): (Applicant) _____
(Spouse) _____

10. Name and address of employer:
(Applicant) _____
(Spouse) _____

B. Land Ownership Statement

1. Do you or your spouse own or have an interest in agricultural land in the Commonwealth of the Northern Mariana Islands? _____

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a) What kind of interest? (Specify whether inheritance, co-heir to decedent's estate, co-owner, through purchase, homesteading program, etc.) _____

b) Where is the land located? (Describe) _____

c) How large is the land? _____

d) Who is using the land? _____

2. Are you or your spouse presently occupying and developing a public land for agricultural, purpose? _____

a) When did you first enter, occupy and develop the land? _____
Month Date Year

b) Where is the land located? _____

c) How large is the land? _____

d) How long have you entered occupied, and developed the land? _____

e) Did you apply to homestead the land? _____

f) When did you apply to homestead the land?

Month Date Year

g) Have you ever been issued an agricultural homestead permit? _____

h) Did you pay the \$10 filing fee? _____

i) Do you have authorization from the government to enter upon, occupy, and improve the land for agricultural purposes? _____

1) Who authorized you? _____

2) When? _____

j) Were you ever given a map by the government for that land that you have entered, occupied, and improved for agricultural purposes? (Attach map) _____

k) Have you ever traveled to another island, or country after you entered upon, occupied, and improved the land for agricultural, purposes? _____

1. When? _____

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2. Length of travel? _____
3. For what purpose? _____

l) Have you ever authorized or permitted anyone (aside from your spouse or children) to enter upon, occupy and improve the land or any portion of the said land? _____

m) Who else, if any, beside you, your spouse or children, is occupying or using the land? _____

1) Length of time the above person is using the land? _____

n) What development(s) or improvement(s), if any, have you made on the land? _____

1) In the space below, draw a simple sketch of the land and indicate what portion of the land has what development(s) or improvement(s):

2) Names of adjoining occupants to your:

North _____

South _____

East _____

West _____

Certification by Applicant/Spouse

I/We, _____ declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on _____, 19____, at _____, Commonwealth of the Northern Mariana Islands. Also, I/we understand that by falsifying any of the answers herein for the purpose of obtaining a deed to the public land I/we was/were authorized to enter, occupy, and improve for agricultural purposes, MPLC is authorized by me/us to declare my/our application for waiver of agricultural homestead requirements null and void.

Date: _____ Applicant: _____

Date: _____ Spouse: _____

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Acknowledgment

Commonwealth of the)
Northern Mariana Islands) ss
)

)

On this _____ day of _____, 19____, before me appeared _____, known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing Instrument and acknowledged that he/she signed and delivered said Instrument as his/her free and voluntary act for the purposes therein set forth.

In Witness Whereof, I hereunto set my hand and seal this _____ day of _____, 19____.

Notary Public

Modified, 1 CMC § 3806(f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: In section (B)(2)(k), the Commission corrected the spelling of “traveled.”

Appendix B

Permit to Homestead Agricultural Tract
Commonwealth of the Northern Mariana Islands
Marianas Public Land Corporation

Permit to Homestead Agricultural Tract No. _____

This Agricultural Homestead Permit is issued by the Marianas Public Land Corporation in favor of _____, referred to hereinafter as “Homesteader”, who is hereby authorized to continue to occupy, use, and improve the parcel of land described as per attachment “A”, referred to as the “Homestead” in accordance with the provisions of the Northern Mariana Islands Homestead Waiver Act of 1980, as amended, and the rules and regulations promulgated thereof.

