

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



\*\*\*\*\*

**COMMONWEALTH REGISTER**

**VOLUME 42**

**NUMBER 09**

**SEPTEMBER 28, 2020**

.....

# COMMONWEALTH REGISTER

VOLUME 42  
NUMBER 09  
SEPTEMBER 28, 2020

## TABLE OF CONTENTS

### ADOPTED REGULATIONS

Notice of Certification and Adoption of Regulations for the <b>Commonwealth Ports Authority .....</b>	<b>044065</b>
Public Notice of Certification and Adoption of Regulations of the <b>Commonwealth Ports Authority .....</b>	<b>044067</b>
Public Notice of Certification and Adoption of Regulations of the <b>Commonwealth Ports Authority .....</b>	<b>044069</b>
Public Notice of certification and Adoption of Regulations of <b>Division of Customs Service</b> <b>Department of Finance.....</b>	<b>044071</b>

### PROPOSED REGULATIONS

Notice of Proposed Amendments to the Pesticide Regulations <b>Bureau of Environmental Quality</b> <b>Office of the Governor.....</b>	<b>044073</b>
Notice of Proposed Regulations of the <b>Division of Finance and Accounting</b> <b>Department of Finance.....</b>	<b>044082</b>

### ORDERS

<b>Labor Case No.</b> 18-055 <b>Subject:</b> Order After Hearing and Dismissal <b>In the Matter of:</b> Whidul Alam v. Osman Gani <i>dba</i> Saipan Security Service <b>Department of Labor .....</b>	<b>044114</b>
<b>Labor Case No.</b> 18-058 <b>Subject:</b> Order Granting Complainant's Motion to Dismiss <b>In the Matter of:</b> Zaji O. Zajradhara v. Lin SHR (SAIPAN) Inc. <b>Department of Labor .....</b>	<b>044116</b>

<b>Labor Case No.</b>	18-066	
<b>Subject:</b>	Order of Dismissal	
<b>In the Matter of:</b>	Denis Uvarov v. Osman Gani <i>dba</i> Saipan Security Service	
<b>Department of Labor .....</b>		<b>044118</b>
<b>Labor Case No.</b>	18-066	
<b>Secretary Appeal No.</b>	2020-03	
<b>Subject:</b>	Final Agency Decision	
<b>In the Matter of:</b>	Denis Uvarov v. Osman Gani <i>dba</i> Saipan Security Service	
<b>Department of Labor .....</b>		<b>044121</b>
<b>Labor Case No.</b>	19-18, 19-19, 19-20, 19-21, 19-22	
<b>Subject:</b>	Administrative Order Granting Respondents' Motion to Dismiss For Lack of Jurisdiction	
<b>In the Matter of:</b>	Mengli Ma, Yubin Liu, Xiaoyang Gao, Bingping Li, Wenpi Wang v Osman Gani and Xiao Tang Sanchez <i>dba</i> 24/7 Enterprises	
<b>Department of Labor .....</b>		<b>044123</b>
<b>Labor Case No.</b>	19-054	
<b>Subject:</b>	Order Partially Granting Respondent's Motion to Dismiss	
<b>In the Matter of:</b>	Ruben B. Tagalog v. Mary Ann F. Sablan <i>dba</i> Creative Hair & Body Care	
<b>Department of Labor .....</b>		<b>044132</b>
<b>Labor Case No.</b>	19-056	
<b>Subject:</b>	Findings of Fact and Conclusions of Law	
<b>In the Matter of:</b>	Maria Carlota Santiago v Strategic Gaming Solutions <i>dba</i> Club C	
<b>Department of Labor .....</b>		<b>044135</b>
<b>PUA Case No.</b>	20-0001	
<b>Subject:</b>	Administrative Order	
<b>In the Matter of:</b>	Felipe Q. Atalig v. CNMI Department of Labor, Division of Employment Services-PUA	
<b>Department of Labor .....</b>		<b>044142</b>
<b>PUA Case No.</b>	20-0004	
<b>Subject:</b>	Administrative Order	
<b>In the Matter of:</b>	Ana Marie M. Camacho v. CNMI Department Of Labor, Division of Employment Services-PUA	
<b>Department of Labor .....</b>		<b>044146</b>
<b>PUA Case No.</b>	20-0005	
<b>Subject:</b>	Administrative Order	
<b>In the Matter of:</b>	Caihao Zhang v. CNMI Department of Labor Division of Employment Services-PUA	
<b>Department of Labor .....</b>		<b>044152</b>



**Commonwealth Ports Authority**  
Main Office: SAIPAN INTERNATIONAL AIRPORT, 2<sup>ND</sup> Floor Arrival Bldg.  
PO BOX 501055 • SAIPAN • MP • 96950  
Phone: (1-670) 237-6500/1 Fax: (1-670) 234-5962  
E-Mail Address: [cpa.admin@pticom.com](mailto:cpa.admin@pticom.com) Website: [www.cpa.gov.mp](http://www.cpa.gov.mp)



**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR  
THE COMMONWEALTH PORTS AUTHORITY (CPA)**

**PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED  
AMENDMENTS TO THE AIRPORT RULES AND REGULATIONS OF THE  
COMMONWEALTH PORTS AUTHORITY**

Volume 42, Number 05, pp 043527–35, of May 28, 2020

**Amendments to the Commonwealth Ports Authority Airport Rules and Regulations**

**ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT NMIAC § 40-10.1-1280 to the Airport Rules and Regulations of the Commonwealth Ports Authority, which was published in the Commonwealth Register pursuant to the procedures of the Administrative 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 Regulations in Volume 42, Number 05, pp 043527–35 of the Commonwealth Register.

**AUTHORITY:** The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

**EFFECTIVE DATE:** This addition to the Commonwealth Ports Authority's Airport Rules and Regulations 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:** During the 30-day comment period, the Authority received no comments regarding the Proposed Regulation. No individual requested the Authority issue a concise statement of the principal reasons for or against the adoption of the Proposed Regulation.

At an Airport Facilities Committee meeting held on August 27, 2020, the Committee agreed to recommend to the CPA Board of Directors that the Proposed Regulation be adopted without further revisions. The CPA Board of Directors adopted the Proposed Regulation as final at the August 27, 2020, Board of Directors meeting.

**TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:** The adopted regulation adds NMIAC § 40-10.1-1280 to the Airport Rules and Regulations of the Commonwealth Ports Authority. Section 1280 is added to establish a miscellaneous fee schedule outlining fees for SIDA badges; permits; use of the Pacific Region

ARFF/Aviation Training Facility; copying; and decals, cards, keys, room and equipment rental, and administrative fees.


I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 2<sup>nd</sup> day of September, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

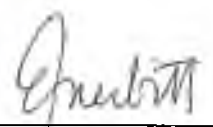
Submitted by:   
CHRISTOPHER S. TENORIO  
Executive Director

Date: 9/2/2020

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the certified final 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).

Dated this 8<sup>th</sup> day of September, 2020.

  
EDWARD MANIBUSAN  
Attorney General

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

Date: 09.08.20



# Commonwealth Ports Authority

Main Office: SAIPAN INTERNATIONAL AIRPORT, 2<sup>ND</sup> Floor Arrival Bldg.  
PO BOX 501055 • SAIPAN • MP • 96950  
Phone: (1-670) 237-6500/1 Fax: (1-670) 234-5962  
E-Mail Address: [cpa.admin@pticom.com](mailto:cpa.admin@pticom.com) Website: [www.cpa.gov.mp](http://www.cpa.gov.mp)



## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED AMENDMENTS TO THE HARBOR REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY

Volume 42, Number 05, pp 043536–43, of May 28, 2020

#### Amendments to the Commonwealth Ports Authority Harbor Regulations

**ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT NMIAC § 40-20.1-170 to the Harbor Regulations of the Commonwealth Ports Authority, which was published in the Commonwealth Register pursuant to the procedures of the Administrative 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 Regulations in Volume 42, Number 05, pp 043536–43 of the Commonwealth Register.

**AUTHORITY:** The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

**EFFECTIVE DATE:** This addition to the Commonwealth Ports Authority's Harbor Regulations 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:** During the 30-day comment period, the Authority received no comments regarding the Proposed Regulation. No individual requested the Authority issue a concise statement of the principal reasons for or against the adoption of the Proposed Regulation.

At the Seaport Facilities Committee meeting held on August 27, 2020, the Committee agreed to recommend to the CPA Board of Directors that the Proposed Regulation be adopted without further revisions. The CPA Board of Directors adopted the Proposed Regulation as final at the August 27, 2020, Board of Directors meeting.

**TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:** The adopted regulation adds NMIAC § 40-20.1-170 to the Harbor Regulations of the Commonwealth Ports Authority. Section 170 is added to establish a miscellaneous fee schedule outlining fees for force protection; certain permits; copying fees; and fees for decals, cards, keys, administrative costs, and room and equipment rental.

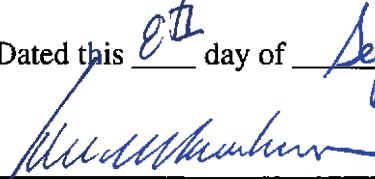
I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 2nd day of September, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

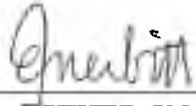
Submitted by:   
CHRISTOPHER S. TENORIO  
Executive Director

Date: 9/2/2020

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the certified final 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).

Dated this 02 day of September, 2020.

  
EDWARD MANIBUSAN  
Attorney General

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

Date: 09.09.20



# Commonwealth Ports Authority

Main Office: SAIPAN INTERNATIONAL AIRPORT, 2<sup>ND</sup> Floor Arrival Bldg.  
PO BOX 501055 • SAIPAN • MP • 96950  
Phone: (1-670) 237-6500/1 Fax: (1-670) 234-5962  
E-Mail Address: [cpa.admin@pticom.com](mailto:cpa.admin@pticom.com) Website: [www.cpa.gov.mp](http://www.cpa.gov.mp)



## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED AMENDMENTS TO THE PROCUREMENT RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY

Volume 42, Number 05, pp 043544–97, of May 28, 2020

### Amendments to the Commonwealth Ports Authority Procurement Rules and Regulations

**ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT amendments and additions to the Procurement Rules and Regulations of the Commonwealth Ports Authority, which was published in the Commonwealth Register pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a), on May 28, 2020. 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 Regulations in Volume 42, Number 05, pp 043544–97 of the Commonwealth Register.

**AUTHORITY:** The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

**EFFECTIVE DATE:** This addition to the Commonwealth Ports Authority's Procurement Rules and Regulations 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:** During the 30-day comment period, the Authority received no comments regarding the Proposed Regulations. No individual requested the Authority issue a concise statement of the principal reasons for or against the adoption of the Proposed Regulations.

At the Financial Affairs Committee meeting held on August 27, 2020, the Committee agreed to recommend to the CPA Board of Directors that the Proposed Regulations be adopted without further revisions. The CPA Board of Directors adopted the Proposed Regulations as final at the August 27, 2020, Board of Directors meeting.

**TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:** The adopted Proposed Regulations amend, add, and/or move provisions of the Procurement Rules and Regulations of the Commonwealth Ports Authority, including NMIAC §§ 40-50-035, 110, 115, 201, 202, 205, 210, 215, 225, 301, 401, 505, 510, 515, 701, 801, 802, 901, and 1020; and the title to Part 500. The amendments include revisions for clarification, consolidation of regulations by subject matter, and the removal of redundant language. Additionally, new provisions were added regarding consultant performance reports, bid solicitation, the process of award in invitations to bid, small purchases, proposal rejection, RFP cancellation, RFP evaluation committees, contract terms, and the administration of contracts.



I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 2<sup>nd</sup> day of September, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

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

  
CHRISTOPHER S. VENORIO  
Executive Director

Date: \_\_\_\_\_

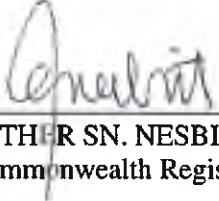
9/2/2020

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the certified final regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published. 1 CMC § 215<sup>3(f)</sup>.

Dated this 02 day of September, 2020.

  
EDWARD MANIBUSAN  
Attorney General

Filed and Recorded by: \_\_\_\_\_

  
ESTHER SN. NESBITT,  
Commonwealth Registrar

Date: \_\_\_\_\_

09.08.20



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115



**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF  
THE DEPARTMENT OF FINANCE – DIVISION OF CUSTOMS SERVICE**

*Prior Publication in the Commonwealth Register as Proposed Regulations  
Volume 42 Number 07 pp 043856 – 043866, July 28, 2020*

*Regulations of the Department of Finance: Chapter 70-10 Customs Service Division*

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Department of Finance ("DOF"), HEREBY ADOPTS AS PERMANENT 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 DOF 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 without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:** None

**AUTHORITY:** These regulations are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 and 4 CMC § 1820.

**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 agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

**ATTORNEY GENERAL APPROVAL FOR NON-MODIFIED REGULATIONS:** The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of

RECEIVED  
9:54 9/16/20

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.). As such, further approval is not required.

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 15<sup>th</sup> day of September 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



DAVID DLG. ATALIG  
Secretary of Finance  
Department of Finance

9/15/2020

Date

Filed and  
Recorded by:


  
ESTHER SN. NESBITT  
Commonwealth Registrar

09-21-20

Date

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

Dated the 16 day of September, 2020.

  
EDWARD MANIBUSAN  
Attorney General



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 Tel: (670) 664-8500/01; Fax: (670) 664-8540  
DCRM Tel: (670) 664-8300; Fax: (670) 664-8315  
[www.deq.gov.mp](http://www.deq.gov.mp) and [www.cnm.gov.mp](http://www.cnm.gov.mp)



**Ralph DLG. Torres**  
Governor

**Arnold I. Palacios**  
Lt. Governor

**Eli D. Cabrera**  
Administrator

**Jonathan I. Arriola**  
Director, DEQ

**Janice Castro**  
Director, DCRM

**PUBLIC NOTICE**  
**OF PROPOSED AMENDMENT TO THE PESTICIDE REGULATIONS**

**NOTICE OF INTENDED ACTION:** The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) intends to amend the Pesticide Regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a).

**AUTHORITY:** These amendments are promulgated under the authority of BECQ to issue regulations to establish and implement the programs over which the BECQ has jurisdiction, including its regulation of pesticides. 2 CMC § 3122.

**TERMS AND SUBSTANCE:** This proposed amendment seeks to extend the duration of the pesticide applicator certifications from three (3) years to five (5) years. This temporary modification to BECQ's pesticide regulatory program is intended to mitigate the challenges resulting from the COVID-19 public health emergency. To implement the Governor's Second Amendment Executive Order 2020-04, under which Directive 11 strongly recommends "social distancing of at least six feet whenever possible and reasonable," BECQ has reduced the number of persons who may sit for BECQ's monthly pesticide applicator examination. BECQ recognizes that, as a result, applicators whose certifications have expired or will soon expire may be unable to complete the examination for renewal certification generally required by NMIAC § 65-70-420(b)(4).

**CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES, AND REGULATIONS:** The proposed amendment amends NMIAC § 65-70-420(b) consistent with the Federal Pesticide Applicator Certification Rule, 40 CFR 171.107(a) and the United States Environmental Protection Act (USEPA) Memorandum dated July 27, 2020 titled "Guidance regarding the Certification of Pesticide Applicators during the COVID-19 Public Health Emergency."

**DIRECTIONS FOR FILING AND PUBLICATION:** The proposed amendment shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

OFFICE OF THE ATTORNEY GENERAL  
Civil Division

RECEIVED

SW

9/28/20

COMMENTS: Interested parties may submit written comments on the proposed amendment to Zabrina Shai, DEQ Pesticides Branch Manager, to the following address, fax, or email address, with the subject line "Proposed Amendment to the Pesticide Regulations."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

PO Box 501304

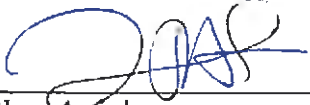
Saipan, MP 96950

Fax: (670) 664-8540

Email: [zabrinashai@becq.gov.mp](mailto:zabrinashai@becq.gov.mp)

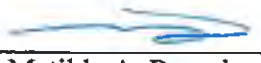
Comments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by:

  
\_\_\_\_\_  
Jonathan Arriola  
Director


09/22/2020  
Date

Received by:

  
\_\_\_\_\_  
Ms. Matilde A. Rosario  
Special Assistant for Administration


09/23/2020  
Date

Filed and Recorded by:

  
\_\_\_\_\_  
Ms. Esther SN. Nesbitt  
Commonwealth Registrar

09.24.2020  
Date

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.

  
\_\_\_\_\_  
Mr. Edward Manibusan  
Attorney General

9/23/2020  
Date

## § 65-70-420 Application Forms, Duration, and Renewals

(a) Application for certification as a pesticide applicator or licensed dealer shall be made to the Director on a form provided for that purpose.

(b) Duration of Certification and Renewals.

(1) All certifications shall be valid for a period of three years from the date of issuance unless earlier suspended or revoked by the Director, except as set forth in section (b)(6) hereof.

(2) Application for renewal shall be made to the Director on a form provided for that purpose.

(3) Applicants may renew certification by attending continuing education (CE) units, relevant to the certification category, offered by any U.S. state or territory. However, renewals through classes may only be considered if the applicant takes CE units during the certification period in the same or similar category for which the renewal is sought.

(i) Commercial applicators must take a minimum of twelve continuing education units to renew his or her certification.

(ii) Private applicators must take a minimum of six continuing education units to renew his or her certification.

(4) In the event the applicator was not able to attend CE units, the applicant shall be required to pass another examination of the same type required for renewals of certifications to ensure the ability to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.

(5) In the event the applicator wishes to add or change his or her certification category, the applicant shall pass demonstrate competency in the new category.

(6) All certifications shall be treated as valid for a period of five years from the date of issuance unless earlier suspended or revoked by the Director, provided that all of the following conditions are satisfied:

(i) The private applicator submits a written request to the Director to extend the duration of the applicator's certification. The request may be submitted after the date of expiration specified in the certification or as early as thirty (30) days prior to the date of expiration specified in the certification.

(ii) The Director determines, following a review of the applicator's compliance history, that no grounds for denial, suspension, or revocation of the certification exists under NMIAC § 65-70-435

(iii) The applicator certifies in its request for extension that it has not violated and will not violate any applicable requirements of the Pesticide Regulations or the federal Pesticide Applicator Certification Rule, including but not limited to the prohibition on the application of pesticides after the date of expiration specified in the certification and until such time as the Director approves the applicator's requested extension.

This section (b)(6) shall remain in effect until repealed, but not later than December 31, 2021.





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 Tel.: (670) 664-8500/01; Fax: (670) 664-8540  
 DCRM Tel.: (670) 664-8300; Fax: (670) 664-8315  
[www.deq.gov.mp](http://www.deq.gov.mp) and [www.cnm.gov.mp](http://www.cnm.gov.mp)



Ralph DLG. Torres  
 Governor

Arnold I. Palacios  
 Lt. Governor

Eli D. Cabrera  
 Administrator

Jonathan I. Arriola  
 Director, DEQ

Janice Castro  
 Director, DCRM

**NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA  
 PARA I REGULASIÓ PESTICIDE**

**I AKSION NI MA'INTENSIONA:** I Commonwealth gi Sangkåtta na Islas Mariáñas, Ufisinan Maga'láhi, "Bureau of Environmental and Coastal Quality (BECQ)" ha intensiona para u amenda i Regulasió Pesticide sigun para i manera nu i Ákton Administrator Procedure (APA), 1 CMC § 9104(a).

**ATURIDÁT:** Esti na amenda siha manmacho'gui gi pápa' i aturidát nu BECQ para u malaknus huyung regulasió siha para u istapblesi yan implimenta i prugráman ni i BECQ gai aturidát, kuntodu iyon-fiha regulasió nu "pesticides". 2 CMC § 3122.

**I TEMA YAN SUSTÁNSIAN I PALÁBRA SIHA:** Esti manmaproponi na amenda ha aliligáo para u ekstendi i durao nu i settifikasió i "pesticide applicator" ginin tres (3) áños para singku (5) áños. Esti tempuráriu na mudifikasió para regulatorin pesticide i BECQ na prugráma ha intensiona para u na'kayada i mankinentra na hiniyung siha ginin i "COVID-19 public health emergency." Para ma'implimenta i Sigundu na Amenda Otdin Eksakatibu 2020-04, gi pápa ni "Directive 11" ha fuetsáo rumekomenda "distánsian sosiát yan otrú gi sais pie maseha ngai'an pusipbli yan rasonápbli," i BECQ ha ribáha i numiru nu táotáo para háyi siña mata'chung para i "BECQ's pesticide applicator" na eksaminasió gi kada mes. I BECQ ha rekuknisa na, humuyungña, i "applicators" ni "expired" o sino taman "expired" na settifikasió siha siña ti makumplidu i eksaminasió para rinueba na settifikasió henerát madimánda ginin i NMIAC § 65-70-420(b)(4).

