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

****

COMMONWEALTH REGISTER

VOLUME 45
NUMBER 08
AUGUST 28, 2023

COMMONWEALTH REGISTER

VOLUME 45
NUMBER 08
AUGUST 28, 2023

PROPOSED

ORDERS

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp

Eli D. Cabrera
Administrator

COASTAL RESOURCES MANAGEMENT

Richard V. Salas
Director, DCRM

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO NMIAC CHAPTER 15-10 TO REVISE DCRM'S PERMITTING FEES

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resources Management (CRM) Regulatory Agencies intend to amend NMIAC Chapter 15-10 to revise the permitting fees charged by the Division of Coastal Resources Management (DCRM).

AUTHORITY: These amendments are promulgated under the authority of the CRM Regulatory Agencies to adopt new regulations under 1 CMC § 1531(d). These proposed regulations were approved by the CRM Regulatory Agencies in a public meeting on June 13, 2023.

TERMS AND SUBSTANCE: These proposed amendments seek to:

1. Reinstate the fee waiver for government agencies engaging in government projects;
2. Remove the fee for each resubmission of a standard APC or minor development APC application, and for each resubmission of a major siting application;
3. Remove the administrative fee for extension requests, name changes, and other permit changes not requiring a formal permit amendment; and
4. Reinstate the prior fees for standard APC and major siting permits based on appraisal of construction costs.
5. Remove the fee for untimely requests to extend the time for construction specified in the permit.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES, AND REGULATIONS: The proposed amendments affect NMIAC Chapter 15-10 by amending the following provisions:

- §15-10-205 Permit Application Procedures, (h) Fees
- §15-10-610 Mandatory Conditions, (b) Timing and Duration

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments 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)).

Submitted by:

Mr. Richard V. Salas
Director, Division of Coastal Resources Management

8/17/23
Date

Received by:

Mr. Oscar M. Babauta
Special Assistant for Administration

8/18/23
Date

Filed and Recorded by:

Ms. Esther R.M. San Nicolas
Commonwealth Registrar

8.28.23
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

8/4/2023
Date

§ 15-20-401 Designated Areas

DCRM has approved designated areas for Water Sports and Recreational Activities as shown on the maps incorporated into this regulation as Appendix I–III, and as follows:

(a) Rota

Type	Location of Operational Area	Coordinates	Access to Area
Water-Jet Craft; Parasailing; Towed Floatation	Sasanhaya Bay* (Wedding Cake Mountain to Puntan Pona)	East of Latitude 14.117684, Longitude 145.1262 and west of Latitude 14.119784, Longitude 145.168124	Access to the operational area shall be via East Harbor
	Sasanlagu Bay* (Tweksberry Beach to Pinatang Beach)	North of Latitude 14.134898, Longitude 145.12511 and south of Latitude 14.148754, Longitude 145.139242	Access to the operational area shall be via West Harbor
	Alaguan Bay* (Puntan Haina to I'Chenchon Park Bird Sanctuary)	East of Latitude: 14.132685, Longitude 145.230542 and west of Latitude 14.15186, Longitude 145.26514	Access to the operational area shall be via East Harbor
Non-Motorized	All Areas	N/A	N/A

**Operational area shall be beyond the reef flat.*

(b) Tinian

Type	Location of Operational Area	Coordinates	Access to Area
Water-Jet Craft; Parasailing; Towed Floatation	Tachogna and Taga Beach (sandy bottom area adjacent to Taga Beach)	145.375887°E, 14.575745°N 145.375636°E, 14.575250°N 145.375996°E, 14.574944°N 145.376345°E, 14.575376°N	Access to the operational area shall be via the Tinian Harbor
Non-Motorized	All Areas	N/A	N/A

(c) Saipan

Type	Location of Operational Areas	Coordinates	Access to Area
Water-Jet Craft: Operation of Water-Jet Crafts that are intended to operate on the surface of the water, such as a Jet Ski®, WaveRunner®, Sea-Doo, jet bike, or jet board/jet surf and the like.	**Commercial:** 300 ft. x 400 ft. marked course, Saipan Lagoon, Garapan	The marked area within the following coordinates: 145.7141512°E, 15.2107799°N 145.7150129°E, 15.2107257°N 145.7149493°E, 15.2097222°N 145.7141263°E, 15.2097387°N	Access to the operational area shall be via Grandvrio Resort
	300 ft. x 600 ft. marked course, Saipan Lagoon, Garapan	The marked area within the following coordinates: 145.7140311°E, 15.2146583°N 145.7148454°E, 15.2146509°N 145.7148264°E, 15.2136302°N 145.7140007°E, 15.2136669°N	Access to the operational area shall be via Hyatt Regency/Fiesta Resort
	300 ft. x 600 ft. marked course, Saipan Lagoon, Susupe	The marked area within the following coordinates: 145.6991133°E, 15.1606853°N 145.6998962°E, 15.1601668°N 145.7008886°E, 15.1614146°N 145.7001512°E, 15.1618803°N	Access to the operational area shall be via Saipan World Resort/Kanoa Resort
	Non-Commercial: 2,500 ft. x 1,200 ft. area in the northern lagoon (located about 1.20 miles NW of DPW Channel Ramp)	There are two operational areas within the northern lagoon located within the following coordinates: 145.7245053°E, 15.2340399°N 145.7305580°E, 15.2381884°N 145.7321583°E, 15.2356363°N 145.7259347°E, 15.2316259°N ***AND*** 145.7394044°E, 15.2437213°N 145.7446500°E, 15.2470024°N 145.7463615°E, 15.2446005°N 145.7410714°E, 15.2411908°N	Access to the operational area shall be via a DLNR-approved site.
	400 ft. x 800 ft. area in southern lagoon (located about 1/4 mile off the shoreline from the Kanoa and World Resort	The operational area in the southern lagoon shall be within the following coordinates: 145.6968380°E, 15.1568860°N 145.6979212°E, 15.1586125°N 145.6989332°E, 15.1581517°N 145.6979070°E, 15.1564527°N	

