

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



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**COMMONWEALTH REGISTER**

**VOLUME 41  
NUMBER 08  
AUGUST 28, 2019**

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# COMMONWEALTH REGISTER

VOLUME 41  
NUMBER 08  
AUGUST 28, 2019

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# Commonwealth Healthcare Corporation

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



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

**PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED RULES AND REGULATIONS**  
Volume 41, Number 06, pp. 042071-042077, of June 28, 2019

### **ONCOLOGY AMENDMENTS TO THE CHCC CHARGEMASTER**

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

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

and that they are being adopted as published.

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

**MODIFICATIONS FROM PROPOSED REGULATIONS:** Adoption as Amendments to the Chargemaster.

**AUTHORITY:** The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2826(c).

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

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930

OFFICE OF THE  
ATTORNEY GENERAL  
CIVIL DIVISION

*me*



2019 AUG 20 AM 10: 50

concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 19<sup>TH</sup> of August, 2019 at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
ber Esther L. Muna  
CEO, CHCC  
  
\_\_\_\_\_  
Lauri Ogumoro,  
Board Chair

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

Dated the 27 day of August, 2019.

  
\_\_\_\_\_  
EDWARD MANIBUSAN  
Attorney General

Filed and  
Recorded by:

  
\_\_\_\_\_  
ESTHER S.N. NESBITT  
Commonwealth Register

08.27.2019  
\_\_\_\_\_  
Date

# COMMONWEALTH HEALTHCARE CORPORATION

## CHCC Chargemaster Amendments 05/2019

PLEASE NOTE THAT THE FEES LISTED BELOW ARE APPLICABLE UNLESS THE CURRENT MEDICARE RATE IS HIGHER, IN WHICH CASE THE CURRENT MEDICARE RATE WILL APPLY INSTEAD OF THE RATE LISTED BELOW.

CPT/HCPCS	MOD	DESCRIPTION	PRICE
81206		Bcr/abl1 gene major bp	\$674.73
81207		Bcr/abl1 gene minor bp	\$596.04
81208		Bcr/abl1 gene other bp	\$661.89
10004		Fna bx w/o img gdn ea addl	\$136.01
10005		Fna bx w/us gdn 1st les	\$228.68
10006		Fna bx w/us gdn ea addl	\$155.75
10007		Fna bx w/fluor gdn 1st les	\$295.23
10008		Fna bx w/fluor gdn ea addl	\$192.67
10009		Fna bx w/ct gdn 1st les	\$357.08
10010		Fna bx w/ct gdn ea addl	\$261.06
80320		Drug Screen Quantalcohols	\$52.00
49406		Image cath fluid peri/retro	\$625.88
38220		Dx bone marrow aspirations	\$1,308.00
38220	26	Bone marrow aspiration	\$528.00
38220	26	Midlevel bone marrow aspiration	\$448.80
38221		Dx bone marrow biopsies	\$1,204.80
38221	26	Bone marrow biopsy	\$475.20
38221	26	Midlevel Bone marrow biopsy	\$403.75
38222		Dx Bone Marrow Bx & Aspir	\$2,512.80
38222	26	Bone marrow bx & asp	\$1,003.20
38222	26	Midlevel Bone marrow bx & asp	\$852.72
83789		Mass spectrometry quant	\$109.48



Commonwealth of the Northern Mariana Islands

# NORTHERN MARIANAS HOUSING CORPORATION



Tel. (670) 234-6866/234-9447/234-7689/234-7670 - Fax. (670) 234-9021  
Email: [nmhc@nmhc.gov.mp](mailto:nmhc@nmhc.gov.mp)

Ralph DLG. Torres  
Governor

Arnold I. Palacios  
Lt. Governor

## **PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF THE NORTHERN MARIANAS HOUSING CORPORATION (NMHC) SECTION 8 ADMINISTRATIVE PLAN FOR RENTAL ASSISTANCE PROGRAMS**

**INTENDED ACTION TO ADOPT PROPOSED REVISIONS TO NMHC SECTION 8 ADMINISTRATIVE PLAN FOR RENTAL ASSISTANCE PROGRAMS:** The Board of Directors ("Board") of NMHC intends to adopt as permanent regulations the attached proposed Revisions to NMHC Section 8 Administrative Plan for Rental Assistance Programs, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a) and applicable regulations. The proposed Revisions to NMHC Section 8 Administrative Plan for Rental Assistance Programs would become effective 10 days after compliance with 1 CMC §§ 9102, 9104(a), and 9105(b)).

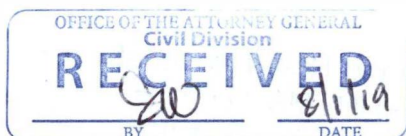
**AUTHORITY:** The Board, through its Chairperson, is authorized to promulgate these Revisions to NMHC Section 8 Administrative Plan for Rental Assistance Programs pursuant to 2 CMC § 4433(i).

**THE TERMS AND SUBSTANCE:** The proposed revisions to NMHC Section 8 Administrative Plan for Rental Assistance Programs were largely made to Part 500 of the current Administrative Plan for Section 8 Rental Assistance Programs which was published in the Commonwealth Register, Volume 20, Number 02, February 18, 1999, pages 16471 to 16533, as amended in subsequent public notices in the Commonwealth Register, Volume 22, No. 9 and Volume 23, No. 02. NMHC originally published the existing Administrative Plan for Rental Assistance Programs to establish policies for carrying out NMHC's rental assistance programs in a manner consistent with funding source requirements of the United States Department of Housing and Urban Development (HUD) and local objectives.

### **THE SUBJECTS AND ISSUES INVOLVED:**

Substantive additions to the said plan include the NMHC Board of Directors' adoption of the following provisions:

- 1) NMIAC §100-90-205(a)(5): Methods of Verification - The Board approved to change the section that reads "notarized statement" and replace with "a signed affidavit."
- 2) NMIAC §100-90-501 *et seq.*: Housing Quality Standards (HQS) and Rent Reasonableness – The Board approved the proposed changes to include provisions of the HOTMA Act of 2016. It provides Non-Life Threatening (NLT) and Life-threatening (LT) definitions for HQS Inspections. The section also includes Special HQS Inspections and Biennial Inspections.