**SITASIÓ NU MANASOSIÁT YAN/PAT MANAFEKTA NA ISTATUA, AREKLAMENTU, YAN REGULASIÓ SIHA:** I maproponi na amenda ha amenda siha i NMIAC § 65-70-420(b) kunsisti yan i "Federal Pesticide Applicator Certification Rule, 40 CFR 171.107(a)" yan i "United States Environmental Protection Act (USEPA) Memorandum" mafetcha Huliú 27, 2020 matitula "Guidance regarding the Certification of Pesticide Applicators" durántin i "COVID-19 Public Health Emergency."

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** I maproponi na amenda debi na u mapupblika gi halum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu manma'adápta na regulasió siha (1 CMC § 9201(A)(1)) yan u mapega gi halum kumbinienti na lugát siha gi halum i civic center yan i Ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan prinsipát na lingguáhin natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA: I manintiresão na pättida siña ma'intrega hálum upiñon tinigi' siha put i manmaproponi na amenda para as Zabrina Shai, DEQ Pesticides Branch Manager, para i mantinattiyi na address, fax, o sino imel address, yan i suhetu na rãya "Manmaproponi na Amenda para i Regulasi3n Pesticide."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

PO Box 501304


Saipan, MP 96950

Fax: (670) 664-8540

Email: [zabrinashai@becq.gov.mp](mailto:zabrinashai@becq.gov.mp)


I upiñon siha debi na u manahálum gi halum trenta (30) dihas ginin kalendãriu ni mafetcha i pupplikasion nu esti na nutisia. 1 CMC § 9104(a)(2).

Nina'hálum as:

  
Jonathan Arriola  
Direktot

09/22/2020  
Fetcha

Rinisibi as:

  
Ms. Matilda A. Rosario  
Ispisiãt Na Ayudãnti Para I Administration


09/23/2020  
Fetcha

Pine'lu yan Ninota as:

  
Ms. Esther SN. Nesbitt  
Rehistran Commonwealth

09.24.2020  
Fetcha

Hu settifika, sigun para 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasi3n komu para fotma yan ligãt sufisienti.

  
Mr. Edward Manibusan  
Henerãt Abugãdu

9/23/2020  
Fetcha

**§ 65-70-420 Application Forms, Duration, and Renewals**

(a) Application for certification as a pesticide applicator or licensed dealer shall be made to the Director on a form provided for that purpose.

(b) Duration of Certification and Renewals.

(1) All certifications shall be valid for a period of three years from the date of issuance unless earlier suspended or revoked by the Director, except as set forth in section (b)(6) hereof.

(2) Application for renewal shall be made to the Director on a form provided for that purpose.

(3) Applicants may renew certification by attending continuing education (CE) units, relevant to the certification category, offered by any U.S. state or territory. However, renewals through classes may only be considered if the applicant takes CE units during the certification period in the same or similar category for which the renewal is sought.

(i) Commercial applicators must take a minimum of twelve continuing education units to renew his or her certification.

(ii) Private applicators must take a minimum of six continuing education units to renew his or her certification.

(4) In the event the applicator was not able to attend CE units, the applicant shall be required to pass another examination of the same type required for renewals of certifications to ensure the ability to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.

(5) In the event the applicator wishes to add or change his or her certification category, the applicant shall pass demonstrate competency in the new category.

(6) All certifications shall be treated as valid for a period of five years from the date of issuance unless earlier suspended or revoked by the Director, provided that all of the following conditions are satisfied:

(i) The private applicator submits a written request to the Director to extend the duration of the applicator's certification. The request may be submitted after the date of expiration specified in the certification or as early as thirty (30) days prior to the date of expiration specified in the certification.

(ii) The Director determines, following a review of the applicator's compliance history, that no grounds for denial, suspension, or revocation of the certification exists under NMIAC § 65-70-435.

(iii) The applicator certifies in its request for extension that it has not violated and will not violate any applicable requirements of the Pesticide Regulations or the federal Pesticide Applicator Certification Rule, including but not limited to the prohibition on the application of pesticides after the date of expiration specified in the certification and until such time as the Director approves the applicator's requested extension.

This section (b)(6) shall remain in effect until repealed, but not later than December 31, 2021.



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 Tel.: (670) 664-8500/01; Fax: (670) 664-8540  
 DCRM Tel.: (670) 664-8300, Fax: (670) 664-8315  
[www.deq.gov.mp](http://www.deq.gov.mp) and [www.cnm.gov.mp](http://www.cnm.gov.mp)



**Ralph DLG. Torres**  
 Governor

**Arnold I. Palacios**  
 Lt. Governor

**Eli D. Cabrera**  
 Administrator

**Jonathan I. Arriola**  
 Director, DEQ

**Janice Castro**  
 Director, DCRM

**ARONGORONGOL TOULAP**  
**REEL POMMWOL LIIWEL NGÁLI MWÓGHUTUGHUTÚL PESTICIDE**

**ARONGORONG REEL MÁNGEMÁNGIL MWÓGHUT:** Commonwealth Téel Falúw kka Efáng Ilól Marianas, Bwulasiyol Soulemelem, Bureau of Environmental and Coastal Quality (BECQ) re mángemángil rebwe liiweli Mwóghutughutúl “Pesticide” sáangi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a).

**BWÁNGIL:** Ebwe arongowow liiwel kkal faal bwángil BECQ igha rebwe isiisiwow mwóghutughut kkal reel ebwe ititiw me ayoora mwóghutughut ngáli progróoma kka BECQ e lemeli, ebwal schuulong mwóghutughutúl “pesticides”. 2 CMC § 3122.

**KKAPASAL ME AWEEWEL:** Pommwol liiwel ye ebwe aláálááyiló tool “pesticide applicator certifications” sáang eluuw (3) ráágh ngáli limoow (5) ráágh. E mwoschomwosch siiwel iye ngáli aar BECQ “pesticide regulatory program” me e pommw bwe rebwe appelló weires sáangi COVID-19 “public health emergency”. Reel rebwe ayóorai mwóghutughut ngáli “Governor’s Second Amendment Executive Order 2020-04, faal “Directive 11” iye e atiiwligi “social distancing of at least six feet whenever possible and reasonable,” BECQ ra aghitighiitiló numurol aramas ikka emmwelil rebwe mwóót ngáli aar “BECQ monthly pesticide applicator examination”. BECQ re weri bwe bwulul mille, “applicators” ikka aa mwúтчuló ngáre arapal ebwele mwúтч aar “certification” emmwel bwe essóbw takk aar “examination” ngáli “renewal certification” iye re tingór sáangi NMIAC § 65-70-420(b)(4).

**CITATION REEL IKKA E SCHUU ME/NGÁRE AFFECTED STATUTES, ALLÉGH, ME MWÓGHUTUGHUT:** Pommwol liiwel e siiweli NMIAC § 65-70-420(b) e weewe fengál me Federal Pesticide Applicator Certification Rule, 40 CFR 171.107(a) me “United States Environmental Protection Act (USEPA) Memorandum” wóól Ullyo 27, 2020 iital “Guidance regarding the Certification of Pesticide Applicators during the COVID-19 Public Health Emergency.”

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow pommwol liiwel kkal me Ilól Commonwealth Register Ilól táilil wóól pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9201(a)(1)) me ebwe appaschetá Ilól civiv center me bwal Ilól bwulasiyol gobetnameento Ilól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

**KKAPAS:** Schóó kka re tipáli rebwe isiisilong ischil kkapas wóól pommwol liiwel rebwe iisch ngáli Zabrina Shai, DEQ Pesticides Branch Manager, reel féléféi iye e amwirimwiritiw, fax, ngáre email address, ebwe lo wóól subject line bwe “Proposed Amendment to the Pesticide Regulations.”

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

PO Box 501304


Saipan, MP 96950

Fax: (670) 664-8540

Email: [zabrinashai@becq.gov.mp](mailto:zabrinashai@becq.gov.mp)


Ebwe toolong ischil kkapas llól eliigh ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong:

  
Jonathan Arriola  
Director


09/22/2020  
Ráál

Bwughiyal:

  
Ms. Mathilda A. Rosario  
Special Assistant ngáli Administration

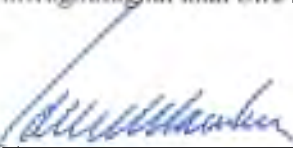
09/23/2020  
Ráál

Ammwelil:

  
Ms. Esther SN. Nesbitt  
Commonwealth Registrar

09.24.2020  
Ráál

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

  
Mr. Edward Manibusan  
Soulemelemil Allégh Lapalap

9/23/2020  
Ráál



**§ 65-70-420 Application Forms, Duration, and Renewals**

(a) Application for certification as a pesticide applicator or licensed dealer shall be made to the Director on a form provided for that purpose.

(b) Duration of Certification and Renewals.

(1) All certifications shall be valid for a period of three years from the date of issuance unless earlier suspended or revoked by the Director, except as set forth in section (b)(6) hereof.

(2) Application for renewal shall be made to the Director on a form provided for that purpose.

(3) Applicants may renew certification by attending continuing education (CE) units, relevant to the certification category, offered by any U.S. state or territory. However, renewals through classes may only be considered if the applicant takes CE units during the certification period in the same or similar category for which the renewal is sought.

(i) Commercial applicators must take a minimum of twelve continuing education units to renew his or her certification.

(ii) Private applicators must take a minimum of six continuing education units to renew his or her certification.

(4) In the event the applicator was not able to attend CE units, the applicant shall be required to pass another examination of the same type required for renewals of certifications to ensure the ability to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.

(5) In the event the applicator wishes to add or change his or her certification category, the applicant shall pass demonstrate competency in the new category.

(6) All certifications shall be treated as valid for a period of five years from the date of issuance unless earlier suspended or revoked by the Director, provided that all of the following conditions are satisfied:

(i) The private applicator submits a written request to the Director to extend the duration of the applicator's certification. The request may be submitted after the date of expiration specified in the certification or as early as thirty (30) days prior to the date of expiration specified in the certification.

(ii) The Director determines, following a review of the applicator's compliance history, that no grounds for denial, suspension, or revocation of the certification exists under NMIAC § 65-70-435.

(iii) The applicator certifies in its request for extension that it has not violated and will not violate any applicable requirements of the Pesticide Regulations or the federal Pesticide Applicator Certification Rule, including but not limited to the prohibition on the application of pesticides after the date of expiration specified in the certification and until such time as the Director approves the applicator's requested extension.

This section (b)(6) shall remain in effect until repealed, but not later than December 31, 2021.



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115



**PUBLIC NOTICE OF PROPOSED REGULATIONS**  
**of the DEPARTMENT OF FINANCE, DIVISION OF FINANCE AND ACCOUNTING**

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

**AUTHORITY:** The Secretary is empowered by the Legislature to adopt rules and regulations not inconsistent with law regarding those matters within its jurisdiction (1 CMC §2257) and to develop and implement uniform government policy for per diem rates for government travel (1 CMC §7407(e)).

**THE TERMS AND SUBSTANCE:** The purpose of the Proposed Regulations is to implement policies and procedures for government travel. The last revision to Administrative Code Chapter 70-20.3 code was through Emergency Adoption in December of 2005. A notice of permanent adoption has not been published.

**THE SUBJECTS AND ISSUES INVOLVED:** These regulations:

1. Permanently establish regulations for government travel, particularly for the executive branch including but not limited to
  - a. Authority and approval of government travel;
  - b. Allowable expenditures relating to lodging, meals, and transport; and
  - c. Cash management policies and forms for travel advances.
2. Fulfill 1 CMC §7407(e) to adopt a uniform policy of per diem allotments for government travel applicable to branches, departments, divisions, agencies and autonomous agencies of the CNMI so as to provide fair and equitable travel allowances for each government employee.

**DIRECTIONS FOR FILING AND PUBLICATON:** These proposed regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations (1 CMC §9102(a)(1)). Notice of postings will be in convenient places in civic centers, in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC §9104(a)(1)). A notice of postings and proposed regulations shall be available online at *finance.gov.mp* in the announcements section.

**TO PROVIDE COMMENTS:** Interested parties may submit written comments on the proposed regulations via the following methods:

*Email:* [travel@dof.gov.mp](mailto:travel@dof.gov.mp) , Subject: Travel Regulations comments,

*USPS mail:* Travel Regulations, C/O David Atalig, Secretary of Finance, PO Box 5234 CHRB, Saipan MP 96950.

*Hand Delivery:* Travel Regulations, C/O David Atalig, Secretary of Finance, Building 1302 Ascencion Drive, Capitol Hill, Saipan.

OFFICE OF THE ATTORNEY GENERAL  
CIVIL DIVISION

RECEIVED

20

BY

9/24/20

DATE





Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115



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

These proposed regulations were approved by the Secretary of Finance on August 24, 2020.

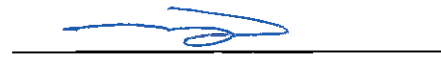
Submitted by:

  
David Dlg. Atalig  
Secretary of Finance

9/24/2020

Date


Received by:

  
Matilda A. Rosario  
Special Assistant for Administration

09/24/2020

Date

Filed and  
Recorded by:


  
Esther Sn. Nesbitt  
Commonwealth Registrar

09.28.2020

Date

Pursuant to 1 CMC §2153(e), the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency the CNMI Attorney General and shall be published (1 CMC §2153(f)).

Dated the 24<sup>th</sup> day of September, 2020.



Edward Manibusan  
Attorney General



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115



**NUTISIAN PUBLIKU PUT I MANMAPROPONI NA REGULASION SIHA gi  
DIPATTAMENTUN FAINANSIAT, DIBISION FAINANSIAT YAN ACCOUNTING**

**I AKSION NI MA'INTENSIONA PARA U MA'ADAPTA ESTI I MANMAPROPONI NA  
REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Mariñas, i Dipattamentun  
Fainansiát, Dibision Fainansiát & Accounting ha intensiona para u adapta i regulasion siha komu  
petmanienti i mañechettun Manmaproponi na Regulasion siha, sigun para i maneran nu i Akton  
Administrative Procedures (APA), 1 CMC § 9104(a). I regulasion siempri umifektibu gi halum  
dies (10) dihas dispues di adaptasion yan publikasion gi halum i Rehistran Commonwealth, (1  
CMC § 9105(b)).

**ATURIDAT:** I Sekretariu ma'aturisa ni Lehislatura para u adapta areklamentu yan regulasion siha ni ti  
kunsisti yan i lai put atyu siha na suhetu gi dentru aturidat-niha (1 CMC §2257) yan para u dibelop yan  
implimenta “uniform government policy” para “per diem rates” para buettan gubietnamentu (1 CMC  
§7407(e)).

**I TEMA YAN SUSTANSIAN I PALABRA SIHA:** I puntu nu i Manmaproponi na Regulasion siha sa'  
para u ma'implimenta “policies” yan manera siha para buettan gubietnamentu. I uttimu na tinilaika para i  
“Administrative Code Chapter 70-20.3 code” ginin i “Emergency Adoption” gi Disembri, 2005. I  
petmanienti na adaptasion na nutisia ti mapupblika.

**I SUHETU NI MASUMARIA YAN ASUNTU NI TINEKKA SIHA:** Esti na regulasion siha:

1. Petmanienti umestablesi i regulasion siha para i buettan gubietnamentu, pattikulat para i hali'  
eksakatibu kuntodu lao ti chi'ña para
  - a. Aturidat yan inaprueban nu buettan gubietnamentu;
  - b. Manmasedi na ginasta ni asosiát para apusentu, sentada, yan transpotta; yan
  - c. “Cash Management policies” yan fotma para atbansan i buetta siha.
2. Kumpli 1 CMC §7407(e) para u adapta parehu na “policy” nu “per diem allotments” para buettan  
gubietnamentu inaplikapbli para i hali', i dipattamentu, dibision, ahensia yan i “autonomous” na  
ahensia siha gi iya CNMI put para u pribeni tai'intires yan parehu na “allowances” buetta para  
kada na impli'ao gubietnamentu.

**DIREKSION PARA U MAPO'LU YAN PUBLIKASION:** Esti i manmaproponi na regulasion siha  
para u mapupblika gi halum i Rehistran Commonwealth gi seksiona ni Manmaproponi yan Nuebu na  
Ma'adapta na Regulasion siha (1 CMC §9102(a)(1)). Nutisian nu i pubblika siempri mapega gi halum  
kumbinienti na lugat gi halum civic centers, gi halum ufisinan gubietnamentu siha yan gi halum distritun  
senadot, parehu Inglis yan i dos prinsipat na lingguahin natibu (1 CMC §9104(a)(1)). I nutisian nu i  
pubblika siha yan i manmaproponi na regulasion siha managuaha “online” gi *finance.gov.mp* gi halum i  
anunsio na seksiona.

**PARA U MAPRIBENIYI UPIÑON SIHA:** I manintiresao na pattida siha siña ma'intrega halum tinigi'  
upiñon siha gi manmaproponi na regulasion ginin i tinattiyi na manera siha:

*Email:* [travel@dof.gov.mp](mailto:travel@dof.gov.mp) , Subject: Travel Regulations comments,



Office of the Secretary  
Department of Finance



P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115

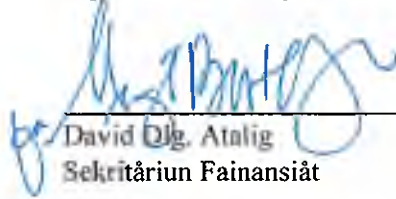
*USPS mail:* Travel Regulations, C/O David Atalig, Secretary of Finance, PO Box 5234 CHRB, Saipan MP 96950.

*Hand Delivery:* Travel Regulations, C/O David Atalig, Secretary of Finance, Building 1302 Ascencion Drive, Capitol Hill, Saipan.

I upiñon siha debi na u fanhålum gi halum trenta (30) dihas ginin i fetcha publikasion esti na nutisia. Put fabot intrega halum imfotmasyon, upiñon, pat agumentom-mu siha. (1 CMC §9104(a)(2)).

Esti i manmaproponi na regulasion siha inapruueba ni Sekritariun Fainansiât gi Agustu 24, 2020.


Nina'hålum as:

  
David Dlg. Atalig  
Sekritariun Fainansiât

09/24/2020

Fetcha

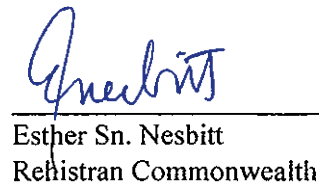
Rinisibi as:

  
Matilda A. Rosario  
Ispisiât Na Ayudanti Para Administration

09/24/2020

Fetcha

Pine'lu yan  
Ninota as:


  
Esther Sn. Nesbitt  
Rehistran Commonwealth

09-28-2020

Fetcha

Sigun para 1 CMC §2153(e), i manmaproponi na regulasion siha ni mañechettun guini maribisa yan aprueba komu para fotma yan ligât na sufisienti.

Mafetcha gi diha 24 gi September, 2020.

  
Edward Manibusan  
Henerât Abugâdu



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115



ARONGORONGOL TOULAP REEL POMMWOL MWÓGHUTUGHUTÚL  
BWULASIYOL FINANCE, BWULASIYOL FINANCE ME ACCOUNTING

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT:**

Commonwealth Téél Falúw kka Efáng Ilól Marianas, Bwulasiyol Finance, Bwulasiyol Finance me Accounting re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe Iléghló, sáangi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal seigh ráál mwiril aal adóptááilil me akkatééwowul me Ilól Commonwealth Register, 1 CMC §9105(b).

**BWÁNGIL:** Eyoor bwángil Sekkretóóriyo sáangi Legislature reel ebwe adóptááli allégh me mwóghutughut ikka ese weewe ngáli allégh ikka e ssúl ngáli milikka e lo Ilól Iemelem (1 CMC §2257) me ebwe ayoorai me ebwe ayoorai mwóghutughut ikka e weewe ngáli mwóghutughutúl gobetnameento ngáli “per diem rates” ngáli “government travel” (1 CMC §7407(e)).

**KKAPASAL ME AWEEWEL:** Bwulul Pommwol Mwóghutughut nge ebwe ayoorai mwóghutughutúl “policies” me mwóghutughutúl “government travel”. Ottimwol liiwel ngáli Administrative Code Chapter 70-20.3 code nge sáangi “Emergency Adoption” Ilól Tumwur ráághil 2005. Esáál yoor mwo arongorongol adóptáá kka aa Iléghló.