	properties		
Water-Jet Craft: Operation of Water-Jet Crafts that are intended to operate above or below the surface of the water such as a flyboard, Jetovator or other jet pack, Seabreacher or other submersible, and the like.	**Commercial:** about $^3/_4$ of a mile SW of Garapan Fishing Base beyond the reef	145.7037777°E, 15.1958462°N 145.7081377°E, 15.1996482°N 145.7088206°E, 15.1990226°N 145.7053838°E, 15.1956756°N	Access to the operational area shall be via a DLNR-approved site.
	Non-Commercial:	Same as commercial	Same as commercial
Parasailing	2.5 mi^2 (6.22 km^2) in the area that overlaps the Saipan Shipping Channel, the Mañagaha Marine Conservation Area, and the transit corridor	145.6935892°E, 15.2331186°N 145.6963784°E, 15.2198480°N 145.7203266°E, 15.2294994°N 145.7378309°E, 15.2423982°N 145.7315793°E, 15.2499144°N 145.7159986°E, 15.2377585°N	Access to the operational area shall be via a DLNR-approved site.
Towed Floatation	The primary transit corridor that begins at the Kanoa/World Resort course to Mañagaha	500 ft. wide corridor that extends from: 145.6975420°E, 15.1549126°N 145.6996888°E, 15.1544575°N 145.6987482°E, 15.1575120°N 145.7004273°E, 15.1574056°N 145.7028665°E, 15.1634239°N 145.7040229°E, 15.1625074°N 145.7113934°E, 15.1946005°N 145.7136924°E, 15.1945201°N 145.7091843°E, 15.2237627°N 145.7113193°E, 15.2227909°N 145.7125683°E, 15.2385322°N 145.7094583°E, 15.2388756°N	Access to the operational area shall be via a DLNR-approved site.
Non-motorized	All Areas	N/A	N/A

The DCRM Director may in the Director's discretion approve an operational area outside of the designated areas upon request by an applicant, provided that the Director determines that

the applicant has sufficiently assessed all potential environmental impacts to the proposed operational area.

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp

Eli D. Cabrera
Administrator

Richard V. Salas
Director, DCRM

ARONGORONGOL TOULAP REEL SIWEL YE RE MENGI REBWE SIWILILÓ LLÓL NMIAC PEIGHIL 15-10 BWE EBWE REEL LISENSIYAL (PERMIT) DCRM

ARONGORONGOL POMMWOL MWÓGHUTUGHUT: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resource Management (CRM) Regulatory Agencies re mwuschel siiweli NMIAC Chapter 15-10 bwe rebwe féérú sefáli ammwelil abwós iye e toowow me reel Division of Coastal Resource Management (DCRM).

BWINGIL NGERE MAMAWAL BWULASIYO: Siwel kkaal nge e mweitingeliir Regulatory Agencies faal 1 CMC §1531(d). Reghal aweewei meeta aweewe kka rebwe ayoora ngere siweliló nge toulap raa toolong rebwe asseling bwe re bwal ghulei meeta mengemengiir.

KKAPASAL ME AWEEWE: Pommwol siiwel kkaal nge ebwe:

1. Asefáliilong abwós kkewe re atiwaaló reel government agencies kka eyoor yaar government project;
2. Atiwa abwóssul igha re asefáliilong application reel standard APC ngare minor development, me major siting application.
3. Atiwa abwóssul igha rebwe sóbweeyló aar tingór, siweli iit, me permit kka ese bwal tingór ssiiwel; me
4. Asefáliilong abwós we reel standard APC me major siting permit sángi llapal méél akkayú.
5. Atiwa abwós reel tingór iye ese fisch reel rebwe sóbweeló rállil akkayú iye e ischetiw llól permit.

TIPETCHOWUL MWÓGHUTUGHUT: Pommwol siiwel kkaal nge sángi NMIAC Chapter 15-10 igha ebwe siweli:

- §15-10-205 Aweewel lisensiya ngáre permit, (h) Abwóós
- §15-10-610 Rebwe atabwei kkondisionul, Atol me lááláyil

AFAL REEL AMMWELIL ME AKKATÉEWOWUL: Pommwol liiwel kkal nge ebwe akkatééwow loll Commonwealth Register 1161 tálil pommwol me ffél mwóghutughut kka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe apaschetá loll civic center me loll gobetnamento loll senatorial district, fengál reel kkasal English me mwáliyaasch (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiiló yóómw ischil kkapas reel pommwol mwóghutughut kkaal ngáli Sam Sablan, DCRM Permit Branch Manager reel address, fax ngáre email address reel "Proposed Revision to DCRM Permitting Fee Regulations":

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Isiisilongol mángemáng ebwe toolong lóll eligh (30) ráál mwiril aal akkatééwow arongorong yeel 1 CMC § 9104(a)(2).

Isáliyalong:

8/7/23

Mr. Richard V. Salas
Director, Division of Coastal Resources Management

Date

Bwughiyal:

8/9/23

Mr. Oscar Babauta
Special Assistant ngáli Administration

Date

Ammwelil:

8.28.23

Ms. Esther R.M. San Nicolas
Commonwealth Registrar

Date

I apilúghúlúghúw reel 1 CMC § 2153(e) me 1 CMC § 9104 (a)(3), bwe yaa takkal amweri fischiy me aa lléghéló reel ffééról me aal legal sufficiency.