The proposed revisions were formulated to restate, enhance, supplement and clarify the existing NMHC Administrative Plan for Rental Assistance Programs and will not repeal the entire regulations in the Northern Mariana Islands Administrative Code (NMIAC), Title 100, Chapter 90.




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

**TO PROVIDE COMMENTS:** Send or deliver your comments to Jesse S. Palacios, Corporate Director, NMHC to the following address, fax or email address, with the subject line "Proposed Revisions to NMHC Section 8 Administrative Plan for Rental Assistance Programs."

NORTHERN MARIANAS HOUSING CORPORATION  
P.O. Box 500514,  
Saipan, MP 96950  
Tel. No.: 234-6866/234-9447, 234-7689 Fax 234-9021  
Email address: [jspalacios@nmhc.gov.net](mailto:jspalacios@nmhc.gov.net)

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

These proposed regulations were approved by the Chairperson on November 20, 2018.

Submitted by:	 KIMO M. ROSARIO Acting Chairperson	<u>7/31/19</u> Date
Received by:	 MATHILDA A. ROSARIO Special Assistant for Administration	<u>08/01/19</u> Date
Filed and Recorded by:	 ESTHER SN. NESBITT Commonwealth Registrar	<u>08.22.2019</u> 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 1 day of August, 2019.



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**EDWARD MANIBUSAN**  
**Attorney General**



Commonwealth of the Northern Mariana Islands

# NORTHERN MARIANAS HOUSING CORPORATION



Tel. (670) 234-6866/234-9447/234-7689/234-7670 - Fax. (670) 234-9021  
Email: [nmhc@nmhc.gov.mp](mailto:nmhc@nmhc.gov.mp)

Ralph DLG. Torres  
Governor

Arnold I. Palacios  
Lt. Governor

## **ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUTÚL NORTHERN MARIANAS HOUSING CORPORATION (NMHC) SECTION 8 ADMINISTRATIVE PLAN NGÁLI PROGRÓOMAL RENTAL ASSISTANCE**

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL LIIWEL NGÁLI NMHC SECTION 8 ADMINISTRATIVE PLAN NGÁLI PROGRÓOMAL RENTAL ASSISTANCE:** Board of Directors (“Board”) sáangi NMHC re mángemángil rebwe adóptááli mwóghutughut kkal bwe ebwe lléghló fféérúl pommw ikka e appasch bwe Liiwel ngáli NMHC Section 8 Administrative Plan ngáli Progróomal Rental Assistance, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a) me mwóghutughutúl application. Pommwol Liiwel ngáli NMHC Section 8 Administrative Plan ngáli Progróomal Rental Assistance ebwe bwunguló llól seigh ráál mwiril aal angúungú fengál me 1 CMC §§ 9102, 9104(a), me 9105(b)).

**BWÁNGIL:** Board, sáangi layúr Chairperson, eyoor bwángiir reel rebwe arongawow Liiwelil NMHC Section 8 Administrative Plan ngáli Progróomal Rental Assistance sáangi 2 CMC § 4433(i).

**KKAPASAL ME AWEEWEL:** Pommwol Liiwel ngáli NMHC Section 8 Administrative Plan ngáli Progróomal Rental Assistance e tomwógh fféérúl ngáli Part 500 reel Administrative Plan iye ighila ngáli Section 8 Progróomal Rental Assistance iye ebwe arongowow me llól Commonwealth Register, Volume 20, Numuro 02, Mááischigh (February) 18, 1999, peigh 16471 ngáli 16533, iye re liiweli llól arongorongol toulap llól Commonwealth Register, Volume 22, No. 9 me Volume 23, No. 02. Bweletáál arongorong ikka e akkatéewow sáangi NMHC iye e lo bwe Administrative Plan ngáli Progróomal Rental Assistance nge ebwe itittiwel policies ngáli igha ebwe toowow aar NMHC rental assistance programs llól mwóghutughut iye e weewe ngáli funding source requirements reel United States Department of Housing and Urban Development (HUD) me local objectives.

## KKAPASAL ME ÓUTOL:

Milikka e ffil igha re aschuulong ngáli plóono yeel e toolong aar Board of Directors NMHC igha re adóptááilil provisions ikka e amiwirimwiritiw:

1) NMIAC § 100-90-205(a)(5): Methods of Verifications – Board re átirow reel siiwel ngáli tálil iye e ischitiw bwe “notarized statement” me siiweli ngáli “signed affidavit.”

2) NMIAC § 100-90-501 *et seq.*: Housing Quality Standards (HQS) me Rent Reasonableness – Board ra átirow reel pommwol siiwel bwe ebwe aschuulong provisions reel HOTMA Act reel 2016. E ayoorai Non-Life Threatening (NLT) me Life-threatening (LT) weewel ngáli HQS Inspections. Ebwe bwal schuulong llól tálil Special HQS Inspections me Biennial Inspections.

Pommwol liiwel re ayoora reel ebwe ira sefááliy, aghatchú, supplement me ebwe ffat mille e lo bwe NMHC Administrative Plan ngáli Progróomal Rental Assistance me esóóbw repeal-li alongal mwóghutughut me Northern Mariana Islands Administrative Code (NMIAC), Title 100, Chapter 90.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth Register llól tálil pommw me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál llól English me mwáliyaasch. (1 CMC § 9104(a)(1).

REEL ISIISILONGOL KKPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Jesse S. Palacios, Corporate Director, NMHC ngáli féléfél, fax ngáre email address, ebwe lo wóól subject line bwe “Proposed Revisions to NMHC Section 8 Administrative Plan for Rental Assistance Programs.”

### NORTHERN MARIANAS HOUSING CORPORATION

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Email address: [jspalacios@nmhc.gov.net](mailto:jspalacios@nmhc.gov.net)

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

Aa átirow pommwol mwóghutughut kkal sáangi Chairperson wóól Aremwoy 20, 2018.