**KKAPASAL ME ÓUTOL:** Mwóghutughut kkal:

- 1 E itittiw mwóghutughut ikka aa Iléghló ngáli “government travel”, spesiatmente ngáli “executive branch” e schuulong nge ese yúgh ngáli
  - a. Bwángil me átirowal; “government travel”;
  - b. Óbwóss ikka re mweiti ngáli me e schuu Ilól “lodging”, áfááf, me taay; me
  - c. Mwóghutughutúl selaapi me pappidil ngáli “travel advances”.
- 2 Ebwe tam 1 CMC § 7407(e)-reel ebwe adóptááli mwóghutughut iye e weewe reel “per diem allotments” ngáli “government travel” iye e ffil ngáli “branches”, “departments”, “divisions”, “agencies” me “autonomous agencies” sáangi CNMI reel rebwe ayoorai “fair” me “equitable travel allowances” ngáli ghal escháy schóól angaangil gobetnameento.

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow pommwol mwóghutughut kkal me Ilól Commonwealth Register Ilól táilil Pommwol me Ffél Mwóghutughut ikka ra Adóptááli (1 CMC §9102(a)(1)). Appaschal Arongorong ebwe lo Ilól civic centers, bwulaisiol gobetnameento Ilól senatorial district, fengál reel English me mwáliyaasch (1 CMC §9104(a)(1)). Ebwe bwal yoor arongorongol appasch me pommwol mwóghutughut online me *finance.gov.mp* Ilól táilil arongorong.

**REEL ISIISILONGOL KKPAS:** Schoo kka re tipáli rebwe isiisilong ischil kkapas wóól pommwol mwóghutughut kkal rebwe attabweey mwóghutughut iye:

Email: [travel@dof.gov.mp](mailto:travel@dof.gov.mp) , Subject: Travel Regulations comments,



Office of the Secretary  
Department of Finance



P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115

USPS mail: Travel Regulations, C/O David Atalig, Secretary of Finance, PO Box CHRB, Saipan MP 96950.

Hand Delivery: Travel Regulations, C/O David Atalig, Secretary of Finance, Building 1302 Ascencion Drive, Capitol Hill, Saipan.

Ischil kkapas ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views, ngáre angiingi. (1 CMC §9104(a)(2)).

Aa átirow pommwol mwóghutughut kkal sáangi Sekkretóoriyol Finance wóól Elúwel 24, 2020


Isáliyalong:

  
David Dlg. Atalig  
Sekkretóoriyol Finance

9/24/2020

Ráál


Bwughiyal

  
Mathilda A. Rosario  
Special Assistant ngáli Administration

09/24/2020

Ráál

Ammwelil:

  
Esther Sn. Nesbitt  
Commonwealth Registrar

09-28-2020

Ráál

Sáangi 1 CMC § 2153(e), ra takkal amwuri fischiiy pommwol mwóghutughut ikka e appasch me átirowa bwe aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC §2153(f)).

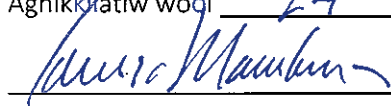
Aghikkilatiw wóól

24<sup>th</sup>

ráálil

September

, 2020

  
Edward Manibusan  
Soulemelemil Allégh Lapalap

PROPOSED TRAVEL REGULATIONS

**Chapter 70-20.3 CNMI Government Travel Regulations**

**Part 001 – General Provisions**

- § 70-20.3-001 Overview and Summary
- § 70-20.3-005 Authority
- § 70-20.3-010 Applicability
- § 70-20.3-015 Definitions
  
- § 70-20.3-020 Policy
  
- § 70-20.3-025 General Rules
- § 70-20.3-030 Salary while on Travel Status

**Part 100 – Types of Travel Authorization; Per Diem, and Expenses**

- § 70-20.3-101 Type of Travel Authorization
- § 70-20.3-105 Persons Authorized to Travel at Government Expense
- § 70-20.3-110 Per Diem Allowances
- § 70-20.3-115 Use of Leave While Traveling
- § 70-20.3-120 Traveling between Conferences with Wait Time
- § 70-20.3-125 Death during Official Traveling
- § 70-20.3-130 Baggage
- § 70-20.3-135 Telephone Service
- § 70-20.3-140 Wireless Service
- § 70-20.3-145 Miscellaneous Expenses
- § 70-20.3-150 Receipts Required

**Part 200 – Travel Advances, Traveler’s Transportation, Travel Authorization, and Travel Voucher**

- § 70-20.3-201 Travel Advances
- § 70-20.3-205 Traveler’s Transportation
- § 70-20.3-210 Travel Authorization (TA)
- § 70-20.3-215 Termination or Cancellation of Travel
- § 70-20.3-220 Travel Voucher (TV)

**Part 300 – Miscellaneous Provisions**

- § 70-20.3-301 Travel Authorization Request for Dependents
- § 70-20.3-305 Extension of Travel Time
- § 70-20.3-310 Loss of Traveling Documents
- § 70-20.3-315 Oversold Seats
- § 70-20.3-320 Grounded Due to Inclement Weather, Natural Disaster or Catastrophes
- § 70-20.3-325 Mode of Travel Conversion
- § 70-20.3-330 Traveler’s Insurance
- § 70-20.3-335 Meals on Non-Serving Flights
- § 70-20.3-340 Travel Card
- § 70-20.3-345 Disclaimer

**[This page intentionally left blank]**

## PROPOSED TRAVEL REGULATIONS

### Part 001 – General Provisions

#### § 70-20.3-001 Overview and Summary

- (a) The regulations in this subchapter provide procedures to all official travel performed in the best interest of the CNMI Government by its employees, board members, and other individuals traveling on official business for the CNMI Government.
- (b) The regulations in this subchapter shall supersede all rules and regulations issued by the Department of Finance, other CNMI agencies under the executive branch, and memorandums and directives from the Office of the Governor in effect prior to the adoption of these regulations for CNMI Government travel activities.

#### § 70-20.3-005 Authority

The Department of Finance is authorized to adopt these travel regulations pursuant to 1 CMC § 2557.

#### § 70-20.3-010 Applicability

- (a) These regulations apply to all work-related off-island travel for classified and unclassified employees, governing or advisory board members, consultants, and individuals representing the CNMI Government on official business, including off-island and interisland training.
- (b) The CNMI Government shall compensate authorized travelers their reasonable expenses for necessary travel authorized by the Government. A *reasonable* expense is one for which the cost is not excessive. *Necessary* travel is travel for which a clear business reason exists. This procedure applies to all travelers regardless of travel funding source.
- (c) Medical referral patients are not covered by these regulations. The CNMI Medical Referral Program shall apply their applicable procedures for patient travel per NMIAC Title 75 § 75-50-005 and § 75-50-010 (b).
- (d) Autonomous agencies, public agencies, and independent agencies that have current travel regulation authority in place are not covered by these regulations, except for § 70-20.3-110, which shall be applied uniformly.

#### § 70-20.3-015 Definitions

- (a) “Baggage” refers to containers consisting of public property or private property to be used exclusively for official business, and wearing apparel needed by the traveler for the journey.
- (b) “CNMI” stands for the Commonwealth of the Northern Marianas Islands.
- (c) “Conference” refers to any training, conference, travel fair, symposium, or other activity that is the purpose or partial purpose of the travel.
- (d) “Conference organized lodging” refers to lodging where a conference is held or lodging whether the conference has entered into an agreement for the purpose of providing a discounted lodging rate and/or to provide additional amenities to conference attendees.
- (e) “Covered employees” refers to employees, through government contract, that are eligible for overtime pay and other benefits.
- (f) “Day(s)” refers to calendar days, including weekends, and holidays. Each calendar date is a day.
- (g) “Government” refers to the CNMI Government.
- (h) “Individual Travel” refers to travel conducted by an individual traveling alone.



## PROPOSED TRAVEL REGULATIONS

- (i) "Group Travel" refers to travel conducted by a group of two or more persons for the purpose of attending the same official business function.
- (j) "Incidental expenses" include, but are not limited to, ground transportation, parking fees, tolls, work-related communication expenses, and registration fees.
- (k) "Inter-island travel" refers to travel between the islands of the Commonwealth.
- (l) "Traveler" means the person who is traveling for the Government.
- (m) "Spouse" refers to a person's lawfully married husband or wife.
- (n) "Per diem" refers to the amount of money the traveler receives to cover the cost of lodging and meals for one day.
- (o) "Stipend" refers to the amount of money the traveler receives for additional expenses not covered by per diem as stated in § 70-20.3-110 (a).
- (p) "Subsistence allowance" refers to the amount of money the traveler receives for food.

### § 70-20.3-020 Policy

It is the declared policy of the CNMI Government that all travel must be performed either for the direct benefit of the Government or to fulfill a real and legitimate obligation of the Government. With this purpose in mind, all Executive departments and agencies shall exercise prudence in authorizing off-island travel for seasonal, temporary, probationary employees; in such instances, a narrative travel justification to accompany the travel request and authorization must be submitted to the Governor, or designee. Travel to conferences, conventions, and the like shall be held to a minimum consistent with this policy.

### § 70-20.3-025 General Rules

- (a) Travelers must have written authorization prior to incurring any travel expenses.
  - i. While operation within the allocated travel budget is the responsibility of each traveler, the expenditure authority of the account has the overall duty of coordinating, reviewing, and approving travel requests. The Governor, or designee, will be the final approving authority or as authorized by § 70-20.3-105.
- (b) Travelers are expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.
- (c) Travelers are expected to pay for their personal expenses out of their per diem allowance while traveling on official government business.
- (d) The traveler is responsible for additional expenses over the authorized travel costs established in this procedure. The CNMI Government will not pay for excess costs resulting from circuitous routes, voluntary delays, or luxury accommodations, travel expenses, or services unnecessary or unjustified in the performance of official business.
- (e) Frequent Traveler Programs. Any frequent traveler benefits received from a travel service provider in connection with official travel shall be retained for personal use, if such items were obtained under the same conditions as those offered to the general public and at no additional cost to the CNMI Government. Travel airfare selection is subject to CNMI Procurement Regulations and the traveler may not select a specific travel service provider based on frequent traveler benefits.

### § 70-20.3-030 Salary while on Travel Status

- (a) The traveler shall receive his/her regular salary in addition to per diem, subsistence, or stipend during the authorized travel time.

## PROPOSED TRAVEL REGULATIONS

- (b) When on official travel, the timekeeper shall place the traveler on travel authorization (TA) status.
  - a. TA status begins on the departure date three (3) hours prior to departure from home island.
  - b. TA status ends on arrival date three (3) hours after arrival to home island.
- (c) When authorized by the expenditure authority, covered employees are entitled to earn overtime while off-island and on travel authorization status, especially but not limited to, when their job requires them to execute emergency, enforcement, or public safety activities, i.e., combat a brush fire on Rota at 5PM to 10 PM. A memorandum of justification from the Commissioner of Public Safety or Department of Fire & Emergency Services, shall be accompanied with the master payroll sheet and a copy of the Travel Authorization will be given to the Department of Finance, Payroll Section to substantiate overtime pay.

### **Part 100 – Type of Travel Authorization; Per Diem; and Expenses**

#### **§ 70-20.3-101 Type of Travel Authorization**

- (a) The following are types of travel authorization:
  - i. Travels on Official Business.
    - a. The Governor or designee shall authorize this type of travel including that funded by federal agencies.
    - b. Any requests not duly authorized prior to the commencement of travel will be charged to the individual traveler or to the director, administrator, or head official authorizing such travel, as appropriate.
    - c. All travels using federal funds from grants require the grantor's approval letter or evidence from the grant narrative.
  - ii. Travel Incident to Recruitment or Termination of Contract
    - a. Refer to NMIAC § 120-10-201.
- (b) Once a travel authorization request has been cleared by the Governor or designee, any subsequent change on the approved document must be resubmitted to the Governor, or designee in the form of an amended TA for review and recertification. Amendments to the TA include changes in dates and/or amount calculations. When amendments for additional expenses are made below \$500.00, the amended TA must be signed by the expenditure authority. When amendments are made above \$500.00, the amended TA must be signed by the Governor or designee.
- (c) Total length of travel, including subsequent amendments, may not exceed a total of sixty (60) consecutive days.

#### **§ 70-20.3-105 Persons Authorized to Travel at Government Expense**

- (a) Any person who is traveling for the government in any capacity may travel at the government's expense, provided that it is authorized by the Governor or designee.
- (b) The Governor's travel must be approved by the Lt. Governor.
- (c) Mayors of each municipality may authorize travel for their employees when traveling within the CNMI. Mayors traveling within the CNMI must be approved by the chairperson of the municipal council.
- (d) Agency lead officials, directors, or administrators shall restrict requests for travel on official government business for contract employees still serving their first 6 months of

## PROPOSED TRAVEL REGULATIONS

their new government contracts and to those with expiring contracts who have officially declared their desire not to renew their employment with the government, unless the Governor or designee waives this section in writing with reasonable justification.

- (e) **Persons Authorized:** The following persons are authorized to travel at the government's expense while on official business:
  - i) Employees of the CNMI Government.
  - ii) The spouses of the Governor and Lieutenant Governor.
  - iii) Members of governing and advisory board to any CNMI Government agency or commission. Board members must return to their home island fifteen (15) days prior to appointment's expiration. Board members must attach appointment letters to travel authorizations.
  - iv) Persons rendering service to the government. Any traveler who is not employed by an agency, i.e. consultant, student, performing artist, or related must have a justification report prepared by the department or agency head to include the reason(s) "why a person, other than an agency employee, was required to travel at the agency's expense."
- (f) **Authorized Travel Notifications**
  - i. If the traveler is a member of the Governor's Cabinet, a notice or Delegation of Authority (DoA) letter must be accompanied with the travel request for the Governor's approval for travels outside of the CNMI. Should travel occur within the CNMI, no DoA is required. The Press Secretary will disseminate your approved DoA to all respective agencies.

### **§ 70-20.3-110 Per Diem Allowances**

The maximum amount of per diem allocated for individual travelers is determined by the approved destination of official business. For travel outside of the CNMI, per diem will be calculated in accordance with the scale set by the federal government as outlined in the Federal Transportation Regulations (FTR) in 41 CFR Chapters 300 to 304 and implemented by Governor's Directive. Per diem rates must be reviewed annually by the Department of Finance. For travel within the CNMI, per diem will be calculated at a rate set forth within this section. The per diem rate will cover lodging, meals, and incidental expenses.

#### **(a) Definition:**

- i. The Per diem allowances include all charges for meals; lodging; meal and lodging tips; and laundry services. Receipts for purchases made using per diem and for additional incidental charges need not be furnished unless the Hotels Plus Option is availed of as detailed in § 70-20.3-110 (e)-vi.

#### **(b) Per Diem when Leave is Taken**

- i. If leave of absence begins or terminates within the traveler's prescribed hours of duty, per diem allowance will terminate or begin at the same time, but if leave of absence does not begin or terminate until after the traveler's prescribed hours of duty, the traveler will be regarded as being in travel status until midnight of the day in which the leave of absence begins and from 12:01 a.m. of the day following the leave of absence. A traveler will be in travel status on non-working day is immediately preceded and followed by leave of absence. Leave may be authorized when travelling

## PROPOSED TRAVEL REGULATIONS

provided that proper leave forms are submitted and approved prior to traveling. Adjustments on time sheets will be made accordingly.

### (c) Amount of Per Diem

- i. The allowance for persons traveling for the Government, including the Governor and Lieutenant Governor's spouse, shall equal to the number of days of authorized office travel multiplied by the current per diem allowance rate, contained in the Joint Travel Regulations, to its employees for the respective travel destinations when engaged in official business.
- ii. Under no circumstances will per diem be allowed for an employee at his/her permanent duty station, except off-island hired teachers, licensed allied health professionals, and individuals who are hired within the Executive Branch because they possess unique skills or other qualifications not available in the CNMI. Per diem may be allowed on temporary basis with Governor's explicit approval on the travel authorization or the Employment Contract of off-island hired professionals or individuals who are hired within the Executive Branch because they possess unique skills or other qualifications not available in the CNMI prior to the commencement of travel.

### (d) Per Diem Rates should be obtained from the following:

For travel in	Rates set by	For per diem and actual expenses, see the following:
(1) Continental United States (CONUS)	U.S. General Services Administration	For per diem, see applicable FTR Per Diem Bulletins issued periodically by the U.S. Office of Government-wide Policy, Office of Personal Property, Travel Management Policy, and available on the internet at: <a href="http://www.gsa.gov/perdiem">http://www.gsa.gov/perdiem</a>  Rates shall be reviewed annually on October 1 <sup>st</sup> , and implemented per Governor's Directive.  Per diem rates will be based on the average rate for lodging, meals, and incidentals in that state, and no less than \$225.
For travel in	Rates set by	For per diem and actual expenses, see the following:
(2) Non-foreign areas (Guam, Saipan,	U.S. Department of Defense	Per Diem Bulletins issued by Per Diem, Travel and Transportation Allowance Committee

PROPOSED TRAVEL REGULATIONS

Tinian, Rota and all other U.S. Insular areas)		(PDTATAC) and published periodically in the Federal Register or internet at: <a href="http://www.defensetravel.dod.mil/site/perdiemCalc.cfm">http://www.defensetravel.dod.mil/site/perdiemCalc.cfm</a>  Rates shall be reviewed annually on October 1 <sup>st</sup> and implemented per Governor's Directive.
(3) Foreign States	U.S. Department of State	A per diem supplement to section 925, Department of State Standardized Regulations (Government Civilian – Foreign Areas and available on the internet at: <a href="https://aoprals.state.gov/">https://aoprals.state.gov/</a>  Rates online shall be pulled on October 1 <sup>st</sup> , entered in the Department of Finance's Financial Management Information System, and updated on the same day annually thereafter.  Per diem rates will be based on the average rate for lodging, meals, and incidentals in that state, and no less than \$225
(4) CNMI (Northern Islands- Pagan, Alamagan, Aguiguan, etc.)	CNMI Government	A flat rate for per diem shall be provided to travelers going to the Northern Islands (islands north of Saipan and to include Aguiguan):  The daily rate is set at \$60.00 per calendar day. No fractional rates will be calculated.

(e) **Computing Per Diem**

i. **Day Defined**

In computing the per diem, the calendar days, midnight to midnight, will be the unit, and for fractional parts of a day at the commencement or ending of such continuous travel, constituting a travel period. If the travel period exceeds six (6) hours and requires lodging accommodations, a full day's per diem will be provided. If the travel does not require lodgings, or the period is six (6) hours or less, one-half of the per diem rate will be allowed. Stipend or subsistence allowances will not be allowed for travels exceeding six (6) hours, except as stipulated in paragraph (viii) of this section.

ii. **Time of Departure and Arrival**

Dates and times beginning and ending of travel must be shown on the travel voucher.

iii. **Crossing of International Dateline**

## PROPOSED TRAVEL REGULATIONS

In computing per diem in case where the traveler crosses the International Dateline (one hundred and eightieth meridian), actual elapsed time shall be used rather than calendar days.

### iv. **Indirect route or interrupted Travel**

Where there is an interruption of travel or deviation from the direct route for traveler's personal convenience or through the taking of leave, , the allowable per diem and expenses, including fare, shall not exceed that which would have been incurred on an uninterrupted travel by a usually traveled route.

### v. **Per Diem while transiting between travels outside of the CNMI**

A full day's per diem will be provided if a traveler is making an overnight layover to catch a transiting flight. Full per diem will be given based on the traveler's overnighting airport/ city code. A traveler should not be allowed to book a transiting/overnight stay in excess one (1) night.

### vi. **Hotels Plus Option**

In instances where a traveler feels compelled to stay in the hotel where the conference, seminar, or training is being held or where the hotel is conveniently or relative close in proximity to the area of business and where the prices of lodging exceed daily per diem allowance, the traveler may opt to choose the Hotels Plus Option. The traveler's hotel expense will be limited to \$500.00 per night and stipend will be made available at the rate of 25% the daily per diem rate for that location. Lodging estimates must be submitted 15 working days prior to travel date or as approved by the Governor, or designee, in emergency circumstances. Ground transportation via car rental or taxi fare will also be allowed in conjunction with this option. All receipts must be submitted for proper reconciliation and liquidation. Should the lodging rate fall below the submitted estimates, the traveler will repay the difference to Department of Finance.

### vii. **Advanced Arrivals**

Advanced arrivals up to one day and a half, with a cut off time of 12:00 PM noon on the day before expected arrival date, shall be allowed. All applicable per diem rates shall be applied to cover the two extra days.