8/9/2023

Mr. Edward Manibusan
Soulemelemil Allégh Lapalap

Date

§15-10-205 Permit Application Procedures

CRM permit application forms, including APC permits and temporary permits for emergency repairs, shall be maintained at the DCRM office on Saipan. For activities proposed on Rota or Tinian, copies of the application form shall also be maintained at DCRM Branch Offices on Rota and Tinian. These permit applications shall also available and can be tracked through the DCRM Online Permitting System. CRM permit applicants shall complete and file an application for each proposed APC permit, temporary permit for emergency repair, or major siting permit. The following conditions shall apply to all CRM permit applications:

***

(h) Fees. CRM permit applications shall be accompanied by a non-refundable CRM permit application and administrative fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.

(1) No fee for government agencies engaging in government projects.

(2) $25.00 fee for temporary permits unless waived by the Director.

(3)~~(2)~~ $200.00 fee for minor development permits. As provided below, a "De Minimis APC Waiver" may be requested and a minor APC permit fee reduction may be granted at the discretion of the Director.

(i) "De Minimis Fee Waiver" Requests. When an applicant for a Minor APC permit has substantial evidence that the proposed activity or action will have no direct or cumulative impact on coastal resources, a "De Minimis APC Fee Waiver" may be requested in writing through the permitting office. This request must clearly state the reason(s) why the proposed activity will be "*de minimis*" in nature, and include a request for a reduction of up to 50% of APC permitting fees for commercial actions and 100% of APC permitting fees for mitigation, restoration, or non-commercial actions.

(ii) Review of "De Minimis Fee Waiver" Requests. Such requests must be submitted to the Director with the Permit Manager copied. Permitting staff will review such requests to ensure accurate environmental information has been provided, and the Permit Manager will submit a recommendation to the Director to approve or deny the waiver request within ten working days of receipt of the request at the Saipan DCRM Office. The Director may deny or grant the waiver request, or grant the request with restrictions, conditions, or modifications at their discretion. If a waiver is granted, the Director shall issue a letter to the applicant detailing what, if any, restrictions the waiver is conditioned upon, and a copy of this letter will be retained in the permit file. Any deviation of scope or activities of the subject project will be treated as unpermitted for the purposes of enforcement action, if necessary, as detailed in § 15-10-900. Submission of a "De Minimis APC Fee Waiver" request shall stop the clock on review of the submitted APC permit. If the waiver request is denied, the review period will be restarted upon the date of the issuance of the denial letter.

(4)~~(3)~~ $1,000.00 initial fee and $750.00 renewal fee for jet ski and motorized commercial water sports and $200 for non-motorized commercial marine sports operating permits. One application or renewal fee will cover multiple proposed uses and concurrent operations for up to two licensed and listed boats or six jet skis so long as activities are compliant with any and all permit restrictions. Marine Sports Operators ("MSO") shall be permitted on a set bi-annual schedule, starting May 30, 2018. Permittees holding permits that expire after May 30, 2018 will pay a prorated fee to extend their permit to

May 30, 2019. Permit renewals shall be due on May 30 every year, or, if this date falls on a weekend, the following business day.

(i) Discounted MSO fees for qualifying "green" and "sustainable eco-tour" certifications are available as follows:

MSO Tier 1 Reduction	Membership of the Marine Sports Association in good standing	10% fee reduction
MSO Tier 2	Members of the Marine Sports Association in good standing with no reported violations for at least one year	15% fee
MSO Tier 3	Members of the Marine Sports Association in good standing with no reported violations for at least one year and completion of qualifying "ecotour" training and / or	25% fee

(ii) Qualifying for Discounted MSO permit fee. To qualify for the tiered permit fee reductions listed above, MSO permit applicants must request discount in writing at the time of permit renewal or new permit application. Required documentation includes proof of membership in an active Marine Sports Association and certification of completion of a DCRM-approved "ecotour training" and/or certification program.

(5)~~(4)~~ Fees for standard APC and Major Siting projects shall be based upon appraisal of construction costs.

FEE AMOUNT COST OF PROJECT OR PERMIT AMENDMENT

~~$50 each resubmission of standard APC or minor development APC application~~

~~$100 each resubmission of a major siting application~~

~~$200 administrative fee for extension requests, name changes, and other permit changes not requiring a formal amendment~~

$200~~$250~~ less than or equal to $ 50,000

$400~~$500~~ value between $ 50,001 and $ 100,000

$1,000~~$1,500~~ value between $ 100,001 and $500,000

$2,000~~$2,500~~ value between $ 500,001 and $ 1,000,000

$2,000~~$3,000~~ For every $1,000,000.00 cost increment exceeding one million dollars.

(i) Discounted fees for qualifying "green" and/or "low impact development" projects. Discounts may be applied for application and administrative fees at the recommendation of the Permit Manager and approval of the Director. Discretionary guidance for tier permit reductions are as provided in (h)(5)(i)(A) and (B).

(A) Tiered permit discounts for qualifying or "LEED certifiable" projects are available as follows:

Tier	Qualifications	Incentive
Tier 1 Reduction	Building design and construction are "LEED Certifiable", scoring between 40-49 points on the LEED v4 or subsequent Building Design and Construction Checklist	10% fee reduction
Tier 2 Reduction	Building design and construction are "LEED Silver Certifiable", scoring between 50-59 points on the LEED v4 or subsequent Building Design and Construction Checklist	15% fee reduction
Tier 3 Reduction	Building design and construction are "LEED Gold Certifiable", scoring between 60-79 points on the LEED v4 or subsequent Building Design and Construction Checklist	20% fee reduction
Tier 4 Reduction	Building design and construction are "LEED Platinum Certifiable", scoring between 80110 points on the LEED v4 or subsequent Building Design and Construction Checklist	25% fee reduction

(B) Tiered permitting fee reductions for building redevelopment and/or stormwater management are available as follows:

Tier	Building Redevelopment	Stormwater Management	Incentive
Tier 1 BMP Reduction	- Permittee or its operators implements and maintains on-site recycling and composting programs to reduce 50% or more of the waste stream; AND/OR - Project installs, utilizes, and maintains "Energy Star" rated high efficiency / LED lighting and appliances or a renewable energy source supplying 20% or more of a project's electricity	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 10%-24% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event; AND/OR - Project implements and maintains 30%-49% of pervious surface area or green infrastructure elements	5% fee reduction