Isáliyalong:

  
KIMO M. ROSARIO  
Acting Chairperson

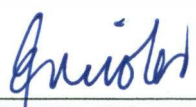
7/31/19  
Ráál

Bwughiyal:

  
MATHILDA A. ROSARIO  
Special Assistant ngáli Administration

08/01/19  
Ráál

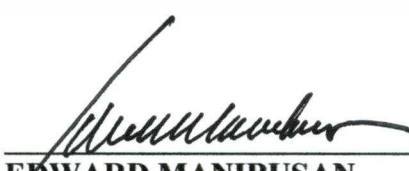
Ammwelil:

  
ESTHER SN. NESBITT  
Commonwealth Registrar

08.22.2019  
Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG bwe aa ffil reel fféérúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféérúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóol 1 ráálil August, 2019.

  
EDWARD MANIBUSAN  
Soulemelemil Allégh Lapalap



## NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

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234-7689  
234-7670  
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### NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION SIHA GI NORTHERN MARIANAS HOUSING CORPORATION (NMHC) SEKSION 8 PLÅNUN ATMINISTRADOT PARA I PRUGRÅMAN ASISTENSIAN ATKILON

I AKSION NI MA'INTENSIONA PARA U MA'ADĀPTA I MANMAPROPONI NA TUNULAICA SIHA PARA I NMHC SEKSION 8 PLÅNUN ATMINISTRADOT PARA I PRUGRÅMAN ASISTENSIAN ATKILON: I Kuetpun Direktot siha ("Board") nu i NMHC ha intensiona para u adāpta kumu petmanienti i regulasion i mañechettun na manmaproponi na Tunulaika siha para i NMHC Seksion 8 Plånun Atministradot para i Prugrāman Asistensian Atkilon siha, sigun para i maneran nu i Åktun Administrative Procedure, 1 CMC § 9104(a) yan i manaplikao na regulasion siha. I manmaproponi na Tunulaika siha para i NMHC Seksion 8 Plånun Atministradot para i Prugrāman Asistensian Atkilon siempri mu ifektibu gi dies (10) dihas dispues di compliance yan i CMC §§ 9102 yan 9104 (a), yan 9105(b).

ĀTURIDĀT: I Kuetpu, ginin iyon-ñiha Kabesiyu, ma'aturisa para u cho'gui esti siha na Tunulaika para i NMHC Seksion 8 Plånun Atministradot para Prugrāma Asistensian Atkilon sigun para i 2 CMC § 4433(i).

I TEMA YAN SUSTĀNSIAN I PALĀBRA SIHA: Esti i manmaproponi na Tunulaika siha para i NMHC Seksion 8 gi Plånun Atministradot para i Prugrāman Asistensian Atkilon ginin manmafa'tinas mās para i Part 500 gi presenti na Plånun Atministradot para Seksion 8 na Prugrāman Asistensian Atkilon ni ginin mapupblika gi hālum i Rehistran Commonwealth, Baluma 20, Numiru 02, Fibreru 18, 1999, pāhina 16533, kumu ma'amenda gi hālum tinattiyi na nutisian pupbliku siha gi hālum i maneksisisti na Plånun Atministradot para i Prugrāman Asistensian Atkilon para u ma'istapblesi i policies para u makātga huyung i prugrāman asistensian atkilon i NMHC gi hālum manera ni konsisti yan i nisisidāt na funding source nu i United States Department of Housing and Urban Development (HUD) yan local objectives.

#### SUHETU NI MASUMĀRIA YAN ASUNTU NI TINEKKA:

I manimpottānti na dinanña para i manmasāngan na plānu ingklusu i manma'adāpta na tinattiyi na provisions nu i Kuetpu Direktot i NMHC:

- 1) NMIAC §100-90-205(A)(5): Maneran i ebidensia – I Kuetpu ma'aprueba para u matulaika i seksion ni matataitai "settifikao na sinangan" ya matulaika yan "mafitma na affidavit."
- 2) NMIAC §100-90-501 *et seq.*: Kuālidāt na Housing Standards (HQS) yan Rasonāpbli na Atkilo – I Kuetpu ma'aprueba i manmaproponi na tunulaika para u ingklusu i provisions nu i Åktun HOTMA nu 2016. Prumubeni Non-Life Threatening (NLT) yan Life-Threatening (LT) sustānsian palābra siha para i HQS Inspeksion. I seksion ingklusu lokkui' i Ispisiāt Inspeksion HQS yan Biennial Inspeksion siha.

**"NMHC is a fair housing agency and an equal opportunity, lender and employer"**

Rota Field Office: Tel: (670) 532-9410  
Fax: (670) 532-9441

Tinian Field Office: Tel: (670) 433-9213  
Fax: (670) 433-3690

I manmaproponi na tinilaika manmafotma para u ta'lun sumångan, aomenta, suplimentu yan klaruyi i maneksisisti na Plånun Atministradot i NMHC para i Prugråman Asistensian Atkilon yan ti para u makansela todú i regulasion i Code Administradot Notte Mariånas (NMIAC), Titulu 100, Påtiti 90. DIREKSION SIHA PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi hålum seksion i maproponi yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi hålum i mangkumbinienti na lugåt gi hålum i Civic Center yan i hålum ufisinan gubietnamentu siha gi kada distritun senadot, parehu English yan i dos na lingguåhi Chamorro yan Refaluwasch. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hånao pat na'hålum i upiñon-mu guatu as Jesse S. Palacios, Direktot i Corporate, NMHC gi sigienti na address, fax, pat email address, yan i råyan suhetu "Maproponi na Tunulaika siha para i NMHC Seksion 8 gi Plånun Atmin istradot para i Prugråman Asistensian Atkilon."

NORTHERN MARIANAS HOUSING CORPORATION  
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Email address: [jspalacios@nmhc.gov.net](mailto:jspalacios@nmhc.gov.net)

Todu i upiñon siha debi na u manahålum gi hålum trenta (30) dihas ginin i fetchan pupublikasion esti na nutisia. Put fabot na'hålum i iyon-mu data, testimonion kinontra, yan agumentu siha. (1 CMC § 9104(a)(2)).

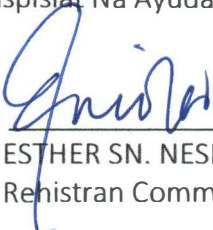
Esti i manmaproponi na regulasion siha manma'aprueba ginin i Kabesiyu gi **Nubembri 20, 2018**.