### viii. **Per Diem with Stipend**

A stipend is allowable to be received in addition to per diem by the traveler in advance at a maximum of 50% of the established per diem rate. Stipends will only be allowable for additional expenses as described in 70-2.3-150(k) not covered by per diem only when proper invoices are attached to the travel authorization.

## **(f) Stipend or Subsistence Allowance in Lieu of Per Diem**

## PROPOSED TRAVEL REGULATIONS

- i. Stipend in lieu of per diem may be granted by the Governor or designee only. Department or division heads will need to provide justification for allowing stipend for a traveler.
- ii. Stipend amounts cannot exceed 50% of the daily established per diem rate. Department and division heads can set the rate provided it does not exceed 50%.
- iii. Stipends may be awarded to travelers whose lodging or meals are paid for by a sponsoring group or program, but only through the request of the division head and approval by the Governor or designee.
- iv. Subsistence allowance cannot exceed the rates as follows: \$20 for breakfast, \$25 for lunch, and \$35 for dinner.

### **§ 70-20.3-115 Use of Leave While Traveling**

#### **(a) Reporting Leave Use**

- i. An employee traveling on official government business shall be considered to be on travel status only during the time when conducting official business away from the regular place of business and while traveling to and from the place at which the official business is transacted. Unless otherwise specified and approved, travel status begins with the departure of the common carrier from the CNMI and terminates upon the traveler's return to the island.
- ii. Travel time in excess of the allowable travel time as provided in this section may be charged to annual leave or to leave without pay. If leave of any kind is to be taken while on travel status, the traveler must attach a copy of the approved leave form to the travel request. Upon returning to the CNMI, the traveler must show the exact hour of departure from and return to duty station.

#### **(b) Leave as a Result of Illness or Injury**

- i. If a traveler gets injured, not due to his/her own misconduct, while on official travel status, additional per diem shall be provided not to exceed 7 calendar days. The traveler must provide medical documentation and/or receipts of such injury or illness. This documentation should accompany the travel voucher.
- ii. The traveling personnel should refund the per diem allowance if he/she received no hospitalization under any statute and received reimbursement under such statute for hospital expenses paid by him/her. If approved by the official authorizing the travel, transportation expenses to employee's designated post of duty and per diem en route whenever the employee becomes incapacitated due to illness or injury not due to his own misconduct while en route to or while at temporary duty station prior to completion of same, shall be allowed.

### **§ 70-20.3-120 Traveling between Conferences with Wait Time**

If an off-island traveler is traveling between two or more conferences, seminars, or professional development training and it is cost effective for the traveler to remain off-island than it would be to fly back to the CNMI, then the traveler shall be allowed to wait at their current location or travel early to the next business site location with per diem. Applicable per diem rates shall be given based on the flight itinerary and choice of waiting location. The traveler will not be reimbursed for ticket expenses associated with traveling to another state, aside from those planned originally for official travel.

**§ 70-20.3-125 Death during Official Traveling**

- (a) If a CNMI Government employee passes away while on official government travel, the CNMI Government shall bear all expenses to repatriate the remains back to the CNMI or place of contract, if hired from off-island. Personal effects and reasonable shipping expenses will be shouldered by the CNMI Government. Cargo or shipping arrangements will be made by the deceased employee's department.
- (b) The department or division that employs the deceased will complete the necessary travel voucher to clear that individual's travel obligations.

**§ 70-20.3-130 Baggage**

**(a) Checking Baggage(s)**

Charges for the checking of baggage will be allowed.

**(b) Excess Baggage**

- i. Baggage subject to additional fees due to weight or size will be classed as excess baggage. Claims for reimbursement for excess baggage charges will be allowed when reasonable, authorized, and approved. All charges for excess baggage must be supported by receipts showing the weight of the baggage and between destinations.
  - 1. For inter-island commuter flights within the CNMI, a maximum of 20 pounds in excess baggage weight will be allowed for reimbursement.
  - 2. Travelers should exercise prudent and rational thought when packing for travel. For example, the government should not be held liable for excess baggage weight of 5 pounds, thus resulting in a \$200 carrier charge.

**(c) Stoppages in Transit**

Care should be taken to stop baggage that has been checked on a ticket beyond the point where the traveler leaves the conveyance. If baggage cannot be intercepted or transferred and is carried through original destination on unused portion of tickets full explanation of the facts should be made to the administrative office at the time of transmitting unused ticket for redemption. Failure to observe this rule will result in any excess cost to the Government being charged to the employees.

**(d) Transfer of Baggage**

Necessary charges for the transfer of baggage will be allowed.

**(e) Storage of Baggage**

Charges for the storage of baggage will be allowed when it is shown that such storage was solely on account of official business.

**§ 70-20.3-135 Telephone Service**

**(a) Local Calls**

Charges for local telephone calls on official business are allowable. The travel voucher shall show the number of such calls, the person called, rate per call, total amount expended, and that the calls were for official business.



## PROPOSED TRAVEL REGULATIONS

### (b) **Long Distance Calls**

Charges for long distance telephone calls on official business are allowable provided the traveler furnishes a statement showing the name of the party called, the points between which service was rendered, the date, time occupied, the amount paid on each call, and that the calls were for official business. When the public interest so requires, the name of the party and the points between which the service was rendered need not be stated in the travel voucher.

### (c) **Personal Calls**

Charges for telephone calls requesting leave of absence, payment of salary or expense vouchers, hotel reservations, and those as to any matter of a purely personal nature will be disallowed.

## **§ 70-20.3-140 Wireless Service**

- (a) Wireless service fees and charges will be allowed up to \$10 per day with approved justification. This includes purchasing of a wireless device subscriber identification module (SIM) card, any and all activation fees, pre-paid minutes, text, and data.
- (b) For wireless service on flights, the traveler is limited to \$20.00 fees per way to and from final destination, not by segment. Approved justification must be submitted to the Department of Finance.

## **§ 70-20.3-145 Miscellaneous Expenses**

### (a) **Other Expenses**

Charges for necessary stenographic or computer equipment in connection with the preparation of reports or correspondence, clerical assistance, services or guides, interpreters, packers, and drivers of vehicles will be allowed when authorized or approved by the official who authorized the travel.

### (b) **Hire of Room for Official Use**

When necessary to engage a room at a hotel or other place in order to transact official business, a separate charge therefore will be allowed when authorized or approved by the official who authorized the travel. Advanced payment may be requested upon supporting documentation from hosting hotel or room for hire establishment.

### (c) **Conversion of Currency**

Commission for conversion of currency in foreign countries may be allowable.

### (d) **Check Cashing Charges**

Charges covering exchange fees for cashing government checks incurred for travel in foreign countries may be allowed. Exchange fees incurred in cashing checks or drafts issued in payment of salary or in cashing travelers checks will not be allowed.

### (e) **Translation Services**

Charges relating to the translation services or the need of a guide to accomplish business activities shall be permitted.

### (f) **Mailing of Professional Development Materials**

## PROPOSED TRAVEL REGULATIONS

Charges associated with the mailing of professional development, conference, seminar materials when off-island will be allowed provided that receipts are submitted and claimed during the travel voucher process. This may be subjected to weight limitations, not to exceed 50 pounds.

**(g) Exiting Fees, Departure Tax, and Visitor Fees**

Countries that charge exit fees, departure tax, or visitor fees shall be allowed for reimbursement. Payment for such item may be advanced to the traveler provided with supporting documentation. Proper receipts must be submitted alongside the travel voucher. If the receipts are lost, the traveler may only claim 50% of the total exit fee, departure tax, or visitor fee.

**(h) Method of Payment**

- i. Where payment is made for services outlined in paragraphs § 70-20.3-145 (b), (c), (d), (e), (f), and (g) above, reimbursement for the charges actually made may be allowed if the voucher is supported by receipts showing the quantity, unit, and unit price.
- ii. If payment is not made directly to the vendor or service provider, but through an intermediary, the account should be approved by the traveler, and certified by the payee (intermediary). The account must show the dates of service, quantity, unit and unit price, and such other particulars as may be needed for a clear, understanding of the charge.
- iii. If services were provided by traveler's personal resources to conduct official business, the traveler must provide reasonable proof of costs incurred to the traveler and may include the dates of service, quantity, unit and unit price, and such other particulars as may be needed for a clear, understanding of the charge.
- iv. If a government voucher is not used, care should be taken that such account is submitted in duplicate, the original of which shall be the approval of the traveler and the following certification by the payee: *"I certify that the foregoing account is correct and just and that payment therefore has not been received."*

**(i) Parking and Towing Expenses**

- i. Parking fees for lots, garages, or other parking structures are reimbursable with valid receipts.
- ii. Expenses incurred by a traveler for any parking tickets and fines, traffic violations, or towing fees are not reimbursable.

**(j) Taxes and Gratuity**

Taxes and gratuity (tips) are included in the per diem rate for meals and incidentals and are not reimbursable.

**(k) Other Expenses**

Miscellaneous expenditures, when necessarily incurred by the traveler in connection with the transaction of official business, are allowable when approved by the official who authorized the travel.

## § 70-20.3-150 Receipts Required

## PROPOSED TRAVEL REGULATIONS

- (a) **Receipts must Support all Expenditures** not included in per diem which exceed five dollars (\$5.00).

(b) **Hosting Expense**

Hosting expense necessarily incurred while on travel status is strictly reserved only for the Governor, Lieutenant Governor, Mayor, member of the Legislature, or the Attorney General and must be justified in writing stating:

- a. Date of Hosting Event;
- b. Specific purpose of hosting or nature of business benefit derived or expected to be derived; and
- c. Specific names and occupations of those persons hosted.
- d. The justification must be accompanied by supporting original hotel or restaurant receipts indicating the amount of expenditures and the name and address of facility used for hosting. Such an expense is reimbursable only directly in connection with the transaction of official business for the Government.
- e. The maximum allowed for each official hosting event is \$5,000.

## **Part 200 – Travel Advances, Traveler’s Transportation, Travel Authorization (TA), and Travel Voucher (TV)**

### **§ 70-20.3-201 Travel Advances**

(a) **Advance of Funds**

- i. The Department of Finance must advance per diem and miscellaneous allowances. Advances to travelers are chargeable to the traveler’s account or until the account is settled in a travel voucher.
- ii. A traveler must receive his/her travel advance three (3) full days prior to departure for travel, provided that all travel authorization documents are submitted one (1) week in advance.
- iii. For travels within and outside the CNMI, the Department of Finance must advance 100% of the total per diem, meals, incidentals, and car rental amounts. The Department of Finance may withhold 20% of the total advance if the traveler has a pending travel voucher. However, for consecutive travels within a period of fifteen (15) days, the Department of Finance must advance 100% to the traveler without question.
- iv. Registration or enrollment fees are allowable. For training registration or enrollment fees, the Department of Finance may opt to provide registration or enrollment costs into the per diem check or it may require the traveler to provide billing information so that a check could be generated in the company’s name. The traveler is entitled to 100% of the registration or enrollment costs.
- v. Travel advance should be considered as a loan to the traveler until proper reconciliation or approved travel expenses has been authorized and no outstanding amount is due to either the traveler or the CNMI Government.
- vi. Travel advances shall not include the cost of airfare. Exceptions may be made for inter-island commuter flights whereby GTRs are not accepted and may be made with the prior approval of the Governor, or designee, and are subject to the CNMI Procurement Regulations.
- vii. Form: DOF-TR-B is to be updated upon DOF’s discretion.

**(b) Recoveries of Advances**

The Department of Finance shall assure travelers account for advances by filing travel vouchers with all proper signatures within fifteen (15) days upon return from travel unless travel is performed at a closing period of a federal grant. The Department of Finance's Travel Section may request for the travel voucher within fifteen (15) days prior to a closing of a grant for liquidation purposes.

- i. The Department of Finance shall initiate recovery of any outstanding advances not fully recovered by deductions from reimbursement vouchers or voluntary refunds by the traveler thirty-five (35) days following arrival on the CNMI by the following methods:

1. set off of salary due,
2. retirement credit,
3. lump sum payment for work separation, or
4. by such other legal method of recovery as may be necessary.

In the event the advance exceeds the reimbursable amount, the traveler shall return the excess amount in full or have it recovered in installments in accordance with paragraph (ii) of this section.

- ii. Should the traveler choose the installment plan, Department of Finance shall determine a schedule that is suitable, and shall collect at a minimum \$50.00 bi-weekly, and may not exceed 20% or \$500 of the traveler's gross bi-weekly income for each installment.
- iii. For separating employees, the Department of Finance shall collect 100% of travel obligations owed prior to final Notice of Personnel Action. Obligation clearance from the Department of Finance's Travel Section will be mandatory.
- iv. In the event that a cancellation of travel for any reason occurs after per diem, stipend, and/or subsistence allowance was issued, the traveler is obligated to return 100% of these funds. This shall be paid to the CNMI Treasury and receipts must be submitted to the Department of Finance. The Department of Finance must devise a rigid payment plan to recover these funds or adhere to §70-20.3-201 (b)(iii).
- viii. In the event that expenses exceed actual per diem allowed, the Department of Finance shall reimburse the traveler for all allowable expenses after travel voucher reconciliation. The Department of Finance will have no more than two weeks or 14 calendar days to release the reimbursement upon the payment voucher posting.

**§ 70-20.3-205 Traveler's Transportation**

**(a) Definitions**

This transportation includes all necessary official travel on airlines, buses, streetcars, taxicabs, rideshares, and other usual means of conveyance. Transportation may include fares and such expenses incident to transportation. When required for travel, fees in connection with the issuance of passports and visas, cost of photographs for passports and visas, cost of birth certificates and charges for inoculation are not allowable. For purposes of these regulations the term "place of abode" may include any point from which the employee concerned commutes daily to his/her official post of duty.

## PROPOSED TRAVEL REGULATIONS

### **(b) Routing of Travel**

All travel routes should be at the most economical and direct route(s) available to the point of the official business determination. Travel by other routes is allowable upon establishment of the official necessity thereof. All government travel shall be on unrestricted tickets, unless sponsored by an outside federal or work-related agency, group, or firm.

### **(c) Transportation Expense**

- i. The expense of traveling by air will be allowed on the basis of cost. The traveler is expected to use the coach or economy fare.
- ii. The traveler must obtain two quotes from a qualified provider for the most economical airfare possible considering expense, time, and convenience.
- iii. When a traveler prefers a higher class than that authorized for purchase, the traveler must pay the incremental difference.
- iv. Any upgrade provided to the traveler by the airline is allowed, provided that there is no additional cost to the CNMI Government.
- v. The CNMI Government will not reimburse travelers for tickets purchased with frequent flyer miles.
- vi. Any tickets purchased by the employee will be reimbursed by the CNMI Government if it is an approved travel.

### **(d) Indirect Route Travel**

- i. Travel tickets should be issued for complete routes, including direct connections. Any charges related to travel not related to the official government business are the responsibility of the employee. Such include, but not limited to are, stopovers, personal side trips, or any routing which would impact the lowest available unrestricted fare.
- ii. If a person travels by an indirect route for his/her convenience, he/she will bear the extra expense; reimbursement for expenses will cover only such charges as would have been incurred by a usually traveled route.

### **(e) Special Conveyances**

- i. The hire of automobile, taxicab, rideshare, and other special conveyance is allowable.
- ii. The usual taxicab fares from station, wharf, or other terminal to either place of abode or place of business, and from either place of abode or place of business to station, wharf, or other terminal is allowable.
- iii. Taxicab fares for transportation between places of official business are also allowable. An advance of \$30.00 per day for ground transportation, such as taxi fares and/or rideshares, will be provided to the traveler upon approval by the Governor, or designee. Fares in excess of advanced amount will be reimbursed to the traveler so long as receipts are provided with the travel voucher.
- iv. For relocation of off-island hired professionals or individuals who are hired within the Executive Branch, automobile rental must have the Governor or designee's explicit approval on the Travel Authorization or the Employment Contract. The traveler must attach a copy of the car rental agreement with supporting receipts to the travel voucher. Without approval of the Governor, or

## PROPOSED TRAVEL REGULATIONS

- designee, of the employment contract, the expense will be disallowed notwithstanding sufficient documentation to cover the expense is provided.
- v. Rental of an automobile requires the Governor, or designee's explicit approval on the Travel Authorization prior to the commencement of travel. Upon claiming this expense, the traveler must attach a copy of the car rental agreement with supporting receipts to the travel voucher. Without prior approval of the Governor, or designee, the expense will be disallowed notwithstanding sufficient documentation to cover the expense is provided.
  - vi. Car rentals stipends shall be provided at 100% of the cost. The daily car rental allowance shall be \$70.00. This expense will be treated as actual costs and will be subject to recovery upon over payment. For car rental driven by the Governor's or Lieutenant Governor's Protective Service Detail Agent, he/she shall receive a daily car rental allowance of \$140.00 prior to traveling off-island and should be supported by receipts upon return for claim.
  - vii. Insurance for collision damage (loss-damage waiver) and liability shall be paid by the CNMI Government for official travel requiring the use of a rental vehicle as authorized by the Travel Authorization. Travelers are required to obtain collision damage and liability insurance when renting or other obtaining a vehicle. Costs related to damages to or malfunctioning of rented vehicles (and other vehicles damaged in an accident in which a CNMI Government Traveler is at fault) may be paid by the CNMI Government up to the minimum deductible amount shown in the rental contract for the location.
  - viii. Associated car rental expenses are allowable, including but not limited to fuel purchase, flat tire repair, geographic positioning system (GPS) units, parking fees, valet parking fees, toll fees, or personal accident insurance coverage. Other expense items will need the clearance of the department head.
  - ix. In certain instances, the traveler may find it necessary to rent a car not duly authorized. If a compact car is not available, the next higher class may be rented subject to prior justification and approval. Rental of vans or their equivalents are allowable provided that the group travel consists of three (3) or more travelers. Receipts for car rental are required to be submitted subsequent to the completion of travel. The CNMI Government will not pay the car rental agencies directly.
  - x. A traveler may avail for ground transportation allowances, such as for taxi fares and rideshares, regardless if a co-worker has received car rental allowance. Receipts must be submitted for expenses to be claimed.
  - viii. The rental of official transportation, such as boats, bicycles, motorized wheelchairs, animals for hauling or service, etc., in addition to car rentals will be permitted for purposes of carrying out work-related business activities. This will be charged on the travel authorization.

### **§ 70-20.3-210 Travel Authorization (TA)**

All travel shall be authorized with an approved Travel Authorization (TA). Situations requiring emergency official travel shall be permitted upon approval of a written justification.

#### **(a) Form of Authority**

- i. All Executive Branch travel requests shall be subject to the Governor or designee's final approval.

## PROPOSED TRAVEL REGULATIONS

- ii. It is expected that ordinarily the authority will be issued prior to the incurrence of the expenses and will specify the travel to be performed as definitely as possible unless circumstances in a particular case prevents such action.
- iii. All travel authorizations shall be made on the CNMI Government Form issued by the Department of Finance, unless explicitly directed by the Secretary of Finance.
- iv. The Department of Finance's Travel Section will have no more than five (5) days to process the TA and return to the traveler and/or department.

### **(b) Preparation and Approval**

- i. The travel request shall be prepared by the requesting organization and must be submitted to the Department of Finance's Travel Section for review and per diem calculation at least fifteen (15) working days prior to the commencement date of travel. Emergency processing of travel within the CNMI is allowable only with the Secretary of Finance's concurrence and the Governor, or designee's concurrence, for those traveling outside of the CNMI.
- ii. The department or agency's head must sign and approve the Travel Request and Authorization Form authorizing the representative to travel on official Government business.
- iii. The agency, department, bureau and other instrumentality shall ensure that adequate funding for travel is available throughout the duration of the travel period.
- iv. Supported documentations must be attached. This includes, but is not limited to, formal invitations, conference notifications, professional development course offering, registration, or other formal documentation that requires the traveler to be present off-island. Email invitations from Department Heads, Mayors, Governors, or Federal Grant Officers/Managers will be allowed as proof. A copy of the flight itinerary from a local ticketing agency that accepts Government Travel Requests (GTR) and a completed Travel Advance Request Form (Form ) must accompany the entire Travel Authorization package.
- v. The TA form used by the CNMI Government requires the purpose, justification, and all the appropriate signatures to be completed prior to any travel. The following documents must be attached to the TA:
  - a. Justification memorandum for the travel;
  - b. Itinerary (schedule of departure, arrival, and destination(s));
  - c. Estimated cost to include airfare, ground transportation, per diem allowance, and any other miscellaneous expenses; and
  - d. Documentation of invitation, meeting confirmation, or conference agenda, if applicable, or other business agenda.
  - e. Travel Advance Form, completed and signed.
- vi. All travel authorizations will require approval in advance by the approving official as indicated in Part 210 (b)(1)-(5) below. This authorization certifies that the expenses are proper and within the scope of the budget to be charged. Any unanticipated expenses that were not authorized in advance will be subject to approval upon closing out of the TA by the appropriate department head or expenditure authority official, and reimbursement will only be made upon the submission of relevant receipts and documentation.