Tier 2 BMP Reduction	Applicant redevelops or rehabilitates 15% - 25% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 25%-49% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event; AND/OR - Project implements and maintains 50% or more of pervious surface area or green infrastructure elements	10% reduction
Tier 3 BMP Reduction	Applicant redevelops or rehabilitates 26% - 50% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 50%-74% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event	20% reduction
Tier 4 BMP Reduction	Applicant redevelops or rehabilitates 51% - 74% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 74% or more of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event	30% reduction
Tier 5 BMP Reduction	Applicant redevelops or rehabilitates over 75% of the existing building	-Not applicable	50% reduction

(ii) Qualifying for Discounted Major Siting permit fee. To qualify for the tiered permit fee reductions listed above, major siting applicants must request discount in writing at least thirty days prior to submitting a major siting application. Applicants are encouraged to

discuss proposed fee reduction in advance with Director and Permitting staff to identify any required documentation to support discounted permit fee request. The DCRM Director shall respond to permit fee reduction requests in writing and state whether the request is granted in full, granted in part, or denied and the reasons therefore within thirty days of receiving the request and all required supporting documentation. If no response is received within thirty days of the submission of the request, the request will be considered denied by the DCRM Director. If reduction is approved, agreed upon project implementation will be included as conditions of the major siting permit.

(iii) Forfeiture of applied permit discount. At the DCRM Director's discretion, a violation of major siting permit conditions or engaging in unpermitted activity with a nexus to the permit discount received by the permit applicant or failure to implement improvements for which the discount was granted may result in forfeiture of applied permit discount, and any outstanding balance may become due at the time of the issuance of a Notice of Violation.

(iv) All permit fee reduction requests for stormwater management practices must meet the standards set forth in 2.1 and 2.2 of the 2006 CNMI and Guam Stormwater Management Manual, specifically E&SC Standards 1-11 and Postconstruction Standards 1-13. DEQ stormwater management standards require the on-site detention of 100% of stormwater runoff volume, based on the 25 year 24 hour duration storm event; therefore, applicants requesting a fee reduction for stormwater management must account for the additional percentage by collecting additional stormwater from off-site, and treating or containing it.

§15-10-610 Mandatory Conditions

All CRM permits shall contain at least the following conditions:

***

(b) Timing and Duration.

(1) Permitted physical development of the project site subject to a CRM permit shall begin within the time frame specified for project commencement on the permit. The maximum time allowed for project commencement shall be one year. The construction of the project shall be completed within the time frame specified on the permit for project completion. The maximum time allowed for construction shall be three years unless it can be demonstrated that the construction requires additional time. Upon project completion, the permittee shall deliver a completion certificate to the DCRM Office that issued the permit. If the construction is not completed within the time frame specified in the permit, ~~Permittee shall submit a written request at least five business days prior to the expiration date. If the permit expired without any extension request by the Permittee and Permittee subsequently requests an extension, Permittee shall pay 50% of the original fees paid. The~~the permit condition specifying expiration will be reviewed by the DCRM Director who may extend or amend the permit condition for good cause.

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp

Eli D. Cabrera
Administrator

COASTAL RESOURCES MANAGEMENT

Richard V. Salas
Director, DCRM

NUTISIAN I MANMAPROPONI NA AMENDASION I NMIAC CHAPTER 15-10, POT PARA UMA TULAIKA I PITMISION I ÅPAS I LISENSIA SIHA GINEN I REGULASION I DIBUSION I MINANEHAN FENKAS KÅNTON TÅSI (DCRM)

NUTISIAN INTENSION NA AKSION SIHA: I Gobietnamenton i Sankattan na Islan Marianas, i Ofisinan i Maga'lahi, i CRM Regulatory Agencies, siempre uma amenda i NMIAC Chapter 15-10 pot para uma tulaika i pitmision apas i lisensia siha ginen i Dibusion i Minanehan Fenkas Kånton Tåsi (DCRM).

ATTURIDAT: Esti siha na'amendasion, manmadeklara sigun i atturidat niha i Ofisialis i Kuetpon CRM na para uma adopta i neubo na regulasion siha sigun i CMC § 1531(d). Esti siha ni maproponi na regulasion, manma apreba esta ginen i CRM Regulatory Agencies gi halom I mitting i publiko gi Junio dia trese, Dos Mit Benti tres.

ALIMENTO YAN I SUSTANSIAN I AREKGLAMENTO: Esti siha na maproponi na amendasion, para uma:

1. Uma nanalu tatti i renunsian åpas para todos i kuetpon gobietnamentu nai man sasaonao gi proyek gobietnamentu;
2. Uma nasuha i åpas para kada må agun na'hålum i aplikasion APC para i otdinario osino i minot na kinahåt projek yan para i mayot na pattikulåt aplikasion.
3. Uma nasuha i åpas i atministrasion para todus finaisin para ma extendi tinilaikan na'an yan tinalaikan pitmision na tinisisario ma ribisan fotmat.
4. Uma nanalu tatti i primet siha na apas para i otdinario APC yan i mayot pattikulat pitmision sigun gi balina i proyek konstruksion.
5. Uma nasuha i i åpas para i mismo tiempo na finaisin an para ma extendi i konstruksion sigun i matuge'ña gi lisensia.