Nina'halum as:   
KIMO M. ROSARIO  
Acting, Kabesiyu

7/31/19  
Fetcha:

Rinisibi as:   
MATHILDA A. ROSARIO  
Ispisiåt Na Ayudånti Para I Atministrasion

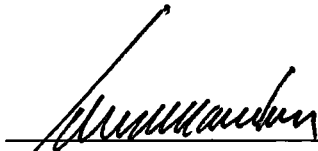
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Pine'lu yan  
Ninota as:   
ESTHER SN. NESBITT  
Rehistran Commonwealth

08.22.2019  
Fetcha:

Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inaprueban Abugâdu Henerât) i manmaproponi na regulasion ni mañechettun guini ni manmaribisa yan ma'aprueba kumu para fotma yan sufisienti ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika gi, 1 CMC § 2153(f) (pupublikasion areklamentu yan regulasion siha).

Mafetcha gi diha 1 gi August, 2019



EDWARD MANIBUSAN

Abugâdu Henerât



*Department of Commerce*  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
P.O. Box 5795 CHRB, Saipan, MP 96950  
Tel: (670) 664-3077 • Fax: (670) 664-3067  
email: [secretary@commerce.gov.mp](mailto:secretary@commerce.gov.mp)  
Web: [www.commerce.gov.mp](http://www.commerce.gov.mp)

Ralph DLG. Torres, Governor • Arnold I. Palacios, Lt. Governor • Mark O. Rabauliman, Secretary

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS**  
**TOUR COMPANY VEHICLE PERMIT REGISTRATION**  
**RULES AND REGULATIONS**  
**OF THE DEPARTMENT OF COMMERCE,**  
**ENFORCEMENT AND COMPLIANCE DIVISION**

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

**AUTHORITY:** The Secretary of Commerce (“Secretary”) has authority to adopt rules and regulations regarding matters that fall within the jurisdiction of the Department of Commerce, in accordance with 1 CMC § 2454 (Department of Commerce general authority to adopt rules and regulations); 4 CMC § 51420(b) (authority to adopt rules and regulations for Tour Company Vehicle Permit Registration); 1 CMC §§ 9101–9115 (procedures for adoption of regulations under the Commonwealth Administrative Procedure Act).

**THE TERMS AND SUBSTANCE:** These proposed regulations establishes new regulatory guidelines and implementing reasonable registration fees associated to permitting tour company vehicles consistent with Public Law No. 19-28 (Dec. 18, 2015).

**THE SUBJECTS AND ISSUES INVOLVED:** These proposed regulations include the following subject areas:

1. General Provisions
2. Permitting
3. Signage
4. Fines
5. Inspection
6. Permit and Decal Non-Transferrable
7. Revocation or Suspension of Tour Company Vehicle Registration Permit

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

OFFICE OF THE  
ATTORNEY GENERAL  
CIVIL DIVISION

2019 AUG 22 PM 2: 42

**TO PROVIDE COMMENTS:** Send or deliver your comments to Mark O. Rabauliman, Secretary of Commerce, at the above address, with the subject line "Tour Company Vehicle Permit Registration – Proposed Rules and Regulations" Comments are due within 30 days from the date of publication of this notice. (1 CMC § 9104(a)(2)).


These proposed regulations were approved by the Secretary on August 06, 2019.

Submitted by:   
MARK O. RABAULIMAN  
Secretary of Commerce

8/21/19  
Date

Received by:   
MATHILDA A. ROSARIO  
Governor's Special Assistant for  
Administration

08/22/19  
Date

Filed and  
Recorded by:   
ESTHER SN NESBITT  
Commonwealth Registrar

08.27.2019  
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 27 day of Aug 2019.

  
EDWARD MANIBUSAN  
Attorney General



## *Department Bwulasiyol*

COMMONWEALTH TÉÉL FALÚW KKA EFÁNG LLÓL MARIANAS

Mark O. Rabauliman, Sekkretóóriyo  
P.O. Box 5795 CHRB, Saipan, MP 96950  
Tel: (670) 664-3077 • Fax: (670) 664-3067  
email: [secretary@commerce.gov.mp](mailto:secretary@commerce.gov.mp)  
Web: [www.commerce.gov.mp](http://www.commerce.gov.mp)

*Ralph DLG. Torres, Governor • Arnold I. Palacios, Lt. Governor • Mark O. Rabauliman, Secretary*

**ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUTÚL  
ANGÚÚNGÚL GHAREETAL TOUR COMPANY  
ALLÉGH ME MWÓGHUTUGHUTÚL  
BWULASIYOL COMMERCE,  
ENFORCEMENT ME COMPLIANCE DIVISION**

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT KKA:** Commonwealth Téél Falúw kk Efáng llól Marianas, Bwulasiyol Commerce, Enforcement me Compliance Division, re mángemángil rebwe adóptááli pommwol mwóghutughut ikka e appasch bwe ebwe lléghló, sáangi mwóghutughutúl Administration Procedure Act (1 CMC § 9104(a)). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aal adóptááli me akkatééwowul me llól Commonwealth Register (1 CMC § 9105(b)).

**BWÁNGIL:** Eyoor bwángil Sekkretóóriyol Commerce (“Sekkretóóriyo”) reel ebwe adóptááli allégh me mwóghutughut ikka e ssul ngáli milikka e lo faal llól bwángil me lugóótul Bwulasiyol Commerce, llól abwungubwung fengál me 1 CMC § 2454 (eyoor bwángil llól alongal reel rebwe adóptááli allégh me mwóghutughut); 4 CMC § 51420(b) (bwángil reel rebwe adóptááli allégh me mwóghutughut ngáli Tour Company Vehicle Permit Registration); 1 CMC §§ 9101 – 9115 (mwóghutughutúl ngáli adóptaal mwóghutughut ikka faal Commonwealth Administrative Procedure Act).

**KKAPASAL ME AWEEWEL:** E itittiw sáangi pommwol mwóghutughut kkal ffél afal me óbwóssul registration ikka e ffil ngáli angúúngúl ghareetal tour company iye e weewe ngáli Alléghúl Toulap No. 19-28 (Tumwur 18, 2015).