## PROPOSED TRAVEL REGULATIONS

- a. All travel within the CNMI shall be first authorized by the division head, concurred by the Department Head as the expenditure authority and approving official,
- b. All travel within the CNMI by those Department Heads, Cabinet Members, or expenditure authority officials that report directly to the Governor shall receive concurrence by the Special Assistant for the Administration.
- c. All travels outside of the CNMI must be first authorized by expenditure authority, usually the Department Head, and then signed by the Governor, or designee, for concurrence as the approving official.
- d. All travel (within and outside of the CNMI) by the Governor shall seek concurrence by the Lieutenant Governor as the approving official.
- e. All travel (within and outside of the CNMI) by the Lieutenant Governor shall seek concurrence by the Governor as the approving official.
- vii. Upon the completion of review and calculation by the Travel Section of the Department of Finance, the Director of the Travel Section shall certify the Travel Authorization documents. These documents must then be transmitted to the Governor, or designee, for final approval.

### **(c) Explanation of Items on Travel Authorization Form**

Form: DOF-TR-A

Item 1: The TA Number shall be provided by Department of Finance's Travel Section personnel.

Item 2: Place the date of when the TA is prepared.

Item 3: Place the Division and Department Name

Item 4: Place the Legal Name accompanied by your government employee number. Refrain from putting your Social Security numbers.

Item 5: Place the Official Station (the island of traveler's occupation).

Item 6: Place the Official Position Title

Item 7: Place the Accounting Office's Station (the island where you the finance documents are processed).

Item 8: Place the Island of Embarkation (island where you are leaving from)

Item 9: Place the city (or cities) and state/country traveling to and this should be followed by the word "Return" For example, Phoenix, Arizona & Return.

Item 10: Briefly describe purpose of travel and this should be followed by the phrase "Travel to be performed in the best interest of the CNMI Government."

Item 11: Allowance method to be used. Choices could include a) established government per diem rates b) Stipend set at "X" amount of dollars, or c) No per diem or allowance will be provided.

Item 12: Place beginning and ending dates of official travel.

Item 13: Mark "X" if mode of travel is through Common carrier, such as by an airline.

Item 14: Mark "X" if mode of travel requires extra fare at a mileage rate set by federal transportation regulations.

Item 15: Mark "X" if Government-owned conveyance will be used. This is applicable when a traveler uses another government vehicle when off-island. This will automatically set off allowable gas reimbursements via gas receipts.

Item 16: Mark "X" if travelers will be using privately own vehicle. This, too, will follow the mileage rate set by federal transportation regulations. Options (a), (b), or (c) are



## PROPOSED TRAVEL REGULATIONS

available and one letter should be chosen under this item. This is specifically reserved for federal accounts allowing such an activity by their approved grant.

Item 17: Mark "X" under miscellaneous if transportation of immediate family member is required. This item is reserved for the medical referral program as patient escorts may be needed.

Item 18: Mark "X" under "Other (Specify) and Type in "Car Rental Authorization" with the Governor's name and title below the line. "Ground Transportation Authorization will be done in the same fashion. Only when the Governor, or designee, affixes his/her signature on the prescribed line, will the traveler receive the appropriate ground transportation.

Item 19: Mark "X" if the shipment of household goods and personal effects will be needed as in cases of new off-island recruitments and eligible repatriating non-renewed employees.

Item 20: Provide the name of the Travel agency to which a reservation has been made and cost of airfare or fare on provided line.

Item 21: Under Per Diem, the Travel Section at the Department of Finance will generate a calculated worksheet of per diem to be awarded. Leave this section blank.

Item 22: This section is reserved for other items not mentions in items 20 or 21. This includes Car Rental, Registration Fees, Ground Transportation. Use each item as needed. Registration fees must be accompanied by off-island agency or firm registration costs and billing information.

Item 23: For Total, leave this blank and the Travel Section of the Department of Finance will fill it in for you.

Item 24: Place the chargeable account here. It usually the office's business unit followed by the subaccount number of 62500 for Travel or 62690 for Personnel Training. For federal accounts, Personnel Training is the preferred chargeable account for conferences, professional development, etc. (Example of chargeable account is I7575X – 62500). If an arrangement has been made to use another office's business unit to charge the account, then the head of that agency will be the requesting individual on Item 25.

Item 25: Place the name of the Travel Section Director on the given line. If all items are complete, reasonable, and allocable, then the Travel Section Director will affix his/her signature.

Item 26: Place the requestor's name on the given line. This is usually the expenditure authority of the department's account. However, for travels within the CNMI, this line is reserved for the Travel Section Director's name.

Item 27: Place the title of name provided in Item 26.

Item 28: For inter-island travel, the Department Secretary will be the authorizing officer. For Special Assistants under the Governor's Office, the Special Assistant for the Administration will be the authorizing officer for inter-island travel within the CNMI. For any other travel outside of the CNMI, the authorizing officer will be the Governor, or designee. Place the name of the Governor on this line.

Item 29. Place the title of the individual named in Item 28.

Form: DOF-TR-A is to be updated upon DOF's discretion.

### **(d) Action by the Governor or designee**

Once the calculations have been made by the Travel Section of the Department of Finance, the Travel Authorization package will be forwarded to the Governor or designee's Office.

## PROPOSED TRAVEL REGULATIONS

Upon receipt of the travel request, personnel shall ascertain justification of travel. If a transmittal and written justification do not accompany the request, the TA reviewer shall notify traveler and hold the travel request pending receipt of the required documentation.

When the requesting organization provides the necessary documentation, the reviewer shall ascertain the completeness of the information provided on the travel request and verify the accuracy of the estimated travel costs. Upon noting any discrepancies, the reviewer shall advise and settle with the requesting organization such matters. Upon settlement of these matters, the reviewer shall initial and forward the travel requests for the Governor or designee's approval.

### **(e) Action by the Department of Finance**

- i. Upon receipt of the signed Travel Authorization request from the Governor or designee's Office, the Travel Section shall enter in the CNMI Government Financial Management Information System all applicable expenses. Then it is certified by the head of the Travel Section for local accounts or reviewed and certified by the Federal Programs Coordinator for travels that are federally funded. After certification, it will head to the Director of Finance and Accounting (F&A) for review and signature.
- ii. In instances, that the Director of F&A is unavailable for signature or review, the Secretary of Finance can sign over the Director.
- iii. Once it is approved by either the Director of F&A or the Secretary of Finance, the Travel Section shall issue a Government Travel Request (GTR) to the travel agency named on Item 20 on the Travel Authorization Form.
- iv. The Travel Section will then post or generate a Payment Voucher (PV) number in the CNMI Government Financial Management Information System so that the CNMI Treasurer may immediately issue the check to the traveler. The traveler or agency's administrative staff may pick-up the check and must sign for the receipt of the check from Division of Treasury.

### **(f) Amendments**

- i. Travel Authorizations may be amended only upon approval by the approving official. A justification for the amendment must be attached.
- ii. Amendments requiring additional funds to be obligated must have their TAs routed just like a new TA.
  - a. When amendments for additional expenses are made below \$500.00, the amended TA must be signed by the expenditure authority. When amendments are made above \$500.00, the amended TA must be signed by the Governor, or designee.
- iii. If no additional funds are required, and the traveler has performed less days as traveled, i.e. or incurred less expenses as originally planned or projected, then the submission of an amendment TA will not be necessary. Automatic payroll deduction shall commence on the following pay period.

### **(g) Zero Travel Authorizations**

Travel authorization with no expense to the CNMI Government as in cases by sponsoring organizations must be approved with a travel authorization showing zero

## PROPOSED TRAVEL REGULATIONS

travel expense. All travel performed by travelers representing the CNMI Government must be in the interest of the CNMI Government. If authorized and approved, a zero TA will allow the traveler to be on official administrative/travel leave status. In such cases, a stipend (not per diem) may be granted by the expenditure authority.

### **§ 70-20.3-215 Termination or Cancellation of Travel**

(a) Termination of travel due to illness, death or serious illness of a family member, or catastrophic circumstances thus directly affecting the traveler home or other extraneous circumstances as approved by the Expenditure Authority or Governor/designee may be authorized prior to completion of temporary duty assignment. Termination of travel as result of the traveler's own misconduct shall be at the expense of the traveler.

(b) Whenever a traveler plans in advance to deviate from the most direct route or itinerary for business-related travel or deviates from his/her approved travel for personal reasons not due to illness or injury, or other emergency circumstances outside of the traveler's control, approval for the deviation must be received in advance and the proper leave application must be filed with the travel authorization and approved by the authorizing official. In addition, the traveler must attach the itinerary actually traveled in order to determine that the CNMI Government paid only what was reasonable and necessary (i.e., what the CNMI Government should have paid had the traveler departed in time to attend the authorized official travel function and back).

### **§ 70-20.3-220 Travel Voucher (TV)**

All persons authorized to travel on business for the Government should keep a running log of expenditures properly chargeable to the Government, noting each item at the time the expense is incurred, together with the date, and the information thus accumulated will be available for the proper preparation of travel vouchers. Receipts are the best proof for travel reconciliation and request for reimbursements.

This form must be completely filled by all travelers, except those on medical referral and those being recruited or repatriated.

#### **(a) Travel Voucher 1 Form**

All claims for the reimbursement of traveling expenses shall be submitted on the regular authorized form of travel voucher and must be itemized and stated in accordance with these regulations. For Travel Voucher 1, Form: DOF-TR-C will be used. Form: DOF-TR-C is to be updated upon DOF's discretion.

#### **(b) Explanations for Travel Voucher 1 Form**

Item 1: Indicate Traveler's Name

Item 2: Indicate Travel Authorization Number (Located on Travel Authorization/Item#1)

Item 3: Indicate the personal or office's mailing address

Item 4: Indicate the Government Employee Number.

Item 5: Indicate the contact number to reach the traveler by.

## PROPOSED TRAVEL REGULATIONS

Item 6: Indicate the Division's Name and Department Name. For example, DOF, DLNR.

Item 7: Indicate the work phone number.

Item 8: Indicate all arrivals and stops, dates, and time as provided by the boarding passes. Each boarding pass should provide you with enough information to fill one section of the departure and arrival information. If not, please refer to the itinerary.

Item 9: Indicate itemized expenditures to be claimed. On the left side, place a brief description, i.e. Car Rental or Gas, and on the right side place the amount in U.S. dollars. If there are multiple gas receipts, then indicate each receipt by price.

Item 10: Indicate traveler's name, so that the traveler may sign above his/her name.

Item 11: Indicate the name of the department or agency head official, so that the traveler may sign above his/her name.

Item 12: Indicate the name of the approving official. For travels outside of the CNMI, it will be the Governor of the CNMI, or designee, and for travels within the CNMI, it shall be the Special Assistant for the Administration. This is to allow the approving official to sign over their typed name.

The rest of the items will be left for the Department of Finance and Travel Section to fill. The traveler will then proceed to filling out Travel Voucher 2, which is the Official Trip Report.

### (c) **Travel Voucher 2 Form**

In Form: DOF-TR-D, the traveler will provide in paragraph form and typed written a summary of the events that took place in relation to the purpose of the trip. The traveler should point out accomplishments, CNMI gains, and benefits through this travel excursion. The traveler may indicate challenges experienced through the travel or during conferences or seminars, for example. Form: DOF-TR-D is to be updated upon DOF's discretion.

### (d) **Explanations for Travel Voucher 2 Form**

Item 1: Indicate Travel Authorization Number.

Item 2: Indicate Traveler's Name as it appears on the Travel Authorization.

Item 3: Indicate official travel date range.

Item 4: Indicate places traveled. This is usually meant to indicate actual conference, seminar, city location, etc.

Item 5: Indicate the Purpose as stated on the Travel Authorization. Copy what has already been approved and stated in the TA.

Item 6: Provide the experience, training gained, contact made, problems encountered, suggestions or recommendations to improving the travel experience in this section. It must be typed written.

Item 7: Provide any travel notations to the Department of Finance may understand certain expenditures, flight re-routes, flat tire charges, etc. This area should be allowed for the Travel Section personnel to understand what happened without having to call the traveler for more explanation.

Item 8: Indicate name of traveler. The traveler must sign his/her trip report unless authorized.

Item 9: Indicate name of department or agency head. If the agency head performed the travel, immediate supervisor for travels outside of the CNMI will be the Governor, or

## PROPOSED TRAVEL REGULATIONS

designee. Similarly, if travelling within the CNMI, the immediate supervisor is the Special Assistant for the Administration (SAA). Signatures must be obtained accordingly.

### **(e) Submission Timeframe for Travel Vouchers**

The traveler must submit the travel voucher within fifteen (15) days upon return from travel unless travel is performed at a closing period of a federal grant. The Department of Finance's Travel Section may request for the travel voucher within fifteen (15) days prior to a closing of a grant for liquidation purposes. If a travel voucher is not submitted within the time period allowed, the Department of Finance will assume a cancelled trip and may begin recovery of any cash advance to the traveler as described in § 70-20.3-201 (b).

### **(f) Order of Documents for Submission**

The following is the prescribed order for submitting your completed travel vouchers (starting from the top). Only one travel package may be routed. Make a copy before submission.

1. Travel Voucher 1 (Form: DOF-TR-C)
2. Travel Voucher 2: Trip Report (Form: DOF-TR-D)
3. Copy of Signed Travel Authorization Request with TA Number (Form: DOF-TR-A)
4. Boarding Passes (placed and taped onto 8.5" x 11" paper) or as photocopied
5. Car Rental Agreement, if any.
6. Gas Receipts or any other applicable receipts deemed for reimbursement (placed and taped onto 8.5" x 11" plain paper).

### **(g) Alterations**

Any alternation to a travel voucher must be initiated by the person who makes the voucher, and alterations in the totals on receipts must be initialed by the person who signed the receipt.

### **(h) Indirect Route Travel**

The supporting documents of a travel voucher should set forth the details of the expenses actually incurred, the hour of departure from the post of duty, and the hour of arrival at place of duty.

### **(i) Suspensions of Charges**

Items in travel vouchers not stated in accordance with these regulations, or not properly supported by receipts when required, will be suspended and the notification of such action will indicate the reasons, therefore. Such items as may be subsequently allowable should be included in a subsequent regular or supplemental or amendment travel voucher. Full itemization will be required for all suspended items which are reclaimed, and charges must be properly supported by the original suspension notice or a copy thereof.

### **(j) Foreign Currencies**

Travelers in foreign countries should report their expenditure by items in the currency of the country in which made the total expenditure in. Foreign currency must be converted into United States dollars at the rate or rates at which the foreign money

## PROPOSED TRAVEL REGULATIONS

was obtained. Every time money is converted, the traveler should obtain a receipt to be commission charged. The exchange rate shall be determined on date of currency exchange.

### **(k) Exchange Fees**

Charges for cashing United States or CNMI Government checks or drafts issued in reimbursement of expenses incurred for travel in foreign countries will be allowed in subsequent vouchers.

### **(l) Routing of Documents**

The traveler shall file the voucher in an original. The Travel Section shall retain a copy of the Travel Voucher for follow-up and shall instruct the traveler to submit the original and remaining copies to the Governor or designee's Office for review and subsequent approval should amounts exceed \$500.00. If the travel voucher does not exceed \$500.00, the expenditure authority is authorized to approve. If the approved travel request and the airline ticket stub do not accompany the travel voucher, the Special Assistant for Administration shall defer further processing of the voucher pending submission of the required documentation. Upon securing the Governor or designee's approval, the travel voucher is forwarded to the Travel Section which retains the original for placement in the employee's personnel jacket and the Travel File. The remaining copies go to the department.

## **Part 300 – Miscellaneous Provisions**

### **§ 70-20.3-301 Travel Authorization Request for Dependents**

Dependents are not authorized to travel at the government's expense, except as an escort under the Medical Referral Program or as stipulated in §70-20.3-105(e)(2).

### **§ 70-20.3-305 Extension of Travel Time**

- (a) All extensions of official travel for the Government require prior approval by the department head or designee. If the department head determines an extension is necessary to carry out the traveler's mission, then a memorandum shall be submitted to the Governor or designee justifying the extension and requesting an amendment to the traveler's travel authorization. Additional expenses and per diem will be allowed according to § 70-20.3-110. Leave (annual) will not be charged against the traveler. This will be supported by the boarding pass(es).
- (b) For Extensions of time due to airline delays, additional expenses and per diem will be allowed according to § 70-20.3-110 . Leave (annual) will not be charged against the traveler. This will be supported by the boarding pass(es).

### **§ 70-20.3-310 Loss of Traveling Documents**

The loss of a traveler's passport, birth certificate, government-issued identification, or other documents for the purpose of official travel shall not be the responsibility of the CNMI Government, including expenses or costs incurred by the rerouting of said traveler

### **§ 70-20.3-315 Oversold Seats**

## PROPOSED TRAVEL REGULATIONS

Travelers with a confirmed ticketed seat who get bumped off due to no fault of the traveler shall be allowed rerouting or rebooking expenses. Per Diem shall also be allowed, recalculated, and issued upon return to the CNMI. Confirmation of such incident shall be confirmed by the airline through a formal letter or proper documentation stating the reason for being bumped off.

This section is not applicable if a traveler decides to opt, as a volunteer, to give up his/her seat for complimentary vouchers.

### **§ 70-20.3-320 Grounded Due to Inclement Weather, Natural Disaster, or Catastrophe**

Travelers grounded due to inclement weather, natural disaster, or catastrophe shall be afforded with rerouting, rebooking, and per diem expenses upon return to the CNMI. Confirmation of such incident shall be confirmed by the airline through a formal letter or proper documentation stating the reason for the flight cancellation.

### **§ 70-20.3-325 Mode of Travel Conversion**

Instances that occur due to limited mode of travel, i.e. limited scheduled flights to neighboring island, and within reason and cost effectiveness to the government, travelers in a group may be allowed to convert airfare charges for fuel for sea transport. A ground transportation stipend shall be generated at 100% and based on 80% of the total group airfare charge. This is for roundtrip via boat/vessel service. If a traveler within the group decides not to utilize the sea transport on return and opts to ride by airplane, he/she will bear the additional expense unless a reasonable justification is presented.

### **§ 70-20.3-330 Traveler's Insurance**

All travelers have the option of obtaining traveler's insurance at their personal expense. The CNMI Government will not shoulder this expense.

### **§ 70-20.3-335 Flights with meal purchases**

For airline tickets that include meal service, the per diem calculated will be deducted according to the rate schedule for meals and incidentals. For airline tickets that do not include meal service, or provide for-purchase services, the per diem or subsistence allowance must be included in the estimated travel expenditures.

### **§ 70-20.3-340 Travel Card**

Use of a travel card may be allowable in the future when it becomes available.

### **§ 70-20.3-345 Changes to Travel Regulations**

The information provided in these regulations is subject to change. Any future amendments will be published and adopted pursuant to 1 CMC § 9104.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE



In Re Matter of: ) Labor Case No. 18-055  
)  
Whidul Alam, )  
)  
Complainant, ) **ORDER AFTER HEARING AND**  
) **DISMISSAL**  
)  
v. )  
)  
Osman Gani *dba* Saipan Security Service, )  
)  
Respondent. )

This matter came on for an Administrative Hearing on September 17, 2020 at 9:00 a.m. at the Administrative Hearing Office. Complainant Whidul Alam ("Complainant") was not present and was unrepresented by counsel<sup>1</sup>. Respondent Osman Gani *dba* Saipan Security Service ("Respondent") was present and represented by Counsel Joe McDoulett. The Department's Enforcement Section was also present and represented by Investigator Arlene Rafanan and Labor Enforcement Specialist I Jerrick K. Cruz.

Due to Counsel Pamela Brown Blackburn's representation that Complainant departed the Commonwealth, the undersigned assigned Enforcement to verify whether Complainant indeed departed the Commonwealth. According to Specialist Cruz, after consulting with the I-94 official website, he found no record of Complainant entering or departing the Commonwealth<sup>2</sup>. The undersigned requested Administrative Hearing Office Administrative Assistant Luanne Billy to report on her contact with Complainant since receiving notice of Counsel Blackburn's withdrawal. According to Ms. Billy, Complainant failed to respond to her repeated calls.

Respondent moved to dismiss this case based on abandonment.