SITTASION I ASOSIÅT YAN/PAT I MAN NINAFEKTA SIHA NA LAI, AREKGLAMENTO YAN I REGULASION: I amendasion siha ni maproponi, siempre inafekta i NMIAC Chapter 15-10 ni inamemmenda i mantinattiyi siha na probision:

- § 15-10-205 Eskaleran åpas aplikasion lisensia, (h) Fees
- § 15-10-610 Opbligåo na kondision siha, (b) i tiempo yan inanako'ña

DIREKSION NI PARA MUNA'HA'LOM YAN PUBLIKASION: Esti siha na amendasion ni manmaproposi debidi uma publika gi "Commonwealth Register" gi seksionña pot manmaproponi yan nuebu namanma adopta siha na regulasion (1 CMC § 9201(a)(1)) yan hufanma pega gi katkuet siha na lugåt gi halom i civic center yan i ofisinan i kuetpon gobietnamentu siha gi kada distriton senadot, parehu Englis yan prinsipat na lingguåhin natibu (1 CMC § 9104(a)(1)).

I FINIHU SIHA: I hayi malagu muna'ha'lom katta pot esti i manmaproponi siha natinalaika, debidi una hálom i katta guato gi as Señora Sam Sablan, DCRM Permit Manager, gi esti na

Address, pat i fax, hossono i email, yan uma tugi gi hilo'ña - "MANMAPROPONI SIHA NATINILAIKA GI REGULASION DCRM POT I ÅPAS I LISENSIA SIHA":

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Todu finihu siha, debidi humanafanhålom gi hålom trenta (30) dias gi calendario ginen i fecha ni mapublika esti na nutisia (1 CMC § 9104(a)(2).

Ninahålom as Siñot:

8/7/23

Richard V. Salas
Direktot i Dibusion i Minanehan Fenkas Konton Tasi

Date

Rinisibe as Señot:

8/9/23

Oscar Babauta
Espisiåt na Ayudånti para i Administradot

Date

Pine'lu yan Ninota as Señora:

8.28.23

Esther R.M. San Nicolas
Rehistran i Commonwealth

Date

Guaho, i Abugádo Heneråt, hu'fotma na hu'taitai yan hu'aprueba esti siha na regulasion na sufisienti yan dinanchi sigun i 1 CMC § 2153(e) and 1 CMC § 9104(a)(3).

8/9/2023

As Siñot Edward Manibusan
Abugådo Heneråt para i Sankattan na Islan Marianas

Date

§15-10-205 Permit Application Procedures

CRM permit application forms, including APC permits and temporary permits for emergency repairs, shall be maintained at the DCRM office on Saipan. For activities proposed on Rota or Tinian, copies of the application form shall also be maintained at DCRM Branch Offices on Rota and Tinian. These permit applications shall also available and can be tracked through the DCRM Online Permitting System. CRM permit applicants shall complete and file an application for each proposed APC permit, temporary permit for emergency repair, or major siting permit. The following conditions shall apply to all CRM permit applications:

***

(h) Fees. CRM permit applications shall be accompanied by a non-refundable CRM permit application and administrative fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.

(1) No fee for government agencies engaging in government projects.

(2) $25.00 fee for temporary permits unless waived by the Director.

(3)~~(2)~~ $200.00 fee for minor development permits. As provided below, a "De Minimis APC Waiver" may be requested and a minor APC permit fee reduction may be granted at the discretion of the Director.

(i) "De Minimis Fee Waiver" Requests. When an applicant for a Minor APC permit has substantial evidence that the proposed activity or action will have no direct or cumulative impact on coastal resources, a "De Minimis APC Fee Waiver" may be requested in writing through the permitting office. This request must clearly state the reason(s) why the proposed activity will be "*de minimis*" in nature, and include a request for a reduction of up to 50% of APC permitting fees for commercial actions and 100% of APC permitting fees for mitigation, restoration, or non-commercial actions.

(ii) Review of "De Minimis Fee Waiver" Requests. Such requests must be submitted to the Director with the Permit Manager copied. Permitting staff will review such requests to ensure accurate environmental information has been provided, and the Permit Manager will submit a recommendation to the Director to approve or deny the waiver request within ten working days of receipt of the request at the Saipan DCRM Office. The Director may deny or grant the waiver request, or grant the request with restrictions, conditions, or modifications at their discretion. If a waiver is granted, the Director shall issue a letter to the applicant detailing what, if any, restrictions the waiver is conditioned upon, and a copy of this letter will be retained in the permit file. Any deviation of scope or activities of the subject project will be treated as unpermitted for the purposes of enforcement action, if necessary, as detailed in § 15-10-900. Submission of a "De Minimis APC Fee Waiver" request shall stop the clock on review of the submitted APC permit. If the waiver request is denied, the review period will be restarted upon the date of the issuance of the denial letter.

(4)~~(3)~~ $1,000.00 initial fee and $750.00 renewal fee for jet ski and motorized commercial water sports and $200 for non-motorized commercial marine sports operating permits. One application or renewal fee will cover multiple proposed uses and concurrent operations for up to two licensed and listed boats or six jet skis so long as activities are compliant with any and all permit restrictions. Marine Sports Operators ("MSO") shall be permitted on a set bi-annual schedule, starting May 30, 2018. Permittees holding permits that expire after May 30, 2018 will pay a prorated fee to extend their permit to

May 30, 2019. Permit renewals shall be due on May 30 every year, or, if this date falls on a weekend, the following business day.

(i) Discounted MSO fees for qualifying "green" and "sustainable eco-tour" certifications are available as follows:

MSO Tier 1 Reduction	Membership of the Marine Sports Association in good standing	10% fee reduction
MSO Tier 2	Members of the Marine Sports Association in good standing with no reported violations for at least one year	15% fee
MSO Tier 3	Members of the Marine Sports Association in good standing with no reported violations for at least one year and completion of qualifying "ecotour" training and / or	25% fee

(ii) Qualifying for Discounted MSO permit fee. To qualify for the tiered permit fee reductions listed above, MSO permit applicants must request discount in writing at the time of permit renewal or new permit application. Required documentation includes proof of membership in an active Marine Sports Association and certification of completion of a DCRM-approved "ecotour training" and/or certification program.

(5)~~(4)~~ Fees for standard APC and Major Siting projects shall be based upon appraisal of construction costs.