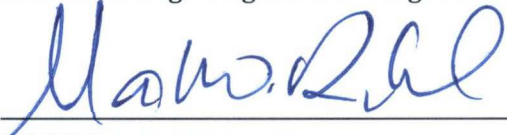
**KKAPASAL ME ÓUTOL:** Pommwol mwóghutughut kkal milikka e amwirimwiritiw:

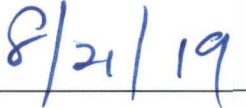
1. General Provisions
2. Angúúngúl
3. Ghikkill
4. Óbwóss
5. Piipiiy
6. Angúúngú me Decal Non-Transferrable
7. Revocation ngáre Suspension reel Angúúngúl Tour Company Registration

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow pommwol mwóghutughut kkal me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut ikka ra adóptáálil )1 CMC § 9102(a) (1)) me ebwe arongowow bwe mángemángil mwóghut ebwe adóptááli pommwol mwóghutughut yeel me ebwe appaschetá me llól civic center me llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(1)).


**REEL ISHISILONGOL KKPAS:** Afanga ngáre bwughiló yóómw ischil kkapas ngáli Mark O, Rabauliman, Sekkretóóriyol Commerce, reel féléfél iye e lo weiláng, ebwe lo wóól subject line bwe “Tour Company Vehicle Permit Registration – Proposed Rules and Regulation” Ebwe toolong ischil kkapas llól eliigh ráál mwiril aal akkatééwow arongorong yeel. (1 CMC § 9104(a)(2)).

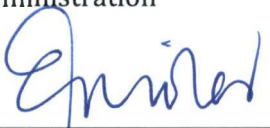

Aa átirow pommwol mwóghutughut kkal sáangi Sekkretóóriyo wóól Elúwel 06, 2019.

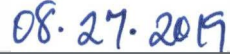
Isáliyalong:   
MARK O. RABAULIMAN  
Sekkretóóriyol Commerce

  
Ráál

Bwughiyal:   
MATHILDA A. ROSARIO  
Layúl Special Assistant Gobenno ngáli  
Administration

  
Ráál

Ammwelil:   
ESTHER SN NESBITT  
Commonwealth Register 

  
Ráál

Sáangi 1 CMC § 2153 (e) (sáangi átirowal AG reel mwóghutughut bwe aa lléghló reel fféerul me ebwe arongowow) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiy bwe aa lléghló reel fféerul me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikillátiw wóól 27 ráálil  2019.

  
EDWARD MANIBUSAN  
Soulemelemil Allégh Lapalap



## *DIPATTAMENTUN KOMETSIU*

COMMONWEALTH GI SANGKATTAN NA ISLAS MARIÑAS  
P.O. Box 5795 CHRB, Saipan, MP 96950  
Tel: (670) 664-3077 • Fax: (670) 664-3067  
email: [secretary@commerce.gov.mp](mailto:secretary@commerce.gov.mp)  
Web: [www.commerce.gov.mp](http://www.commerce.gov.mp)

Ralph DLG. Torres, Governor • Arnold I. Palacios, Lt. Governor • Mark O. Rabauliman, Secretary

### **NUTISIAN PUBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA PARA I DIPATTAMENTUN KOMETSIU**

**MA'INTENSIONA NA AKSION PARA U MA'ADAPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Mariñas, i Dipattamentun Kometsiu, Dibision Enforcement yan Compliance, ha intensiona para u ma'adapta kumu petmanienti i regulasion siha ni mañechettun na manmaproponi na regulasion siha, sigun gi madimanda siha gi Åktun Administrative Procedure 1 CMC § 9104(a). I Regulasion siha para u ifektibu gi hålum dies (10) dihas dispues di adaptasion yan publikasion gi hålum i Rehistran Commonwealth (1 CMC § 9105(b)).

**ÅTURIDÅT:** I Sekretariun Kometsiu ("Sekritariu") gai aturidåt para u adapta i areklamentu yan regulasion put i suhetu siha ni poddong gi hålum i aturidåt i Dipattamentun Kometsiu, hålum sigun yan i 1 CMC § 2454 (i Dipattamentun Kometsiu hineråt na aturidåt para u adapta i areklamentu yan regulasion siha); 4 CMC § 51420(b) (aturidåt para u adapta i areklamentu yan regulasion siha para Rehistrasion Lisensian Karetan Kompanian i Pasehu); 1 CMC §§ 9101-9115 (i manera para adaptasion nu i regulasion siha pāpa' i Åktun Administrative Procedure).

**I TEMA YAN SUSTANSIAN PALÅBRA SIHA:** Esti i manmaproponi na regulasion siha ha estapblesi i nuebu na regulatory guidelines yan ha implimententi rasonāpbli na fees i rehistrasion ni manasosiāt para i malisesensia na karetan kompania i pasehu ni pumarehu yan i Lain Publiku No. 19-28 (Dec. 18, 2015).

**I MASUHEHU YAN ASUNTU NI MANTINEKKA:** Esti i manmaproponi na regulasion siha ingklusu i tinattiyi na lugåt suhetu siha:

1. Heneråt na Probension
2. Lisensiā
3. Signage
4. Mutta siha
5. Inspeksion
6. Lisensia yan Decal Non-Transferrable
7. Revocation pat suspendi nu i Rehistrasion Lisensian Karetan Kompanian i Pasehu

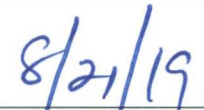
**DIREKSION PARA U MAPO'LU YAN MAPUBLIKA:** Esti i manmaproponi na Regulasion siha debi na u mapublika gi hålum i Rehistran Commonwealth gi hålum i seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan i ma'intensiona na aksion i nutisia ni para u adapta esti i manmaproponi na regulasion debi na u mapega gi hålum i mangkumbinienti na lugåt siha gi hålum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, i nutisia debi na parehu i Inglis yan i prinsipåt na lingguāhin natibu. (1 CMC § 9104(a)(1)).

**PARA U MAPRIBENIYI UPIÑON SIHA:** Na'hanão pat intrega i upiñon-mu guatu as Mark O. Rabauliman, i Sekretariun Kometsiu, gi sanhilu' na address, yan i rāyan suhetu "Manmaproponi na Areklamentu yan Regulasion siha – Rehistrasion Lisensian Karetan Kompanian i Pasehu". I upiñon siha debi na u fanhālum gi hālum 30 dihas ginin i fetchan pupublikasion esti na nutisia. (1 CMC § 9104(a)(2)).