NMIAC § 80-20.1-485 (b) reads:

<sup>1</sup> Complainant was initially represented by Counsel Pamela Brown Blackburn. Counsel filed a *Notice of Withdrawal of Counsel* on September 8, 2020 based on the departure from the CNMI by Complainant. The undersigned accepted Counsel's *Notice* as a *Motion to Withdraw as Counsel* and granted Counsel's motion.

<sup>2</sup> Specialist Cruz entered Claimant's name, date of birth, passport number and country of issuance on <https://i94.cbp.dhs.gov> and found no record of Claimant's travel.



1 Dismissal. A complaint may be dismissed upon its abandonment or  
2 settlement by the party or parties who filed it. A party shall be  
3 deemed to have abandoned a request for hearing if neither the  
4 party nor the party's representative appears at the time and place  
5 fixed for the hearing unless good cause is shown. A dismissal may  
6 be entered against any party failing, without good cause, to appear  
7 at a hearing. A dismissal may be entered against any person who  
8 has left the CNMI and has been absent for six months or more  
9 without having notified the Administrative Hearing Office of their  
10 contact information. A party against whom a dismissal is entered  
11 may appeal to the Secretary pursuant to § 80-20.1- 490.

12 In this case, Complainant failed to appear at the properly noticed hearing and neither he  
13 nor his representative provided good cause for his failure to appear. Moreover, given 1) Counsel  
14 Blackburn's disclosure that Complainant departed the Commonwealth and 2) Ms. Billy's  
15 representation that Complainant failed to respond to any of her phone calls, the undersigned  
16 finds that Complainant abandoned his complaint.

17 Accordingly, based on the foregoing, Respondent's Motion to Dismiss is hereby  
18 GRANTED. This case is hereby DISMISSED WITHOUT PREJUDICE and any pending  
19 deadlines and hearings scheduled in this matter are hereby VACATED. Any person or party  
20 aggrieved by this Order may appeal to the Secretary of Labor within fifteen days of the date of  
21 the issuance of this Order.<sup>3</sup>

22 ORDERED this 21<sup>st</sup> day of September, 2020.

23 /s/: Joey P. San Nicolas  
24 **JOEY P. SAN NICOLAS**  
25 *Pro Tem* Administrative Hearing Officer

26  
27  
28 <sup>3</sup> The Notice of Appeal Form is available online at [www.marianaslabor.net](http://www.marianaslabor.net). The aggrieved person or party must file  
the completed form at the Administrative Hearing Office, with the applicable filing fee.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of: ) Labor Case No. 18-058  
)  
Zaji O. Zajradhara, )  
)  
Complainant, ) ORDER GRANTING COMPLAINANT'S  
) MOTION TO DISMISS  
v. )  
)  
Lin SHR (SAIPAN) Inc., )  
)  
Respondent. )

On December 21, 2018, Complainant filed a hand-written complaint alleging a violation of the CNMI employment statute. On March 22, 2019, after a failed mediation, Respondent filed a Motion to Dismiss Complaint and for Attorney's Fees. On March 29, 2019, Complainant filed his Opposition to Dismissal. On September 17, 2019, Complainant filed his Layman's Motion to Dismiss Various Cases and filed a second Motion to Dismiss on October 28, 2019. Complainant did not appear for the Hearing set on September 19, 2019. On October 18, 2019, Respondent filed its Response to Complainant's Layman's Motion to Dismiss Various Cases, stipulating to Complainant's Motion to Dismiss, but objecting to Complainant's reasoning. On October 28, 2019, Administrative Hearing Officer Jaqueline A. Nicolas entered a voluntary recusal in the above-captioned case due to a conflict of interest. The case was then assigned to the undersigned *Pro Tem* Hearing Officer who set the Hearing on Respondent's Motion for Attorney's Fees for August 26, 2020 at 10:00 a.m. On August 25, 2020, Respondent filed its Motion to Dismiss Respondent's Motion for Attorney's Fees<sup>1</sup>.

Therefore, based on the review of Complainant's Motions to Dismiss and the fact that Complainant failed to appear at the September 19, 2019 hearing, Complainant clearly demonstrates that he no longer wishes to pursue any of his pending cases at the Administrative Hearing Office. Accordingly, Complainant's Motion to Dismiss is hereby **GRANTED**. This case

<sup>1</sup> Respondent states that it reserves the right to file for attorney's fees in this case should Complainant file another claim against Respondent in the future. The undersigned finds that such reservation is waived upon Respondent's withdrawal of its Motion for Attorney's Fees and upon dismissal of this case.

1 is hereby **DISMISSED** and any pending deadlines and hearings scheduled in this matter are  
2 hereby **VACATED**.

3  
4 ORDERED this 27<sup>th</sup> day of August, 2020.

5  
6 /s/: Joey P. San Nicolas  
7 **JOEY P. SAN NICOLAS**  
8 *Pro Tem Administrative Hearing Officer*  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**  
2 **DEPARTMENT OF LABOR**  
3 **ADMINISTRATIVE HEARING OFFICE**

4 In Re Matter of: ) Labor Case No. 18-066  
5 Denis Uvarov, )  
6 Complainant, ) **ORDER OF DISMISSAL**  
7 v. )  
8 Osman Gani dba Saipan Security Service, )  
9 Respondent. )

10  
11 **INTRODUCTION**

12  
13 On August 26, 2020 at 9:00 a.m., this matter came before the Administrative Hearing  
14 Office to hear arguments on whether the Administrative Hearing Office has jurisdiction over this  
15 case. Pamela Brown Blackburn, Esq., as counsel of record for Complainant, failed to appear for  
16 the hearing. Instead, Complainant's counsel filed an untimely *Notice of Withdrawal of Counsel*  
17 five minutes prior to the commencement of the hearing. Joe W. McDoulett, Esq., appeared on  
18 behalf of Respondent. The Department of Labor Enforcement Section was represented by  
19 investigators Jerrick Cruz and Arlene Rafanan.

20 **OVERVIEW**

21 On December 2, 2018, Complainant Denis Uvarov filed a complaint against Respondent,  
22 Osman Gani dba Saipan Security Service for unpaid wages for the period between October 9,  
23 2018 to October 28, 2018 totaling 166 hours. Complainant also sought liquidated damages equal  
24 to the amount of unpaid wages. On December 21, 2018, Pamela Brown Blackburn, Esq., entered  
25 her appearance as counsel of record for Complainant.

26 On May 15, 2019, the Department of Labor, Enforcement Compliance Section  
27 recommended that the Labor Complaint be dismissed pursuant to Employment Rules and  
28 Regulations § 80-20.1-450(e) because 1) Complainant came to the Commonwealth as a tourist

1 and 2) the Administrative Hearing Office does not have jurisdiction over claims of tourists. On  
2 June 5, 2019, Complainant filed his *Objection to Enforcement Compliance Recommendation to*  
3 *Dismiss L.C. 18-066*. According to Complainant, his "objection is based on the fact that the  
4 CNMI Department of Labor . . . exceeded its statutory authority in promulgation, adoption and  
5 implementation of § 80-20.1-450(e). Complainant's *Objection to Enforcement Compliance*  
6 *Recommendation to Dismiss L.C. 18-066*, at p. 1. During the Administrative Hearing, the  
undersigned heard oral arguments to support dismissal from Respondent.

### 7 8 DISCUSSION

9 The undersigned finds that the Administrative Hearing Office does not have jurisdiction  
10 over this case, therefore dismissal is required. Pursuant to 3 CMC § 4942(a):

11 The Administrative Hearing Office shall have original jurisdiction  
12 to resolve all actions involving alleged violations of the labor and  
13 wage laws of the Commonwealth, including but not limited to any  
14 violation of this chapter and *regulations promulgated thereunder*.  
15 The Commonwealth Superior Court shall have concurrent  
jurisdiction to resolve all labor and wage violations that are criminal  
in nature.

16 Furthermore, "[t]he Administrative Hearing Office does not have jurisdiction with respect  
17 to the claims of *tourists*. Those claims are pursued in the Commonwealth Superior Court."  
18 NMIAC § 80-20.1-450(e) (emphasis added).

19 The above-referenced CNMI statute and regulation are clear and unambiguous. Although  
20 the Administrative Hearing Office has original jurisdiction to resolve violations of labor and wage  
21 laws and regulations, the Administrative Hearing Office clearly does not have jurisdiction to hear  
22 claims of tourists. The Administrative Hearing Office is bound by statute and regulation with  
23 respect to the exercise of jurisdiction.

24 Complainant is not a U.S. citizen, CNMI permanent resident, U.S. permanent resident, a  
25 foreign national worker or a worker possessing some other non-immigrant status. See NMIAC §  
26 80-20.1-450(b). Rather, the undersigned *Pro Tem* Hearing Officer finds that Complainant entered  
27 the Commonwealth as a tourist. Accordingly, the Administrative Hearing Office does not have  
28 jurisdiction over Complainant's claims.

1 Complainant argues that the Department exceeded its scope of authority by promulgating  
2 NMIAC § 80-20.1-450(e). However, since the Administrative Hearing Office falls under the  
3 Department of Labor within the executive branch, it does not have the authority to declare that a  
4 regulation exceeds statutory authority.<sup>1</sup> Accordingly, the Administrative Hearing Office is bound  
5 to uphold the statute and regulation as written.

6 **CONCLUSION**

7 For the foregoing reasons, Complainant Denis Uvarov's Labor Complaint is hereby  
8 **DISMISSED**. Any person or party aggrieved by this Order may appeal to the Secretary of Labor  
9 within fifteen days of the date of the issuance of this Order.<sup>2</sup>

10 SO ORDERED this 3rd day of September, 2020.

11  
12 */s/: Joey P. San Nicolas*  
13 **JOEY P. SAN NICOLAS, ESQ**  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 <sup>1</sup> "The judicial power of the Commonwealth shall be vested in a judiciary of the Northern Mariana Islands which shall  
27 include one Supreme Court and one superior court and such other inferior courts as established by law." CNMI Const.  
Art. IV § 1.

28 <sup>2</sup> The Notice of Appeal Form is available online at [www.marianaslabor.net](http://www.marianaslabor.net). The aggrieved person or party must file  
the completed form at the Administrative Hearing Office, with the applicable filing fee.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
OFFICE OF THE SECRETARY

In Re Matter of: ) Compliance Agency Case No. 18-066  
) Secretary Appeal No. 2020-03  
Denis Uvarov, )  
)  
Appellant, ) **FINAL AGENCY DECISION**  
)  
v. )  
)  
Osman Gani dba Saipan Security Service, )  
)  
Appellee. )


On September 14, 2020, Appellant filed a timely notice of appeal regarding the Order Granting Respondent's Motion to Dismiss for lack of jurisdiction. Therein, Appellant argues a lack of due process because he was not given a chance to look for another attorney or an interpreter.

Upon review of the record and Notice of Appeal, the undersigned finds the dismissal was proper for two reasons. First, dismissal for lack of jurisdiction was proper. Pursuant to NMIAC § 80-20.1-450(e), "[t]he Administrative Hearing Office does not have jurisdiction with respect to claims of tourists. Those claims are pursued in the Commonwealth Superior Court." Further, "Whenever it appears .... that the agency lacks jurisdiction of the subject matter, the agency *shall* dismiss the action." NMIAC § 80-20.2-145(c) (emphasis added). The Department is bound to uphold applicable regulations. Here, there is no question that Appellant is a tourist, outside the jurisdiction of the Administrative Hearing Office. Second, due process was provided. Appellant, through his attorney, Pamela Brown Blackburn, was served with adequate notice of the hearing. There is no showing that a request for an interpreter was denied. Further, within minutes of the hearing, Attorney Pamela Brown Blackburn filed a Motion to Withdraw as counsel and failed to show. The Motion to Withdraw was denied and the Administrative Hearing Officer proceeded with the hearing, as scheduled, based on the readily available evidence. The Administrative Hearing Officer has authority to proceed with hearing ex parte when parties fail to show after adequate notice was given. Here, Appellant mistakes a lack of due process with his counsel's

1 mishandling of the case. Further, no additional process could be provided to change the fact that  
2 the Administrative Hearing Office lacks jurisdiction to hear Appellant's claim.

3 Accordingly, pursuant to NMIAC §80-20.1-490(e), the Administrative Hearing Officer's  
4 decision is **AFFIRMED**.

5 So ordered this 17 day of September, 2020.  
6

7   
8 **VICKY BENAVENTE**  
9 Secretary of Labor  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE

In Re Matter of: ) Consolidated Labor Case Nos.  
)  
Mengli Ma, ) 19-018  
Yubin Liu, ) 19-019  
Xiaoyang Gao, ) 19-020  
Bingping Li, ) 19-021  
Wenpi Wang, ) 19-022  
)  
Complainants, )  
)  
v. ) **ADMINISTRATIVE ORDER GRANTING**  
) **RESPONDENTS' MOTION TO DISMISS**  
) **FOR LACK OF JURISDICTION**  
Osman Gani and Xiao Tang Sanchez dba )  
24/7 Enterprises, )  
)  
Respondents. )

I. INTRODUCTION

These matters came for an Administrative Hearing on September 2, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency and pursuant to Administrative Orders 20-03 and 20-04, the hearing was held online. Complainants Mengli Ma, Yubin Liu, Xiaoyang Gao, Bingping Li, and Wenpi Wang (collectively, "Complainants") were represented by Attorney Pamela Brown Blackburn.<sup>1</sup> Interpreter Margaret Vhao and Witness Cris Hilario was also present. Respondents Osman Gani and Xiao Tang Sanchez dba 24/7 Enterprises (collectively, "Respondents") was present and represented by Attorney Joe McDouellet. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was also present and represented by Investigators Jerrick Cruz and Arlene Rafanan.

For the reasons stated below, Respondents' Motion to Dismiss is GRANTED. Consolidated Labor Case Nos. 19-018 through 19-022 is hereby DISMISSED.

///

///

<sup>1</sup> Complainants Mengli Ma and Xiaoyang Gao were not present due to orders to self-quarantine.

## II. BACKGROUND & PROCEDURAL HISTORY

On April 1, 2019, Complainants filed a labor complaint for unpaid wages. The Respondents were given an opportunity to respond to the Complaint but did not file a written Answer. On October 31, 2019, after several continuances, the matter was referred to Enforcement for further investigation. On July 2, 2020, Enforcement filed a written determination stating their investigation found unpaid wages for each complainant. On August 19, 2020, the undersigned scheduled the matter for an Administrative Hearing to be held on September 2, 2020. Prior to the Administrative Hearing, Respondents filed a Motion to Dismiss for lack of subject matter jurisdiction. Oral arguments for the Motion to Dismiss were heard at the Administrative Hearing and the matter was taken under advisement.

## III. LEGAL STANDARD

Motions to dismiss for lack of jurisdiction over the subject matter are governed by NMIAC § 80-20.2-130(c)(1)(A). Generally, the Administrative Hearing Office has jurisdiction over “*all actions* involving alleged violations of the labor and wage laws of the Commonwealth . . . .” 3 CMC § 4942 (emphasis added). Specifically, the statute provides:

The Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth, including but not limited to any violation of this chapter and regulations promulgated thereunder. The Commonwealth Superior Court shall have concurrent jurisdiction to resolve all labor and wage violations that are criminal in nature.

*Id.*; See also NMIAC § 80-20.1-450 ( “The Administrative Hearing Office shall have jurisdiction to conduct adjudicative proceedings with respect to all issues of fact and law arising under labor laws applicable in the Commonwealth.”). Notably, the Employment Rules and Regulations under the NMI Administrative Code further limits jurisdiction with respect to complaints from Citizens, CNMI permanent residents, U.S. permanent residents, foreign national workers,<sup>2</sup> and other nonimmigrant aliens.<sup>3</sup> NMIAC § 80-20.1-450(b). “The Administrative Hearing Office does not have jurisdiction with respect to claims of tourists.” NMIAC §80-20.1-450(e). “Whenever it appears by suggestion of the parties or otherwise that the agency lacks jurisdiction of the subject matter, the agency shall dismiss the action.” NMIAC § 80-20.2-145(c).

<sup>2</sup> See NMIAC § 80-20.1-080(k).

<sup>3</sup> See NMIAC § 80-20.1-080(p).

#### IV. DISCUSSION

On August 21, 2020, Respondents filed a Motion to Dismiss and Brief in Support of Motion to Dismiss (“Respondents’ Motion”) for lack of jurisdiction. Specifically, Respondents’ Motion challenges whether Complainants have established jurisdiction under NMIAC § 80-20.1-450(b). On August 24, 2020, Complainants filed Complainants’ Response to Motion to Dismiss and an Erata to Complainant’s Response to Motion to Dismiss (“Complainants’ Opposition”). Generally, Complainants argues that Respondents’ Motion is time barred and that subject matter jurisdiction is established because Complainants are refugees. On August 24, 2020, Respondents filed a Response to Opposition to Motion to Dismiss (“Respondents’ Reply”) arguing that jurisdictional issues cannot be time barred and Complainants do not satisfy any ground of subject-matter jurisdiction as refugees. The undersigned addresses the respective arguments below.

##### 1. Complainants’ Opposition fails to advance adequate legal authority.

It is a general rule of practice that legal arguments should be supported by law and analysis.<sup>4</sup> The CNMI Supreme Court has found that a party waives any issue it has not sufficiently developed. *Commonwealth v. Yu Qun*, 2016 MP 19 ¶ 12. An issue is insufficiently developed if it is raised in a conclusory manner, or when the overall analysis of the issue is so lacking as to shift the burden of research and argument to the reviewing court. *Commonwealth v. Guiao*, 2016 MP 15 ¶ 13.

The standard for filing legal briefs in the Administrative Hearing Office is set forth NMIAC § 80-20.2-130(a). Thereunder, “[t]he party shall file together with the opposition to the motion a separate memorandum of reasons, including citation of supporting authorities, why the motion should not be granted. Affidavits and other documents setting forth or evidencing facts on which the opposition is based shall be filed with the opposition.” NMIAC § 80-20.2-130(a)(2). Clearly, the Administrative Hearing Office does not function as an advocate of any party, but as an arbiter of law. While the Administrative Hearing Officer is required to give added accommodations to parties appearing pro se,<sup>5</sup> represented parties are expected to adhere to the applicable regulations and standards of the legal profession. Simply, “it is beyond the call of duty to require the Hearing Officer to have to guess” or construct the parties’ arguments.<sup>6</sup>

<sup>4</sup> A Motion to Dismiss may be deemed uncontested and granted when a complainant failed to file opposition. *see Bicas v. Joyce*, LC-15-1193 (Administrative Order Granting Respondent’s Motion to Dismiss Case; and Dismissal at 2) (Published 41 Com. Reg. 042161 (June 28, 2019)).

<sup>5</sup> *See* NMIAC § 80-20.1-460(b)

<sup>6</sup> *Zajradhara v. Nippon General Trading Corporation*, LC-17-018 (Administrative Order at 2) (published 41 Com.

1 Here, Complainants' Opposition fails to adhere to the standard set forth in NMIAC § 80-20.2-  
2 130(a)(2). Overall, Complainants' Opposition sets forth a number of conclusory statements and  
3 is devoid of legal citations or analysis. Second, Complainants' Opposition fails to demonstrate  
4 how refugees are covered under the statute and regulations. Third, Complainant's Opposition fails  
5 to prove that the Complainants are actually considered refugees. Ultimately, Complainants' have  
6 transferred their burden of research and argument to the undersigned.

7 **2. The undersigned rejects Complainants' arguments regarding timeliness.**

8 On May 4, 2020, the undersigned issued a scheduling order with a motion deadline to July  
9 31, 2020. Now, Complainants argue that Respondent's motion is time-barred and should be  
10 stricken. Additionally, Complainants argue that this deadline should be enforced because "[i]t is  
11 fair to impute knowledge [of the deadline] to Mr. McDoulett," for the simple fact he shares  
12 offices with prior counsel.<sup>7</sup>

13 Certainly, the parties are expected to adhere to regulations, deadlines, and orders absent a  
14 compelling reason. However, it is an established principle that jurisdictional issues can be raised  
15 at any time during the proceedings. *See Arbaugh v. Y&H Corp.* 546 U.S. 500, 506 (2006). In  
16 *Norita v. Commonwealth*, the CNMI Supreme Court clarified the difference between "claim-  
17 processing" rules and "jurisdictional" rules. 2020 MP 12 ¶ 9-12. Therein, "[j]urisdictional time  
18 limitations may not be waived or forfeited and may be raised at any time . . . ." *Id.* ¶ 11 (internal  
19 quotations omitted). "In contrast, 'mandatory claim-processing rules are less stern.'" *Id.* ¶ 12.