FEE AMOUNT COST OF PROJECT OR PERMIT AMENDMENT

~~$50 each resubmission of standard APC or minor development APC application~~

~~$100 each resubmission of a major siting application~~

~~$200 administrative fee for extension requests, name changes, and other permit changes not requiring a formal amendment~~

$200~~$250~~ less than or equal to $ 50,000

$400~~$500~~ value between $ 50,001 and $ 100,000

$1,000~~$1,500~~ value between $ 100,001 and $500,000

$2,000~~$2,500~~ value between $ 500,001 and $ 1,000,000

$2,000~~$3,000~~ For every $1,000,000.00 cost increment exceeding one million dollars.

(i) Discounted fees for qualifying "green" and/or "low impact development" projects. Discounts may be applied for application and administrative fees at the recommendation of the Permit Manager and approval of the Director. Discretionary guidance for tier permit reductions are as provided in (h)(5)(i)(A) and (B).

(A) Tiered permit discounts for qualifying or "LEED certifiable" projects are available as follows:

Tier	Qualifications	Incentive
Tier 1 Reduction	Building design and construction are "LEED Certifiable", scoring between 40-49 points on the LEED v4 or subsequent Building Design and Construction Checklist	10% fee reduction
Tier 2 Reduction	Building design and construction are "LEED Silver Certifiable", scoring between 50-59 points on the LEED v4 or subsequent Building Design and Construction Checklist	15% fee reduction
Tier 3 Reduction	Building design and construction are "LEED Gold Certifiable", scoring between 60-79 points on the LEED v4 or subsequent Building Design and Construction Checklist	20% fee reduction
Tier 4 Reduction	Building design and construction are "LEED Platinum Certifiable", scoring between 80110 points on the LEED v4 or subsequent Building Design and Construction Checklist	25% fee reduction

(B) Tiered permitting fee reductions for building redevelopment and/or stormwater management are available as follows:

Tier	Building Redevelopment	Stormwater Management	Incentive
Tier 1 BMP Reduction	- Permittee or its operators implements and maintains on-site recycling and composting programs to reduce 50% or more of the waste stream; AND/OR - Project installs, utilizes, and maintains "Energy Star" rated high efficiency / LED lighting and appliances or a renewable energy source supplying 20% or more of a project's electricity	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 10%-24% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event; AND/OR - Project implements and maintains 30%-49% of pervious surface area or green infrastructure elements	5% fee reduction

Tier 2 BMP Reduction	Applicant redevelops or rehabilitates 15% - 25% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 25%-49% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event; AND/OR - Project implements and maintains 50% or more of pervious surface area or green infrastructure elements	10% reduction
Tier 3 BMP Reduction	Applicant redevelops or rehabilitates 26% - 50% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 50%-74% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event	20% reduction
Tier 4 BMP Reduction	Applicant redevelops or rehabilitates 51% - 74% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 74% or more of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event	30% reduction
Tier 5 BMP Reduction	Applicant redevelops or rehabilitates over 75% of the existing building	-Not applicable	50% reduction

(ii) Qualifying for Discounted Major Siting permit fee. To qualify for the tiered permit fee reductions listed above, major siting applicants must request discount in writing at least thirty days prior to submitting a major siting application. Applicants are encouraged to

discuss proposed fee reduction in advance with Director and Permitting staff to identify any required documentation to support discounted permit fee request. The DCRM Director shall respond to permit fee reduction requests in writing and state whether the request is granted in full, granted in part, or denied and the reasons therefore within thirty days of receiving the request and all required supporting documentation. If no response is received within thirty days of the submission of the request, the request will be considered denied by the DCRM Director. If reduction is approved, agreed upon project implementation will be included as conditions of the major siting permit.

(iii) Forfeiture of applied permit discount. At the DCRM Director's discretion, a violation of major siting permit conditions or engaging in unpermitted activity with a nexus to the permit discount received by the permit applicant or failure to implement improvements for which the discount was granted may result in forfeiture of applied permit discount, and any outstanding balance may become due at the time of the issuance of a Notice of Violation.

(iv) All permit fee reduction requests for stormwater management practices must meet the standards set forth in 2.1 and 2.2 of the 2006 CNMI and Guam Stormwater Management Manual, specifically E&SC Standards 1-11 and Postconstruction Standards 1-13. DEQ stormwater management standards require the on-site detention of 100% of stormwater runoff volume, based on the 25 year 24 hour duration storm event; therefore, applicants requesting a fee reduction for stormwater management must account for the additional percentage by collecting additional stormwater from off-site, and treating or containing it.

§15-10-610 Mandatory Conditions

All CRM permits shall contain at least the following conditions:

***

(b) Timing and Duration.

(1) Permitted physical development of the project site subject to a CRM permit shall begin within the time frame specified for project commencement on the permit. The maximum time allowed for project commencement shall be one year. The construction of the project shall be completed within the time frame specified on the permit for project completion. The maximum time allowed for construction shall be three years unless it can be demonstrated that the construction requires additional time. Upon project completion, the permittee shall deliver a completion certificate to the DCRM Office that issued the permit. If the construction is not completed within the time frame specified in the permit, ~~Permittee shall submit a written request at least five business days prior to the expiration date. If the permit expired without any extension request by the Permittee and Permittee subsequently requests an extension, Permittee shall pay 50% of the original fees paid. The~~the permit condition specifying expiration will be reviewed by the DCRM Director who may extend or amend the permit condition for good cause.

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp

Eli D. Cabrera
Administrator

Richard V. Salas
Director, DCRM

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO NMIAC CHAPTER 15-20 TO REVISE THE DESIGNATED AREA FOR TOWED FLOATATION

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resources Management (CRM) Regulatory Agencies intend to amend the Division of Coastal Resources Management (DCRM) Water Sports and Recreational Activities Rules and Regulations, NMIAC Chapter 15-20, to revise the coordinates of the designated area for Towed Floatation.