Esti i manmaproponi na regulasion siha manma'aprueba ni i Sekretariu gi Agustu 06, 2019.

Nina'hālum as:

  
MARK O. RABULIMAN  
Sekritariun Kometsiu


  
Fetcha

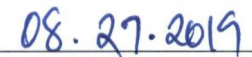
Rinisibi as:

  
MATHILDA A. ROSARIO  
Ispisiāt Na Ayudānti Para I Atministrasion


  
Fetcha

Pine'lu yan  
Ninota as:

  
ESTHER SN. NESBITT  
Rehistran Commonwealth

  
Fetcha

Sigun i 1 CMC § 2153(e) (I Abugādu Henerāt ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inaprueban Abugādu Henerāt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligāt ginin i CNMI Abugādu Henerāt yan debi na u mapupblika, 1 CMC § 2153(f) (pupublikasion i areklamentu yan regulasion siha).

Mafetcha gi diha  gi , 2019.

  
EDWARD MANIBUSAN  
Henerāt Abugādu

**NORTHERN MARIANA ISLANDS ADMINISTRATIVE CODE**  
**TITLE 20**  
**DEPARTMENT OF COMMERCE**

**Regulation Title:** Northern Mariana Islands Administrative Code  
Title 20 (Department of Commerce)  
Chapter 20-105 (Tour Company Vehicle Permit Registration Rules  
and Regulations)

**Part 001      General Provisions**

§ 20-105-001 Title and Authority  
§ 20-105-005 Definitions

**Part 100      Permit**

§ 20-105-101 Permit Application  
§ 20-105-105 Type of Permit  
§ 20-105-110 Modified Vehicles Permit  
§ 20-105-115 Duration  
§ 20-105-120 Renewal

**Part 200      Signage**

§ 20-105-201 Required Features

**Part 300      Fines**

§ 20-105-301 Fines Structure

**Part 400      Inspection**

§ 20-105-401 Tour Vehicle Inspection Requirement  
§ 20-105-405 General Inspection  
§ 20-105-410 Random Inspection  
§ 20-105-415 Damaged Vehicles  
§ 20-105-420 Inspection Approval Decal Requirement

**Part 500      Permit and Decal Non-Transferrable**

§ 20-105-501 Non-Transferrable Permit and Decal

**Part 600      Revocation or Suspension of Tour Vehicle Registration Permit**

§ 20-105-601 Revocation or Suspension of Permit: Temporary  
§ 20-105-605 Revocation or Suspension of Permit: Hearing

**Part 001 - General Provisions.**

§ 20-105-001 Title and Authority.

The rules and regulations in this chapter shall be called the “Tour Company Vehicle Permit Registration Rules and Regulations.” This chapter is promulgated by the Secretary of Commerce under authority granted pursuant to 4 CMC §51420.

§ 20-105-005 Definitions.

“Tour Company” means a company who is engaged in the business of extending to individuals or groups, such services pertaining to arrangements and bookings for transportation of tourist to scenic, historic landmarks and attractions on land and in sea of the Commonwealth of the Northern Mariana Islands.

“Tour Vehicle” means any vehicle used for the purpose of tourist transport to scenic, historic landmarks and attractions on land and in sea of the Commonwealth of the Northern Mariana Islands, for a fee, commission or any other lawful remuneration.

“Modified Vehicles” means any vehicle altered from its original design for tour purposes.

“Vehicle Category” means vehicles categorized by passenger capacity.

“Permit” means a document issued by the Department of Commerce to individual registered tour vehicles in compliance with the regulations.

“Signage” means markings on each tour vehicle in English representing their respective company and unit number.

“Secretary” means Secretary of Commerce.

“Director” means Director of Enforcement & Compliance.

“Ground Transportation” means a Tour Vehicle that is utilized for transportation of tourists to a scenic, historic landmarks and attractions on land of the Commonwealth of the Northern Mariana Islands.

**Part 100 - Permit.**

§ 20-105-101 Permit Application.

- a) The contents of the said permit shall include permit number, company information, vehicle information, expiration date, business form, Secretary’s or Designee’s signature, serial number, unit number, and license plate number.
- b) Before an inspection is performed by the Division of Enforcement and Compliance, a Tour Company Vehicle Permit Registration Application must be completed and submitted to the Department of Commerce and permit shall be approved by the Secretary or Designee.

- c) No Company shall cause a vehicle to be hired for tour without first being inspected, registered and issued a registration permit from the Department of Commerce.
- d) The Tour Company Vehicle Registration Permit expiration date shall coincide with the expiration date of vehicle registration.

§ 20-105-105 Type of Permit and Fees.

a) Category	b) Passenger Capacity	c) Fees
Category A	1 to 8 Passengers	\$35.00
Category B	9 to 18 Passengers	\$25.00
Category C	19-Up Passengers	\$15.00
Category D	Temporary Vehicle Permit (All Capacity)	\$200.00

§ 20-105-110 Modified Vehicles Permit.

Any tour vehicle modified to increase seating capacity from the original design specification and reaches the next another vehicle category prescribed shall be assessed a permit fee of the modified seating.

§ 20-105-115 Duration.

Upon payment of required permit fees, except temporary vehicle permit, each permit expiration date shall coincide with the expiration date of vehicle registration.

§ 20-105-120 Renewal.

Except for temporary vehicle permit which is authorized not to exceed three (3) days, each permit fees must be renewed no later than thirty (30) days after the expiration date and fines and fee must be disposed of prior to the renewal of any permit.

**Part 200 - Signage.**

§ 20-105-201 Required Features.

- a) No Company shall cause a vehicle to be hired without first having proper signage on the exterior of the tour vehicle specifically in English.
- b) All dark colored tour vehicles shall display exterior signage in light colored lettering. All light colored tour vehicles shall display exterior signage in dark colored lettering. All tour vehicles shall display signage representing their respective company and unit number.
- c) All tour vehicles shall display proper signage letter size as prescribed by the or Designee.

- d) Any violation of the signage required feature shall be resolved no later than two (2) weeks of the violation date notice.