20 Here, Respondents retained counsel around August 19, 2020. Respondents' Motion to  
21 Dismiss was filed shortly after, on August 21, 2020. While the motion deadline was past due, a  
22 jurisdictional issue cannot be ignored. Further, contrary to Complainant's unsupported argument  
23 to impute knowledge of the deadline to the recently retained counsel, the undersigned finds no  
24 fair basis to do so with respect to jurisdictional issues. Ultimately, the undersigned finds  
25 Complainants' arguments contrary to law and logic.

26 **3. The undersigned rejects the Complainants' argument to deny dismissal because the**  
27 **Department exceeded its authority in promulgating jurisdictional limitations.**

28 On August 26, 2020, contrary to applicable regulations and without leave, Complainants filed  
a Complainants' Response to Respondents' Reply to Opposition ("Complainants' Reply").<sup>8</sup>

---

Reg. 041761)

<sup>7</sup> As discussed above, this argument is unsupported by law and analysis.

<sup>8</sup> Notably, the regulations and general rules of practice do not allow a response to a reply brief. Specifically, the

1 Therein, Complainants argues the Department exceeded its statutory authority in promulgation,  
2 adoption, and implementation of NMIAC § 80-20.1-4550(e). Complainants' argument is  
3 misplaced for two reasons.

4 First, Complainants cite the Administrative Procedure Act, 1 CMC § 9112(f), to argue the  
5 validity of the regulations limiting jurisdiction. However, Complainants ignore that the cited  
6 standard is with respect to judicial review of agency actions. Precedent states:

7 The separation of powers doctrine prohibits one branch of state  
8 government from encroaching upon and exercising powers of  
9 another branch. The Administrative Hearing Office falls under the  
10 Department of Labor within the executive branch. Simply, an  
11 agency, such as the Department of Labor, does not have the  
12 authority to declare a statute unconstitutional or regulation invalid.  
13 Such challenges are beyond the power or jurisdiction of the agency.  
14 For that same reason, *an agency and its hearing officer do not have  
15 the authority or jurisdiction to declare in an adjudicatory  
16 proceeding that a regulation exceeds statutory authority.*

17 *CNMI Department of Labor v. Bridge Investment Group, LLC*, CAC-17-002-04(T)  
18 (Administrative Order at 4-5) (published at 42 Com. Reg. 044008 (Aug. 28, 2020)) (emphasis  
19 added). Accordingly, Complainants' argument has no merit at the administrative hearing level.

20 Second, Complainants' argument ignores the principle that the Department must uphold its  
21 regulations. The CNMI Superior Court has found:

22 It is an elemental principle of administrative law that agencies are  
23 bound to follow their own regulations. An agency is obliged to abide  
24 by the regulations it promulgates. The Government must follow its  
25 own regulations. Action by an agency of the executive branch in  
26 violation of its own regulations are illegal and void.

27 As a general rule, when the rights of an individual are affected, an  
28 agency must follow its own procedure, even where the internal  
procedures are more rigorous than otherwise would be required. If  
an agency fails to follow its own regulations, it may result in a  
violation of an individual's constitutional rights to due process.  
Should an agency in its proceedings violate its rules and prejudice  
results, the proceedings are tainted and any action resulting from the  
proceedings cannot stand.

*CNMI Nutritional Assistance Program v. Santos*, SC-17-0215T (NMI Sup. Ct., July 31, 2018)  
(Order Estopping CNMI Nutritional Assistance Program from Collecting on a Food Stamp

---

regulations allow submissions of motions, oppositions, and replies to an opposition. See NMIAC 8-20.2-130(a).

1 Overpayment of \$1650.00 due to its (1) Failure to Follow Procedures Provided in NMIAC § 55-  
2 30-001 et. seq. and (2) Because the Cost of Collection Proceeding Will Exceed the Amount to be  
3 Recovered Pursuant To NMIAC § 55-30-285(B)(4)(iv) at 5) (internal citations and quotations  
4 omitted). For the reasons stated above, the undersigned rejects the arguments in Complainants'  
5 Reply.

6 **4. Complainants' fail to meet their burden in establishing jurisdiction.**

7 As discussed above, the Administrative Hearing Office has jurisdiction over "*all actions*  
8 involving alleged violations of the labor and wage laws of the Commonwealth . . . ." 3 CMC §  
9 4942 (emphasis added). "The claims that are covered under the Hearing Office's jurisdiction are  
10 those that arise out of an 'employment relationship.'" *Bicas v. Joyce*, LC-15-1193 (Administrative  
11 Order Granting Respondents' Motion to Dismiss Case; and Dismissal at 3) (Published 41 Com.  
12 Reg. 042161 (June 28, 2019)). However, the Employment Rules and Regulations further limit  
13 jurisdiction with respect to complaints. Specifically, the Employments Rules and Regulations  
14 state:

15 The Administrative Hearing Office shall have jurisdiction over  
16 complaints filed with the Administrative Hearing Office by **U.S.**  
17 **Citizens, CNMI permanent residents or U.S. permanent**  
18 **residents**, and agency complaints filed by the Department, with  
19 respect to violations of the requirements of job preference and  
20 workforce participation pursuant to the Commonwealth  
21 Employment Act of 2007, as amended, and other violations of labor  
22 laws application in the Commonwealth. ...

23 The Administrative Hearing Office shall have jurisdiction over  
24 complaints filed with the Administrative Hearing Office by **foreign**  
25 **national workers**,<sup>9</sup> and agency complaints filed by the  
26 Department, with respect to violations of Commonwealth law and  
27 regulations regarding employment and other labor laws applicable  
28 in the Commonwealth. ...

29 The Administrative Hearing Office shall have jurisdiction over  
30 complaints filed with the Administrative Hearing Office by other

31 <sup>9</sup> "'Foreign national worker' means a person who is not a United States citizen, a United States permanent resident, a  
32 CNMI permanent resident, or an immediate relative of the United States citizen or a United States permanent  
resident, or an immediate relative of a CNMI permanent resident, and who entered the CNMI as a nonimmigrant  
prior to November 28, 2010 for the declared purpose of being employed in the Commonwealth." NMIAC § 80-20.1-  
080(k).

1                    **nonimmigrant aliens**<sup>10</sup> with respect to violations of  
2                    Commonwealth law and regulations regarding employment.

3                    NMIAC § 80-20.1-450(b)(1)-(3) (emphasis added).

4                    Importantly, “[t]he Administrative Hearing Office does not have jurisdiction with respect to  
5                    claims of tourists. Those claims are pursuant in the Commonwealth Superior Court.” NMIAC §  
6                    80-20.1-450(e).<sup>11</sup> The rationale to exclude tourists is based on explicit legislative intent from  
7                    Public Law 15-108. Thereunder, the Legislature specifically stated:

8                                It is the intent of the Legislature that this Act shall not apply to  
9                                persons admitted to the Commonwealth as tourists, *or to persons*  
10                               *employed illegally*, i.e. without the approval of the Department of  
11                               Labor, or to those persons employing other illegally in the  
12                               Commonwealth *unless specific provision has been made herein*.  
13                               It is the intent of the Legislature that persons illegally employing  
14                               others or illegally employed be prohibited from using the terms of  
15                               this Act to receive or avail themselves of a legal right or benefit.

16                    PL 15-108, § 2 (emphasis added).

17                    The undersigned finds that Complainants’ failed to meet their burden to establish jurisdiction  
18                    or a right to relief from a lawful employment relationship. During the Administrative Hearing,  
19                    Complainants’ admitted that they do not qualify as U.S. citizens, U.S. permanent residents, CNMI  
20                    permanent residents, foreign national workers, or nonimmigrant aliens—as defined by the  
21                    regulations. Instead, Complainants’ argue that they are refugees authorized to work in the CNMI.  
22                    Additionally, Complainants’ argue that the applicable law does not specifically exclude refugees  
23                    in the manner it excludes tourists.

24                    The undersigned is not persuaded by Complainants’ arguments for two reasons. First, there is  
25                    no legal precedent demonstrating the Administrative Hearing Office’s jurisdiction extends to  
26                    refugees. *See Sevugan v. ABO International Corporation*, LC-16-017 (Administrative Order at  
27                    10) (published 41 Com. Reg. 041897 (May 28, 2019)) (“The Commonwealth Employment Act

28                    <sup>10</sup> “‘Nonimmigrant alien’ means a person described in Section 101(a)(15) of the Immigration and Nationality Act, 8  
                             U.S.C. 1101(a)(15).” NMIAC § 80-20.1-080(p).

<sup>11</sup> The history of these regulations are significant. In January 2008, the Department of Labor adopted the Employment  
Rules and Regulations, to comply with PL 15-108. Title VII of US Public Law 110-229, the Consolidated Natural  
Resources Act of 2008 (CRNA), enacted on May 8, 2008, extended the Immigration and Nationality Act (INA) and  
other provisions of United States immigration law to the Commonwealth of the Northern Mariana Islands. On March  
22, 2010, CNMI Public Law 17-1, the Immigration Conformity Act, became law and repealed immigration  
responsibilities of the Commonwealth. In May of 2010, the Department amended the Employment Rules and  
Regulations.

1 of 2007 vests broad jurisdiction in the Administrative Hearing Office to resolve labor and wage  
2 disputes brought by U.S. citizens as well as by foreign workers.”). Simply, the undersigned is not  
3 prepared to assume such an extension based on silence in the law. Second, there is no showing  
4 that Complainants are actually refugees authorized to work in the CNMI during the time relevant  
5 to the claim. Complainants’ opposition includes three exhibits but the Complainant’s Opposition  
6 failed to address how any of these exhibits confirm each complainant’s refugee status. A thorough  
7 review of each exhibits demonstrate why Complainants’ arguments must fail.

8 Complainants’ Exhibit 1 is a copy of Complainant Bingping Li’s Employment Authorization  
9 Card. This document does not indicate that this complainant is a refugee and it postdates the  
10 employment that is the subject of the complaint. Specifically, the alleged employment relationship  
11 in the complaint spans from November 25, 2018 to December 14, 2018. The complaint was filed  
12 April 1, 2019 and the alleged authorization to work came September 27, 2019.

13 Complainants’ Exhibit 2 is a copy of Complainant Yubin Liu’s I-589 Application for  
14 Asylum. This document requires the applicant to list each entry into the U.S. beginning with their  
15 most recent entry. In response to this question, aforesaid Complainant stated under penalty of  
16 perjury that she entered Saipan on March 21, 2015 on a tourist visa. The tourist visa expired April  
17 4, 2015. There is no other time Complainant entered the U.S. and there is no showing of status  
18 after the tourist visa expired. The application was submitted July 22, 2015. There is no showing  
19 that the application was approved.

20 Complainants’ Exhibit 3 is a copy of Complainant Mengli Ma’s I-589 Application for  
21 Asylum. This document requires the applicant to list each entry into the U.S. beginning with their  
22 most recent entry. In response to this question, aforesaid Complainant stated under penalty of  
23 perjury that she entered Saipan on May 17, 2018 on a tourist visa. The tourist visa expired May  
24 27, 2018. There is no other time Complainant entered the U.S. and there is no showing of status  
25 after the tourist visa expired. The application was submitted October 1, 2018. There is no showing  
26 that the application was approved.

27 Complainants failed to submit any exhibits to demonstrate the legal status or authorization to  
28 work with respect to Complainants Xiaoyang Gao and Wenpi Wang. However, Respondents  
submits I-94 website travel records demonstrating that there are no records of aforesaid  
complainants legally entering the CNMI. *See* Respondents’ Exhibit 3; *see also* Respondents’  
Exhibit 5.



1 As shown above, Complainants fail to prove their legal status in the CNMI or their respective  
2 authorization to be employed in the CNMI. Simply, there is an insufficient showing that all  
3 Complainants were legally authorized to work in the CNMI at the time of the alleged employment.  
4 For the reasons stated above, the undersigned finds that Complainants' fail to meet their burden  
5 in establishing jurisdiction.

#### 6 V. CONCLUSION

7 Based on the above-stated findings of fact and conclusions of law, the undersigned finds that  
8 the Administrative Hearing Office lacks jurisdiction with respect to the complaints from the  
9 above-captioned Complainants. Accordingly, Respondents' Motion to Dismiss is **GRANTED**.  
10 Consolidated Labor Case Nos. 19-018 through 19-022 is hereby **DISMISSED**. All remaining  
11 deadlines and hearings scheduled for Consolidated Labor Case Nos. 19-018 through 19-022 are  
12 vacated. Further, the Department's Enforcement Section shall provide a copy of this order and  
13 relevant filings to U.S. Immigration and Customs Enforcement.

14 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form  
15 and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of  
16 this Order.<sup>12</sup>

17 So ordered this **15th** day of September, 2020.

18 /s/  
19 **JACQUELINE A. NICOLAS**  
20 Administrative Hearing Officer  
21  
22  
23  
24  
25  
26  
27

28 <sup>12</sup> The Notice of Appeal Form is available online at [www.marianaslabor.net](http://www.marianaslabor.net) or hard copies are available at the  
Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative  
Hearing Office, with the applicable filing fee.



**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE**

**In Re the Matter of:**

) **Labor Case No. 19-054**

Ruben B. Tagalog,

Complainant,

v.

Mary Ann F. Sablan dba Creative Hair &  
Body Care,

Respondent.

) **ORDER PARTIALLY GRANTING  
RESPONDENT'S MOTION TO DISMISS**

**I. INTRODUCTION**

This matter came for a Prehearing Conference on August 25, 2020 at 9:00 a.m. in the Administrative Hearing. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Ruben B. Tagalog ("Complainant") was present and self-represented. Respondent Mary Ann F. Sablan dba Creative Hair & Body Care ("Respondent") was present and self-represented. The Department's Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Investigators Jerrick Cruz and Arlene Rafanan. Ms. Rafanan acted as the translator.

**II. BACKGROUND**

On September 24, 2019, Complainant filed a claim for unpaid wages accruing from 2017, 2018, and 2019. On October 18, 2019, the undersigned referred the matter to Enforcement to investigate the claims arising within the six months statute of limitation. On January 22, 2020, Respondent filed a Motion to Dismiss the entire complaint for failure to state a claim.<sup>1</sup> On March

<sup>1</sup> The Motion was slated to be heard during the Prehearing Conference, originally scheduled for June 2019. Due to the COVID-19 public health emergency and temporary closure of government offices, extensions and continuances were granted.

1 2, 2020, Enforcement filed a written Determination finding no unpaid wages and recommending  
2 dismissal.

### 3 III. ANALYSIS

4 During the Prehearing Conference, the undersigned heard arguments for Respondent's  
5 Motion to Dismiss for failure to state a claim. Respondent argued: (1) any claim between the  
6 periods 2017 to March 24, 2019 must be dismissed; and (2) any claims between the periods of  
7 March 24, 2019 to September 24, 2019 must also be dismissed for failure to comply with the  
8 pleading standard and lack of any plausible facts to justify the claim.  
9

10 The undersigned agrees with Respondent's first argument. Pursuant to 3 CMC § 4962,  
11 "[n]o labor complaint may be filed more than six months after the date of the last-occurring event  
12 that is the subject of the complaint, except in cases where the actionable conduct was not  
13 discoverable upon the last-occurring event." "If a complaint is not timely filed, the hearing office  
14 *shall* dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e). Emphasis added. Upon  
15 review of the record, the undersigned finds that any claims arising prior to March 24, 2019, i.e.,  
16 more than six months after the statute of limitations, are time barred.  
17

18 The undersigned does not agree with Respondent's second argument. Notably, the cited  
19 complaint pleading standards are set forth under the Commonwealth Rules of Civil Procedure  
20 and applicable to the Commonwealth courts. The Administrative Hearing Office is not bound to  
21 the same pleading standard and much less formal than the Commonwealth courts. Pursuant to  
22 NMIAC § 80-20.2-105, a labor complaint may be commenced by a signed written complaint,  
23 stating: (1) the caption; (2) the names and addresses of the parties; (3) the nature of the  
24 complainant; and (4) the relief requested or demanded. In reviewing the complaint, the  
25 undersigned finds that Respondent has sufficient notice of the nature of the complaint and relief  
26 requested. Furthermore, in reviewing the time sheets and pay slips submitted by the parties, there  
27  
28

1 is clearly a discrepancy or issue of unpaid wages arising within the statute of limitations.  
2 Accordingly, dismissal of the entire complaint is premature.

3 **IV. CONCLUSION**

4 In conclusion, Complainant's claims for unpaid wages arising prior to March 24, 2019 are  
5 hereby **DISMISSED**. Complainant's claims for unpaid wages arising on or after March 24, 2019  
6 will proceed to an Administrative Hearing.  
7

8  
9 So ordered this **25th** day of August, 2020.

10 /s/  
11 **JACQUELINE A. NICOLAS**  
12 Administrative Hearing Officer  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of: ) Labor Case No. 19-056  
)  
Maria Carlota Santiago, )  
)  
Complainant, ) FINDINGS OF FACT AND  
) CONCLUSIONS OF LAW  
)  
v. )  
)  
Strategic Gaming Solutions dba Club C, )  
)  
Respondent. )

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 8, 2020 at 9:00 a.m. at the Administrative Hearing Office. Complainant Maria Carlota Santiago ("Complainant") was present and self-represented. Respondent Strategic Gaming Solutions dba Club C ("Respondent") was present and represented by Attorney Steven Pixley. The Department's Enforcement, Compliance and Monitoring Section ("Enforcement") was also present and represented by Investigators Jerrick Cruz and Arlene Rafanan. Due to the ongoing COVID-19 public health emergency, the hearing was held online by Microsoft Teams.

Witnesses:

1. Evelyn Almine (Accounting Manager)
2. Anita Go (Food & Beverage Manager)
3. Magdalena Mendiola (Former Human Resources Manager)
4. Maria Carlota Santiago (Complainant)

Exhibits:

1. Termination of Employment Letter, dated October 29, 2019
2. Request to Withdraw CW-1 Petition
3. I-797A Notice of Action
4. Incident Report, dated sometime between March-April 2017
5. Incident Report, dated April 24, 2019
6. Incident Report, dated May 2019

7. Incident Report, dated October 8, 2019
8. Incident Report, dated October 10, 2019
9. Email, dated August 28, 2015
10. Email, dated October 12, 2015
11. Employee Handbook
12. Time Cards and Paystubs (six pages)

For the reasons stated below, Complainant has failed to establish a claim for retaliation and wrongful termination. Accordingly, **JUDGMENT** is hereby entered in favor of **RESPONDENT**.

## **I. PROCEDURAL HISTORY**

On December 4, 2019, Complainant filed a claim for retaliation and wrongful termination. On December 13, 2019, Respondent filed an Answer denying the allegations and stating that it lawfully terminated Complainant for cause. On December 19, 2019, upon review of the pleadings, the matter was referred to Enforcement for further investigation. On February 28, 2020, Enforcement filed a written determination.<sup>1</sup> The issues during the Administrative Hearing were whether Complainant can establish a claim for retaliation and wrongful termination. During the Administrative Hearing, the undersigned heard testimony from the above-stated witnesses. Additionally, the undersigned admitted the above-stated exhibits into evidence.

## **II. FINDINGS OF FACT**

In consideration of the record and credibility of witness testimony, the undersigned hereby issues the following findings of fact:

1. At all times relevant to this claim, Complainant was authorized to work in the CNMI as a CNMI-Only Transitional Worker ("CW-1").<sup>2</sup>
2. Complainant worked for Respondent from 2014-2019 as a Bartender, Team Leader, and then Supervisor at Club C in Saipan. At the time relevant to this matter, Complainant was employed as Supervisor at the rate of \$9.16 per hour. Complainant worked full time with 40 hours per week but did not have a fixed work schedule.

---

<sup>1</sup> Enforcement's determination found a violation of NMIAC 80-20.1-330. However, since Enforcement failed to initiate a compliance agency case, the findings and conclusions are limited to the matters alleged in the pleadings.

<sup>2</sup> See Exhibits 2-3.