In issuing this Permit, the Marianas Public Land Corporation has made the following findings:

1. That the Homesteader has, prior to January 9, 1978, continuously entered upon, occupied, and improved that parcel of land as described in attachment “A” for agricultural purposes for a period of _____ years.
2. That the Homesteader does not own or have an interest in agricultural land within the Commonwealth of the Northern Mariana Islands that exceeds or equals the area or size of the above-described Homestead.
3. That the Homesteader has paid the application fee of \$200.00 and costs of survey of the Homestead in accordance with § 5 of the approved Rules and Regulations [§ 145-20.1-105(c)].
4. That the Homesteader has fully understood and agreed to reserve to the government of the Commonwealth of the Northern Mariana Islands, its successors and assigns, all mineral rights or such water rights as may be required, the existing roadways, rights of ways and other easements upon said Homestead. The Homesteader further agrees to reserve for the benefit of the Government of the Northern Mariana Islands, its successors and assigns from the land above described necessary rights of way for construction of utility lines, pipelines, or other conduits with necessary maintenance and access roads as may be constructed by the authority of the government of the Northern Mariana Islands, its successors and assigns, but this reservation shall not be construed to waive any claims for injury to growing crops, damage to improvements or other injuries sustained by the Homestead as a direct result of the execution of work or exercise of the right of entry upon the above-described property under this reservation.
5. That the Homesteader has satisfied the waiver eligibility requirements and is hereby waived from complying with the compliance requirements as mandated by law.
6. That the Homesteader is entitled to receive a Quitclaim Deed to said Homestead within 90 days from the date hereof.

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Dated this _____ day of _____, 19____.

Marianas Public Land Corporation Homesteader

By _____
Chairman
Board of Directors

Modified, 1 CMC § 3806(f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: In subsection (3), the citation to § 5, codified at § 145-20.1-110, is incorrect. The Commission cited the correct provision in the brackets.

Appendix C

Quitclaim Deed for Agricultural Homestead Tract
Commonwealth of the Northern Mariana Islands
Marianas Public Land Corporation

Quitclaim Deed for
Agricultural Homestead Tract

This Indenture made this _____ day of _____, 19____, by and between the Marianas Public Land Corporation of the Commonwealth of the Northern Mariana Islands, hereinafter referred to as “GRANTOR”, and _____ of _____, Northern Mariana Islands, hereinafter referred to as “GRANTEE”.

WITNESSETH THAT:

WHEREAS, Grantee has continuously entered upon, occupied, and improved a certain public land described below for agricultural purposes for a period of _____ years at the effective date of the Constitution of the Northern Marianas Islands, the first entry being made on _____; and

WHEREAS, Grantee complied with the provisions of the homestead laws pertaining to the said agricultural tract as well as the terms and conditions of the Permit to Homestead Agricultural Tract No. _____, incorporated herein by reference.

NOW, THEREFORE, pursuant to the provisions of the Northern Mariana Islands Homestead Waiver Act of 1980, the Grantor having the powers to manage and dispose of public lands under Article XI of the Constitution on behalf of the Commonwealth, now do hereby by these presents remise, release, and quitclaim forever to the Grantee, all right, title, interest, or claim of the Commonwealth in and to the following described real property situated and lying at _____, Northern Mariana Islands:

Tract No. _____ containing an area of _____ square meters more or less as shown on the Division of Lands and Surveys Official Survey Plat Number _____ dated _____, the description therein being incorporated herein by reference.

TO HAVE AND TO HOLD the same unto the Grantee, his/her heirs and assigns forever, together with all fixtures and appurtenances belonging thereto, but reserving to the Commonwealth, its successors and assigns, all mineral rights or such water rights as may be required, the existing roadways, and other easements upon the premises. There is also hereby reserved for the benefit of the Commonwealth, its successors and assigns, from the premises necessary rights of way for construction of utility lines, pipelines, or other conduits with necessary maintenance and access roads as may be constructed by the authority of the Commonwealth, its successors and assigns; but this reservation shall not be construed to waive any claim for injury to growing crops,

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improvements, surface damage, or other injuries sustained by the Grantee, his/her heirs and assigns, as a direct result of the execution of the work or exercise of the right of entry under this reservation.

IN WITNESS WHEREOF, the Chairman of the Board of Directors of the Marianas Public Land Corporation, pursuant to the authorization of the Board, hereby enters his signature and affixes the seal of the Corporation on the day and year first above written.

MARIANAS PUBLIC LAND CORPORATION

By: _____
Chairman
Board of Directors

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).