Category	Passenger Capacity	Height Maximum
Category A	1 to 8 Passengers	2.5 inches
Category B	9 to 18 Passengers	3.5 inches
Category C	19-Up Passengers	6.0 inches
Category D	Temporary Vehicle Permit (All Capacity)	-

**Part 300 - Fines.**

§ 20-105-301 Fines Structure.

Offenses	Fines
Late Renewal of Permit	Five (5) times the amount of permit fee
Unpermitted Tour Vehicle	\$200.00 per offense
Unauthorized Seating Modification	\$200.00 per offense
No-Possession of functional certified fire extinguisher, first aid kit, trash receptacle	\$1,000.00 per offense
Non-compliant Signage	\$50.00 per offense

**Part 400 - Inspection.**

§ 20-105-401 Tour Company Vehicle Inspection Requirement.

No tour company shall cause a vehicle to be hired without first passing inspection by the Department of Commerce. Items required for inspection are as follows:

- a) Certified Portable Fire Extinguisher
- b) First Aid Kit
- c) Trash Receptacle
- d) Proper Signage

§ 20-105-405 General Inspection.

All Tour Company Vehicle registered at the Department of Commerce are required to be periodically inspected at six (6) months interval by the Department of Commerce commencing at date of registration permit date issuance.

§ 20-105-410 Random Inspection.

The Secretary or Designee may from time to time make random administrative inspections of tour vehicles and their equipment and pertinent records to assure compliance of all applicable rules and regulations. The verbal order or other orders of the Secretary or Designee to perform such inspections shall be adhered by all tour companies, owners, operators and drivers.

§ 20-105-415 Damaged Vehicles.

- a) All tour companies are required to submit a Police Report to the Director of Enforcement and Compliance Division at the soonest possible for any tour vehicle sustaining damages from being involved in an accident.
- b) No tour company shall cause such vehicle that has been repaired from damages to be hired without first acquiring a safety inspection report from any of the licensed establishments and inspection report at the Department of Commerce, Enforcement and Compliance Division.

§ 20-105-420 Inspection Approval Decal Requirement.

All tour vehicles approved for new and renewal inspection by the Department of Commerce, Enforcement and Compliance Division shall be marked with a decal as prescribed by the Secretary or Designee. The said decal shall bear the Department of Commerce Logo, inspection date and type of inspection. The Secretary or Designee shall order the removal of such decal from damaged tour vehicles.

**Part 500 - Permit and Decal Non-Transferrable**

§ 20-105-501 Non-transferrable Permit and Decal.

No permit or decal issued under the authority of this chapter shall be subject to transfer.

**Part 600 - Revocation or Suspension of Tour Company Vehicle Registration Permit**

§ 20-105-601 Revocation or Suspension of Permit: Temporary.

- a) The Secretary or Designee may revoke or suspend the right of the Tour Company to use their registration permit for violation of, causing or permitting of, or failure or refusal to comply with any provision of regulation adopted under this Chapter.
- b) Upon filing of a sworn written report with the Director or by an inspector setting forth to any ground pursuant to this Chapter for suspension or revocation of a permit, the Director or an inspector may temporarily suspend any permit no more than forty-eight (48) hours pending a regular hearing by the Department, The Director or inspector upon temporarily suspending a permit immediately notify the Secretary or Designee in writing of his/her action and transmit to the Secretary or Designee the report of the inspector, including the names of all witness.

§ 20-105-605 Revocation or Suspension of Permit: Hearing.

The Secretary or Designee upon receipt of the report required in §20-105-601 shall, as soon as practicable, hold a hearing on such report, and may suspend or revoke the permit if found non-compliant with any provisions of this chapter.

ORIGINAL  
8/7/2019



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

In the Matter of:

Zaji O. Zajradhara,

Complainant,

v.

Nippon General Trading Corporation *dba*  
Country House Restaurant,

Respondent.

Labor Case No. 19-025

ORDER GRANTING  
RESPONDENT'S  
MOTION TO DISMISS

## I. INTRODUCTION

This case concerns a labor complaint for a violation of the employment preference statute and retaliation between the above-captioned parties. On June 14, 2019, Respondent filed a Motion to Dismiss the claim for retaliation. Based on a review of the filings and applicable law, the undersigned finds that oral arguments are not necessary.<sup>1</sup> As discussed below, Respondent's Motion to Dismiss the claim for retaliation is hereby **GRANTED**.

## II. LEGAL STANDARD

Generally, motions and requests are governed by NMIAC § 80-20.1-470 (e). Thereunder,

[a]n application for an order or any other request may be made by motion. The hearing officer may allow oral motions or require

<sup>1</sup> As stated in the Referral and Scheduling Order, issued June 3, 2019, the Hearing Officer may issue a ruling based on written arguments or hear oral arguments.

motions to be made in writing. The hearing officer may allow oral argument or written briefs in support of motions. Within ten days after a written motion is served, or within such other period as a hearing officer may fix, any party to the proceeding may file and serve a response in opposition of the motion. Within three days after an opposition brief is served, the moving party may file and serve a reply to the opposition.

NMIAC § 80-20.1-470 (e). While the regulations limit the permissible motions to be filed at the Administrative Hearing Office, a party may file a motion to dismiss on the following grounds: (1) lack of subject matter jurisdiction; (2) Lack of personal jurisdiction; (3) insufficiency of process; (4) insufficiency of service of process; (5) failure to state a claim upon which relief can be granted. NMIAC § 80-20.2-130(c)(1). “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).

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the review of the filings, the undersigned hereby finds and concludes the following:

1. On April 29, 2019, the Complainant filled out a standard complaint form provided by the CNMI Department of Labor. Therein, Complainant checked off a claim for employment preference and retaliation. In support of his claims, Complainant simply writes: “I applied for the job of wait staff, I have experience I am being retaliated against for filing both local & federal claims against this Company. As I was not interviewed-nor hired- As a U.S. Citizen.”
2. Considering the complete lack of allegations to support his claim—or give adequate notice and opportunity to defend to Respondent—Complainant was ordered to file additional information.
3. On May 29, 2019, Complainant filed an Additional Affidavit and Amended Complaint. There were no additional allegations to support his claim for retaliation.