- 1 3. The last day Complainant reported to work for Respondent was October 24, 2019. At the  
2 beginning of her shift on October 24, 2019, a meeting was held between Complainant and  
3 Respondent's upper management and human resource officer. At the meeting,  
4 Complainant was given the opportunity to resign or be terminated. The meeting lasted  
5 approximately 1.5 hours. Complainant left work after the meeting.
- 6 4. Complainant did not wish to resign.
- 7 5. In a letter dated October 29, 2019, Complainant was given written notice of her  
8 termination, effective November 7, 2019.<sup>3</sup> Complainant was provided nine days written  
9 notice.
- 10 6. Complainant was given all wages due to her for the pay period October 20, 2019 –  
11 November 2, 2019 (i.e., 16.5 hours), a lump-sum pay out of 47.75 hours of unused  
12 vacation leave, and a severance package reflecting approximately 2 weeks' pay.<sup>4</sup>  
13 Complainant was provided a severance package in excess of the Respondent standard  
14 amount.
- 15 7. Complainant was terminated for a number of reasons, including: (1) cost-cutting  
16 measures; and (2) violations of major infractions listed in the Employee Handbook.<sup>5</sup> The  
17 cited major infraction were: (1) creating conditions which degrade the orderly delivery of  
18 services to guests or customers; and 2) creating conditions which interfere with the orderly  
19 work of co-workers.
- 20 8. Throughout the span of Complainant's employment, there were a number of incidents  
21 with co-workers and customers to support the above-stated infractions.<sup>6</sup> After each  
22 incident, Complainant's supervisor, Food and Beverage Manager, Anita Go would  
23 intervene and informally counsel Complainant.
- 24 9. Generally, Complainant was quick to get angry and often displayed a negative demeanor.  
25 Additionally, Complainant could not effectively and respectfully communicate issues.  
26 This behavior affected the morale of co-workers and delivery of services to customers.

27 <sup>3</sup> Exhibit 1

<sup>4</sup> Exhibit 6.

<sup>5</sup> See Exhibit 11.

<sup>6</sup> See Exhibits 4- 10.

1 10. While the incident reports were written after the decision to terminate Complainant was  
2 made, the reports were based on reliable notes regularly kept and maintained by Ms. Go.

3 11. Complainant did not contest that said incidents occurred.

4 12. Complainant admits to being moody at work.

5 13. Complainant never initiated a formal grievance at work.

6 14. Aside from the present complaint, Complainant never initiated any other legal complaint  
7 at Respondent.

8 15. Respondent has procedures with respect to progressive discipline and corrective action.  
9 *See* Ex.11. However, Respondent reserved discretion to “elect higher levels of discipline,  
10 to include termination, at any time, with or without preliminary corrective action, based  
11 either upon a single instance of misconduct or the Employee’s complete performance  
12 and/or misconduct record.” *Id.* at 32.

### 13 III. CONCLUSIONS OF LAW

14 In consideration of the above-stated findings and applicable law, the undersigned hereby issues  
15 the following conclusions of law:

#### 16 1. The Administrative Hearing Office has jurisdiction over these claims.

17 At the beginning of the Administrative Hearing, Respondent objected to the Administrative  
18 Hearing Office’s jurisdiction over the claims in the Complaint due to federalization of  
19 immigration powers in 2009. For the reasons stated below, Respondent’s objection was overruled.

20 Generally, the Administrative Hearing Office has jurisdiction over “*all actions* involving  
21 alleged violations of the labor and wage laws of the Commonwealth . . . .” 3 CMC § 4942  
22 (emphasis added); *see* PL 15-108. Further, the Department’s Employment Rules and Regulations  
23 reiterates, “[t]he Administrative Hearing Office shall have jurisdiction to conduct adjudicative  
24 proceedings with respect to all issues of fact and law arising under labor laws applicable in the  
25 Commonwealth.” NMIAC § 80-20.1-450.

26 The history of these regulations are significant to Respondent’s contention that federalization  
27 of immigration powers preempts the Department’s jurisdiction over matters related to foreign  
28 labor. In January 2008, the Department of Labor promulgated the Employment Rules and  
Regulations, to comply with PL 15-108. Title VII of US Public Law 110-229, the Consolidated



1 Natural Resources Act of 2008 (CRNA), enacted on May 8, 2008, extended the Immigration and  
2 Nationality Act (INA) and other provisions of United States immigration law to the  
3 Commonwealth of the Northern Mariana Islands. On March 22, 2010, CNMI Public Law 17-1,  
4 the Immigration Conformity Act, became law and repealed immigration responsibilities of the  
5 Commonwealth. Subsequently, in May of 2010, the Department amended the Employment Rules  
6 and Regulations to be in compliance with changes in federal law.

7 While the undersigned agrees that the Department has no jurisdiction over immigration,  
8 federalization of immigration does not completely preempt the Department from regulating labor  
9 matters involving foreign workers. Simply, the Department has no authority to decide who is  
10 permitted to enter or work in the CNMI, but, in accordance with Commonwealth law, it can  
11 regulate the working conditions, relationships, and disputes of those authorized to work within its  
12 borders. Further, where there is no direct or implied conflict between existing federal and  
13 Commonwealth law,<sup>7</sup> the Department is within its authority to enforce its regulations and laws  
14 under its purview. Here, the claim for retaliation is supported under the Department's  
15 Employment Rules and Regulations. *See* NMIAC § 80-20.1-455(l). Further, as precedent  
16 indicates, the Department's statutory jurisdiction extends to common law claims.<sup>8</sup> Accordingly,  
17 based on the applicable law, precedent, and parties' arguments, the Administrative Hearing Office  
18 has jurisdiction of the allegations within the complaint.

19 ///

20 ///

21 ///

---

22 <sup>7</sup> The undersigned recognizes that, pursuant to the NMI Workforce Act of 2018, the U.S. Department of Labor and  
23 the U.S. Department of Homeland Security promulgated interim final rules with the respect to obtaining a temporary  
24 labor certification and employment authorization for Commonwealth Only Transitional Workers (i.e., CW-1).  
25 Respondent makes no showing of any conflict between the alleged claims and federal rules. Moreover, arguments  
26 that are not fully developed shall be deemed waived. *Mengli Ma, et. al. v. Osman Gani and Xiao Tang Sanchez dba*  
27 *24/7 Enterprises*, Consolidated LC-19-018 to LC-19-022 (Administrative Order Granting Respondent's Motion to  
28 Dismiss for Lack of Jurisdiction at 3-4 issued Sept. 15, 2020) (pending publication in the Commonwealth Register)  
("It is beyond the call of duty to require the Hearing Office to have to guess or construct the parties' arguments").

<sup>8</sup> "The Hearing Officer finds that Commonwealth Legislature's grant of jurisdiction to be broad enough to  
encompass common law claims arising out of, and related to, the employment relationship." *Sevugan v. ABO*  
*International Corporation*, LC-16-017 (Administrative Order at 10) (31 Com. Reg. 041897 (May 28, 2019)); *see*  
*also Udani v. Huang Shun Corporation*, LC-17-003(T) (Administrative Order at 7) (41 Com. Reg. 042080 (June 28,  
2019)) ("Employee's Complaint was amended during the Hearing to add a claim for wrongful termination in  
retaliation for filing a labor complaint.").

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4  
5

6  
7  
8  
9  
10  
11  
12  
13

14  
15  
16  
17  
18  
19

20

21

22  
23

27

28

1 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form  
2 and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of  
3 this Order.

4 So ordered this 21st day of September, 2020.

5 /s/

6 **JACQUELINE A. NICOLAS**  
7 Administrative Hearing Officer  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE

In Re Matter of: ) PUA Case No. 20-0001  
)  
Felipe Q. Atalig )  
)  
Appellant, ) ADMINISTRATIVE ORDER  
)  
v. )  
)  
CNMI Department of Labor, )  
Division of Employment Services-PUA, )  
)  
Appellee. )

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 1, 2020 at 10:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Felipe Q. Atalig ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita<sup>1</sup>.

Complainant's Witnesses:<sup>2</sup>

1. John A. Reyes
2. Norbert Mendiola

Exhibits:

1. Letter Dated June 25, 2020<sup>3</sup>
2. PUA and FPUC Benefits Rights Information Handbook<sup>4</sup>

<sup>1</sup> To avoid any potential conflicts regarding an ongoing case with the Civil Service Commission, Supervisor Maratita did not participate in the present Administrative Hearing.

<sup>2</sup> While the witnesses were included in the hearing, neither witness was called to testify.

<sup>3</sup> This document was submitted by Appellant along with his application and other supporting document. Upon appeal, this document was filed as Department's Exhibit #1.

<sup>4</sup> Notably, neither party filed this document as a proposed exhibit prior to the Administrative Hearing. However, both parties had a copy of this document and relied on its legal references during the Administrative Hearing. Also, neither party contested its admission.

1 For the reasons stated below, the Department's Determination is **modified**. Claimant is  
2 disqualified for benefits for the period of February 8, 2020 to August 15, 2020.

## 3 II. JURISDICTION

4 On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of  
5 2020 was signed into law creating new temporary federal programs for unemployment benefits  
6 called Pandemic Unemployment Assistance ("PUA") and Federal Pandemic Unemployment  
7 Compensation ("FPUC"). On March 29, 2020, the CNMI Government executed an agreement  
8 with the US Secretary of Labor to operate the PUA and FPUC program. The CNMI Department  
9 of Labor is charged with the responsibility in administering the above-mentioned programs in the  
10 CNMI. Pursuant to 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issues Executive Order No.  
11 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI.

12 Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is  
13 established.

## 14 III. FINDINGS OF FACT

15 In consideration of the record and credibility of witness testimony, the undersigned issues the  
16 following findings of fact:

- 17 1. Appellant filed a claim for unemployment benefits under the Pandemic Unemployment  
18 Assistance ("PUA") and Federal Pandemic Unemployment Compensation ("FPUC")  
19 programs.
- 20 2. On August 18, 2020, after review of the Appellant's application, weekly certification, and  
21 supporting documents, the Department issued a determination finding Appellant  
22 ineligible. Based on the determination, Appellant was denied benefits for the entire  
23 pandemic assistance period, February 2, 2020 to December 26, 2020.
- 24 3. The disqualification to the end of the pandemic assistance period, December 26, 2020,  
25 was due to system error in the online portal.
- 26 4. Appellant filed the present appeal on August 20, 2020. Appellant is appealing the  
27 Department's PUA denial as arbitrary and capricious.
- 28 5. Appellant's last place of employment was the CNMI Department of Public Works.
6. Appellant was terminated for cause from CNMI Department of Public Works, effective  
May 4, 2018. The reason for the termination related to allegations of disturbing the peace  
and assault. Appellant is actively contesting the termination however, has remained

1 unemployed since May 4, 2018. Appellant has had no other work since said termination  
2 and is not seeking work.

#### 3 IV. CONCLUSIONS OF LAW

4 In consideration of the above-stated findings and applicable law, the undersigned issues the  
5 following conclusions of law:

##### 6 1. Appellant is not eligible for Pandemic Unemployment Assistance.

7 Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, a claimant could  
8 be eligible benefits under the PUA program, if he or she is otherwise not eligible for regular  
9 unemployment compensation or extended benefits under state or Federal law. In order to qualify  
10 for PUA benefits, the claimant must be otherwise able and available for work, except that they  
11 are unemployed, partially unemployed, or unable or unavailable to work due to a COVID-19  
related reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act, listed below:

- 12 (a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of  
13 COVID-19 and is seeking a medical diagnosis;
- 14 (b) A members of the individual's household has been diagnosed with COVID-19;
- 15 (c) The individual is providing care for a family member or a member of the individual's  
16 household who has been diagnosed with COVID-19;
- 17 (d) A child or other person in the household for which the individual has primary  
18 caregiving responsibility is unable to attend school or another facility that is closed as  
19 a direct result of the COVID-19 public health emergency and such school or facility  
20 care is required for the individual to work;
- 21 (e) The individual is unable to reach the place of employment because of a quarantine  
22 imposed as a direct result of the COVID-19 public health emergency;
- 23 (f) The individual is unable to reach the place of employment because the individual has  
24 been advised by a health care provider to quarantine due to concerns related to  
25 COVID-19;
- 26 (g) The individual was scheduled to commence employment and does not have a job or is  
27 unable to reach the job as a direct result of the COVID-19 public health emergency;
- 28 (h) The individual has become the breadwinner or major support for a household because  
the health of the household has died as a direct result of COVID-19;
- (i) The individual has to quit his or her job as a direct result of COVID-19;
- (j) The individual's place of employment is closed as a direct result of the COVID-19  
public health emergency; or
- (k) The individual is an independent contractor who is unemployed (total or partial) or is  
unable or unavailable to work because of the COVID-19 public health emergency has  
severely limited his or her ability to continue performing the customary job.

1 After listening to Appellant's testimony, it is apparent that Appellant's unemployment was  
2 not directly related to the COVID-19 pandemic. Here, Appellant's unemployment dated back to  
3 May 2018, prior to the COVID-19 public health emergency. As demonstrated by Appellant's  
4 testimony and Exhibit 1, Appellant was terminated for cause due to allegations of assault and  
5 disturbing the peace. Furthermore, the fact that Appellant is contesting the termination does not  
6 change the fact that the termination was unrelated to COVID-19. Lastly, there has been no  
7 subsequent disruption to work related to COVID-19 and Appellant does not qualify under any of  
8 the COVID-19 reasons, as listed above. For these reasons, Appellant is not qualified for PUA.

9  
10 **2. Modification of the Determination is warranted.**

11 Generally, the Department's determination is limited to the weeks claimed by Appellant. As  
12 discussed above, Appellant was submitted an initial application and weekly certifications for the  
13 work weeks between February 2, 2020 to August 20, 2020. However, Appellant was disqualified  
14 for the entire pandemic unemployment assistance program. Appellee made no showing why  
15 disqualification for the entire period was warranted. Instead, Appellee indicated that the  
16 disqualification for the entire pandemic assistance period was due to a system error with the online  
17 portal. Accordingly, modification to the determination is warranted.

18  
19 **V. ORDER**

20 For the reasons stated above, it is ORDERED that:

- 21 1. The CNMI Department of Labor's Determination is **MODIFIED**; and  
22 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February  
23 2, 2020 to August 20, 2020.

24 Instructions and appeal rights with respect to second level appeals are pending clarification  
25 from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a  
26 second level appeal with a signed letter to indicating why he or she disagrees with the decision.  
27 The letter may be submitted to the Administrative Hearing Office in person (Building #1357,  
28 Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second  
level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this 15th day of September, 2020.

/s/  
**JACQUELINE A. NICOLAS**  
Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE

In Re Matter of: ) PUA Case No. 20-0004  
)  
Ana Marie M. Camacho )  
)  
Appellant, ) ADMINISTRATIVE ORDER  
)  
v. )  
)  
CNMI Department of Labor, )  
Division of Employment Services-PUA, )  
)  
Appellee. )

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 16, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Ana Marie M. Camacho ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita. There were no other witnesses who provided testimony at the hearing.<sup>1</sup> The following exhibits have been admitted onto the record:

- Exhibit 1: SAVE Response Document submitted by Department;
- Exhibit 2: A copy of Appellant's Employment Authorization Card;
- Exhibit 3: A copy of Appellants I-797 Notice of Action Document;
- Exhibit 4: A copy of Appellant's Separation Notice; and
- Exhibit 5: A copy of Appellant's Employment Certification.

For the reasons stated below, the Department's Determination dated September 1, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of April 26, 2020 to the date of this Order.

///

<sup>1</sup> Appellant's husband, Lawrence M. Camacho, was present but did not provide testimony.



## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")<sup>2</sup> and Federal Pandemic Unemployment Compensation ("FPUC").<sup>3</sup> On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.<sup>4</sup> The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals under PUA.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

## III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 1, 2020. The Department's determination found the Appellant was not a qualified alien denied benefits from April 26, 2020 to December 26, 2020.

Appellant filed the present appeal on September 4, 2020. The issue on appeal is whether Appellant is a qualified alien eligible for Pandemic Unemployment Assistance.<sup>5</sup>

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. Prior to the pandemic, Appellant was employed as a Beauty Advisor at DFS, Saipan Limited located in Garapan, Saipan. Appellant regularly worked 37.5 hours per week at an hourly rate of \$8.64.<sup>6</sup>

<sup>2</sup> See Section 2102 of the CARES Act of 2020, Public Law 116-136.

<sup>3</sup> See Section 2104 of the CARES Act of 2020, Public Law 116-136.

<sup>4</sup> Pursuant to 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii Employment Security Law applies, to the extent it does not conflict with federal law.

<sup>5</sup> During the Administrative Hearing, Appellant testified to potential overpayment issues. Since that issue was not included in the Notice of Hearing, the undersigned declines to make any findings or conclusions with respect to overpayments. However, this matter shall be referred to the Benefit Payment Control Unit for further investigation.

<sup>6</sup> See Exhibit 5.

2. The last day Appellant worked for DFS, Saipan Limited was May 1, 2020.<sup>7</sup>
3. Appellant was placed on a 50% furlough from May 1, 2020 to May 20, 2020. Subsequently, Employee was laid off effective May 20, 2020.<sup>8</sup>
4. DFS, Saipan Limited has been closed to date.
5. At the time of employment, Appellant was a Commonwealth Transitional Only Worker ("CW-1").
6. After marriage to Mr. Lawrence Camacho, Appellant submitted an I765- Application for Employment Authorization.<sup>9</sup> Subsequently, Appellant received an Employment Authorization Card<sup>10</sup> with the following credentials:
  - a. USCIS #: 200-755-497;
  - b. Category: C09;
  - c. Card #: MSC2091164908; and
  - d. Valid from June 18, 2020 to June 17, 2021.

#### V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant's employment was affected as a direct result of COVID-19.**

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).<sup>11</sup> Second, the claimant must show that he or she is able and available for work,<sup>12</sup> except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

- (a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

---

<sup>7</sup> See Exhibit 4.

<sup>8</sup> See Exhibit 4.

<sup>9</sup> See Exhibit 3.

<sup>10</sup> See Exhibit 2.

<sup>11</sup> For claimants working solely in the CNMI, this is not an issue.

<sup>12</sup> As defined by Hawaii Law

- (b) A member of the individual's household has been diagnosed with COVID-19;
- (c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- (d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- (e) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- (f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
- (g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- (h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
- (i) The individual has to quit his or her job as a direct result of COVID-19;
- (j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
- (k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to COVID-19, there was an immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of retail businesses, such as DFS. Due to the lack of tourism and revenue in Saipan, which was prompted by COVID-19, the employer had to reduce hours, furlough staff, and close the business. Accordingly, Appellant's employment was directly affected by a COVID-19 reason, indicated above.

## **2. Appellant is not a qualified alien eligible for PUA.**

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;

4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant argues she qualifies as either: (1) An alien admitted for permanent residence under the Immigration and Nationality Act (INA); or (2) an alien who is granted conditional entry due to being the spouse or children of an alien lawfully admitted for permanent residence.

The undersigned finds that the evidence is insufficient to establish that the Appellant is a permanent resident or alien granted conditional entry. Sufficient evidence to establish permanent residence is the INS Form I-551 (commonly known as a green card) or an Unexpired Temporary I-551 stamp in foreign passport or on the INS Form I-94. Evidence to establish alien granted conditional entry is the INS Form I-688B (Employment Authorization Card annotated 274a.12(a)(10)); INS Form I-766 (Employment Authorization Document annotated A10); or an Order from an immigration judge showing deportation or removal withheld under the Immigration and Nationality Act. No such documents have been provided or admitted into evidence.

Instead, Appellant submitted her Approval Notice with respect to an employment authorization application and her Employment Authorization Card.<sup>13</sup> The Employment Authorization Document Card is a work permit that allows noncitizens to work in the United States. The Employment Authorization Document Card indicates that Appellant was authorized to work based on Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. While Appellant may have submitted an application for permanent residence, the application for permanent residency has not been approved. Therefore, Appellant was not a qualified alien at the time of the weeks claimed.

///

///

---

<sup>13</sup> See Exhibits 2 and 3.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VI. ORDER**

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of April 23, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter to indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to [hearing@dol.gov.mp](mailto:hearing@dol.gov.mp). Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **22nd** day of September, 2020.

/s/  
\_\_\_\_\_  
**JACQUELINE A. NICOLAS**  
Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF LABOR  
ADMINISTRATIVE HEARING OFFICE

In Re Matter of: ) PUA Case No. 20-0005  
)  
Caihao Zhang )  
)  
Appellant, ) ADMINISTRATIVE ORDER  
)  
v. )  
)  
CNMI Department of Labor, )  
Division of Employment Services-PUA, )  
)  
Appellee. )

Pursuant to Appellant's appeal of the Department's determination denying Pandemic Unemployment Assistance benefits, this matter was scheduled for an Administrative Hearing on September 21, 2020 at 1:30 p.m. before the undersigned. Prior to the Administrative Hearing, Appellant submitted a written request to withdraw her appeal. As stated within the request, Appellant sought legal counsel and no longer disagrees with the determination.

Accordingly, this matter is hereby **DISMISSED**. Further, the Administrative Hearing scheduled for September 21, 2020 at 1:30 pm is **VACATED**.

So ordered this **21st** day of September, 2020.

/s/  
JACQUELINE A. NICOLAS  
Administrative Hearing Officer