AUTHORITY: These amendments are promulgated under the authority of the CRM Regulatory Agencies to adopt new regulations under 1 CMC § 1531(d) and as required by Public Law No. 22-05. These proposed regulations were approved by the CRM Regulatory Agencies in a public meeting on May 31, 2022, and the Division of Coastal Resources Management (DCRM) Director was authorized to promulgate these regulations on behalf of the CRM Regulatory Agencies.

TERMS AND SUBSTANCE: These proposed amendments seek to revise DCRM's regulations to conform the coordinates of the designated area for Towed Floatation specified in the regulatory text of NMIAC 15-20-401 to the designated area for Towed Floatation depicted in Appendix III to NMIAC Chapter 15-20.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES, AND REGULATIONS: The proposed amendments affect NMIAC Chapter 15-20 by amending the following provisions:

- §15-20-401 Designated Areas

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments 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)).

COMMENTS: Interested parties may submit written comments on the proposed amendments to Sam Sablan, DCRM Permit Branch Manager, to the following address, fax, or email address, with the subject line "Proposed Revisions to Designated Area for Towed Floatation."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

CRM ID No. REGS-011

COMMENTS: Interested parties may submit written comments on the proposed amendments to Sam Sablan, DCRM Permit Branch Manager, to the following address, fax, or email address, with the subject line "Proposed Revisions to DCRM Permitting Fee Regulations":

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.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:

8/7/23

Richard V. Salas — Date
Director, Division of Coastal Resources Management

Received by:

8/9/23

Mr. Oscar Babauta — Date
Special Assistant for Administration

Filed and Recorded by:

8.28.23

Ms. Esther R.M. San Nicolas — Date
Commonwealth Registrar

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.

8/9/2023

Mr. Edward Manibusan — Date
Attorney General

§15-10-205 Permit Application Procedures

CRM permit application forms, including APC permits and temporary permits for emergency repairs, shall be maintained at the DCRM office on Saipan. For activities proposed on Rota or Tinian, copies of the application form shall also be maintained at DCRM Branch Offices on Rota and Tinian. These permit applications shall also available and can be tracked through the DCRM Online Permitting System. CRM permit applicants shall complete and file an application for each proposed APC permit, temporary permit for emergency repair, or major siting permit. The following conditions shall apply to all CRM permit applications:

***

(h) Fees. CRM permit applications shall be accompanied by a non-refundable CRM permit application and administrative fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.

(1) No fee for government agencies engaging in government projects.

(2) $25.00 fee for temporary permits unless waived by the Director.

(3)~~(2)~~ $200.00 fee for minor development permits. As provided below, a "De Minimis APC Waiver" may be requested and a minor APC permit fee reduction may be granted at the discretion of the Director.

(i) "De Minimis Fee Waiver" Requests. When an applicant for a Minor APC permit has substantial evidence that the proposed activity or action will have no direct or cumulative impact on coastal resources, a "De Minimis APC Fee Waiver" may be requested in writing through the permitting office. This request must clearly state the reason(s) why the proposed activity will be "*de minimis*" in nature, and include a request for a reduction of up to 50% of APC permitting fees for commercial actions and 100% of APC permitting fees for mitigation, restoration, or non-commercial actions.

(ii) Review of "De Minimis Fee Waiver" Requests. Such requests must be submitted to the Director with the Permit Manager copied. Permitting staff will review such requests to ensure accurate environmental information has been provided, and the Permit Manager will submit a recommendation to the Director to approve or deny the waiver request within ten working days of receipt of the request at the Saipan DCRM Office. The Director may deny or grant the waiver request, or grant the request with restrictions, conditions, or modifications at their discretion. If a waiver is granted, the Director shall issue a letter to the applicant detailing what, if any, restrictions the waiver is conditioned upon, and a copy of this letter will be retained in the permit file. Any deviation of scope or activities of the subject project will be treated as unpermitted for the purposes of enforcement action, if necessary, as detailed in § 15-10-900. Submission of a "De Minimis APC Fee Waiver" request shall stop the clock on review of the submitted APC permit. If the waiver request is denied, the review period will be restarted upon the date of the issuance of the denial letter.

(4)~~(3)~~ $1,000.00 initial fee and $750.00 renewal fee for jet ski and motorized commercial water sports and $200 for non-motorized commercial marine sports operating permits. One application or renewal fee will cover multiple proposed uses and concurrent operations for up to two licensed and listed boats or six jet skis so long as activities are compliant with any and all permit restrictions. Marine Sports Operators ("MSO") shall be permitted on a set bi-annual schedule, starting May 30, 2018. Permittees holding permits that expire after May 30, 2018 will pay a prorated fee to extend their permit to

May 30, 2019. Permit renewals shall be due on May 30 every year, or, if this date falls on a weekend, the following business day.

(i) Discounted MSO fees for qualifying "green" and "sustainable eco-tour" certifications are available as follows:

MSO Tier 1 Reduction	Membership of the Marine Sports Association in good standing	10% fee reduction
MSO Tier 2	Members of the Marine Sports Association in good standing with no reported violations for at least one year	15% fee
MSO Tier 3	Members of the Marine Sports Association in good standing with no reported violations for at least one year and completion of qualifying "ecotour" training and / or	25% fee

(ii) Qualifying for Discounted MSO permit fee. To qualify for the tiered permit fee reductions listed above, MSO permit applicants must request discount in writing at the time of permit renewal or new permit application. Required documentation includes proof of membership in an active Marine Sports Association and certification of completion of a DCRM-approved "ecotour training" and/or certification program.

(5)~~(4)~~ Fees for standard APC and Major Siting projects shall be based upon appraisal of construction costs.