4. On June 14, 2019, Respondent filed a Motion to Dismiss (“Respondent’s Motion”) the claim for retaliation.
5. First, Respondent’s Motion argues that Complainant’s claim for retaliation should be dismissed for mootness because the Additional Affidavit and Amended Complaint supersedes the original complaint. While Respondent cites to legal authority from an outside jurisdiction, Respondent does not cite to binding or mandatory precedent. The undersigned rejects this argument because Complainant was ordered to file *additional* information meant to supplement his claim. Further, given Complainant’s pro se status, the strict application of a technical rule based on legal principles and outside authority is overly harsh.<sup>2</sup>
6. Second, Respondent’s Motion argues that Complainant’s claim for retaliation should be dismissed because “[t]here is not statutory or regulatory authority for the Department to accept retaliation claims from Mr. Zajradhara against an entity that does not employ him.” The undersigned agrees with Respondent’s arguments.
7. Generally, a claim for retaliation under this Office occurs when an employer takes any adverse action against an employee for filing a complaint. NMIAC § 80-20.1-455(l) (“An **employer** shall not retaliate against an **employee** for filing a complaint. Such retaliation is a separate cause of action against the employer.”) (Emphasis added); *see also* *Udani v. Huang Shun Corporation*, LC-17-003(T) (Administrative Order issued October 25, 2017 at pg. 8) (“Employee failed to prove by a preponderance of evidence that her termination was done in retaliation for her filing a labor complaint against her employer about one month before her termination.”).
8. Here, Complainant fails to establish a prima facie case for retaliation under NMIAC § 80-20.1-455. Specifically, there is no showing that Complainant was an employee of Respondent at the time of the filing, that Respondent terminated or took adverse

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<sup>2</sup> “In applying the rules of procedure to adjudicative proceedings, a hearing officer shall give added accommodation to parties appearing pro se to ensure that no party is prejudiced and that the ends of justice will be served. The hearing officer should take all steps necessary to develop the record fully, including the record adverse to the Department.” NMIAC § 80-20.1-460 (b).

action against Complainant, or that this filing was a substantial factor in termination or taking adverse action. In fact, the filings shows that Complainant was not even an employee of Respondent. Accordingly, Complainant fails state a claim for which relief can be granted and dismissal is appropriate.<sup>3</sup>

9. On July 21, 2019, Complainant filed a Motion to Oppose Dismissal (“Complainant’s Opposition”) by electronic mail.<sup>4</sup>
10. Complainant’s Opposition alludes to and makes unsupported arguments as to discrimination. Complainant’s Opposition states, “[m]y point of ‘retaliation’ is based upon, and is meant to demonstrate that the [R]espondent is denying the [C]omplainant employment opportunities in part because the [C]omplainant has previously filed both local and federal charges of discrimination against said corporation; . . . the [C]omplainant[,] though not an attorney believes it is his right to file charge against this employer, based on the fact that the company denied an eligible us’ [sic] citizen a position with the company without cause.” Complainant’s Opposition not only confuses local and federal laws, it obscures the claims for employment preference and retaliation. Complainant makes no arguments to satisfy the local regulation against retaliation. Further, Complainant makes no argument that his claim for retaliation based on discrimination falls within the purview and jurisdiction of this Office.
11. The remaining majority of Complainant’s Opposition is nonresponsive and outside the scope of the legal arguments made in Respondent’s Motion. Complainant’s

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<sup>3</sup> While the Department’s regulations specifically provide for added accommodations to pro se litigants, “there must be a limit to accommodations and liberal construction afforded to pro se pleadings and filings. . . . [I]t is beyond the duty of the adjudicator to make or strain to infer unfounded or baseless arguments on behalf of the party. Accordingly, where even a liberal construction would not add meaning to the filings, dismissal is appropriate.” *Zajradhara v. Nippon General Trading Corp.*, SA-2019-001 (Final Order issued June 13, 2019 at pg. 10).

<sup>4</sup> Complainant’s opposition was filed, **unsigned**. Complainant’s actions were in violation of NMIAC § 80-20.2-125(b)(5), which requires all motions and petitions to be signed. Considering that “[p]ro se status does not excuse a party from applicable rules,” any future unsigned filings from Complainant will not be processed or reviewed. See *Zajradhara v. Nippon General Trading Corp.*, SA-2019-001 (Final Order issued June 13, 2019 at pg. 9).

Opposition also mischaracterizes and misdirects by personally attacking parties, instead of making legal arguments.<sup>5</sup>

12. Considering that Complainant was not an employee of Respondent, Complainant fails to state a claim for retaliation under NMIAC § 80-20.1-455(1). Further, in the event that Respondent's claim for retaliation is made pursuant to federal law, this Office lacks jurisdiction to hear, enforce, or adjudicate said claim.

#### IV. CONCLUSION

Based on the foregoing, Complainant's claim for retaliation is hereby **DISMISSED**.

Oral arguments for Respondent's Motion for Sanctions will be heard during the previously noticed Prehearing Conference, scheduled for August 27, 2019 at 1:30 p.m. at the Administrative Hearing Office. All parties, including the assigned Investigator, are ordered to appear. The parties should be prepared with legal arguments and evidence to support their claims regarding Complainant's alleged history of harassment and frivolous filings, not limited to previous filings, reports, resolutions, written communications, or testimony.

Enforcement may, but is not required to, file a brief or present evidence with respect to the allegations of harassment and/or frivolous filings.

So ordered this 1st day of August, 2019.

/s/

Jacqueline A. Nicolas  
Administrative Hearing Officer

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<sup>5</sup> For example, Complainant writes, "Attorney [S]coggins is . . . play acting as though he is an unbiased neutral third party . . ." Complainant also writes that "attorney scoggins even goes further in coaching/instructing, giving legal advice to the hearing officer within his motion . . ." As the opposing counsel on record submitting a legal motion, Complainant clearly does not understand party roles or applicable rules requiring motions to be supported by arguments with legal authority. Complainant also accuses the Secretary of Labor as trying to stop him from filing complaints. This is unfounded and completely irrelevant to a retaliation claim. Further, the Administrative Hearing Office accepts all completed filings—this is supported by the fact that Complainant has filed over 100 labor cases in the past three years, many of which have been withdrawn, dismissed for failure to state a claim, or settled. Complainant's continuous attempts to mischaracterize or misdirect are futile and unpersuasive. Complainant only jeopardizes his own credibility.