FEE AMOUNT COST OF PROJECT OR PERMIT AMENDMENT

~~$50 each resubmission of standard APC or minor development APC application~~

~~$100 each resubmission of a major siting application~~

~~$200 administrative fee for extension requests, name changes, and other permit changes not requiring a formal amendment~~

$200~~$250~~ less than or equal to $ 50,000

$400~~$500~~ value between $ 50,001 and $ 100,000

$1,000~~$1,500~~ value between $ 100,001 and $500,000

$2,000~~$2,500~~ value between $ 500,001 and $ 1,000,000

$2,000~~$3,000~~ For every $1,000,000.00 cost increment exceeding one million dollars.

(i) Discounted fees for qualifying "green" and/or "low impact development" projects. Discounts may be applied for application and administrative fees at the recommendation of the Permit Manager and approval of the Director. Discretionary guidance for tier permit reductions are as provided in (h)(5)(i)(A) and (B).

(A) Tiered permit discounts for qualifying or "LEED certifiable" projects are available as follows:

Tier	Qualifications	Incentive
Tier 1 Reduction	Building design and construction are "LEED Certifiable", scoring between 40-49 points on the LEED v4 or subsequent Building Design and Construction Checklist	10% fee reduction
Tier 2 Reduction	Building design and construction are "LEED Silver Certifiable", scoring between 50-59 points on the LEED v4 or subsequent Building Design and Construction Checklist	15% fee reduction
Tier 3 Reduction	Building design and construction are "LEED Gold Certifiable", scoring between 60-79 points on the LEED v4 or subsequent Building Design and Construction Checklist	20% fee reduction
Tier 4 Reduction	Building design and construction are "LEED Platinum Certifiable", scoring between 80110 points on the LEED v4 or subsequent Building Design and Construction Checklist	25% fee reduction

(B) Tiered permitting fee reductions for building redevelopment and/or stormwater management are available as follows:

Tier	Building Redevelopment	Stormwater Management	Incentive
Tier 1 BMP Reduction	- Permittee or its operators implements and maintains on-site recycling and composting programs to reduce 50% or more of the waste stream; AND/OR - Project installs, utilizes, and maintains "Energy Star" rated high efficiency / LED lighting and appliances or a renewable energy source supplying 20% or more of a project's electricity	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 10%-24% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event; AND/OR - Project implements and maintains 30%-49% of pervious surface area or green infrastructure elements	5% fee reduction

Tier 2 BMP Reduction	Applicant redevelops or rehabilitates 15% - 25% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 25%-49% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event; AND/OR - Project implements and maintains 50% or more of pervious surface area or green infrastructure elements	10% reduction
Tier 3 BMP Reduction	Applicant redevelops or rehabilitates 26% - 50% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 50%-74% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event	20% reduction
Tier 4 BMP Reduction	Applicant redevelops or rehabilitates 51% - 74% of the existing building	- Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain and additional 74% or more of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event	30% reduction
Tier 5 BMP Reduction	Applicant redevelops or rehabilitates over 75% of the existing building	-Not applicable	50% reduction

(ii) Qualifying for Discounted Major Siting permit fee. To qualify for the tiered permit fee reductions listed above, major siting applicants must request discount in writing at least thirty days prior to submitting a major siting application. Applicants are encouraged to

discuss proposed fee reduction in advance with Director and Permitting staff to identify any required documentation to support discounted permit fee request. The DCRM Director shall respond to permit fee reduction requests in writing and state whether the request is granted in full, granted in part, or denied and the reasons therefore within thirty days of receiving the request and all required supporting documentation. If no response is received within thirty days of the submission of the request, the request will be considered denied by the DCRM Director. If reduction is approved, agreed upon project implementation will be included as conditions of the major siting permit.

(iii) Forfeiture of applied permit discount. At the DCRM Director's discretion, a violation of major siting permit conditions or engaging in unpermitted activity with a nexus to the permit discount received by the permit applicant or failure to implement improvements for which the discount was granted may result in forfeiture of applied permit discount, and any outstanding balance may become due at the time of the issuance of a Notice of Violation.

(iv) All permit fee reduction requests for stormwater management practices must meet the standards set forth in 2.1 and 2.2 of the 2006 CNMI and Guam Stormwater Management Manual, specifically E&SC Standards 1-11 and Postconstruction Standards 1-13. DEQ stormwater management standards require the on-site detention of 100% of stormwater runoff volume, based on the 25 year 24 hour duration storm event; therefore, applicants requesting a fee reduction for stormwater management must account for the additional percentage by collecting additional stormwater from off-site, and treating or containing it.

§15-10-610 Mandatory Conditions

All CRM permits shall contain at least the following conditions:

***

(b) Timing and Duration.

(1) Permitted physical development of the project site subject to a CRM permit shall begin within the time frame specified for project commencement on the permit. The maximum time allowed for project commencement shall be one year. The construction of the project shall be completed within the time frame specified on the permit for project completion. The maximum time allowed for construction shall be three years unless it can be demonstrated that the construction requires additional time. Upon project completion, the permittee shall deliver a completion certificate to the DCRM Office that issued the permit. If the construction is not completed within the time frame specified in the permit, ~~Permittee shall submit a written request at least five business days prior to the expiration date. If the permit expired without any extension request by the Permittee and Permittee subsequently requests an extension, Permittee shall pay 50% of the original fees paid. The~~the permit condition specifying expiration will be reviewed by the DCRM Director who may extend or amend the permit condition for good cause.

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp

Eli D. Cabrera
Administrator

Richard V. Salas
Director, DCRM

NUTISIAN I MAPROPONI NA AMENDASION I NMIAC CHAPTER 15-20, POT PÅRA MÅREBISA I POSISION I MUHON I MÅDISIKNA NA LUGAT PÅRA MANHÅLAN SATBABIDA

NUTISIAN INTENSION NA AKSION SIHA: I Gobietnamenton i Sankattan na Islan Marianas, i Ofisinan i Maga'lahi, i CRM Regulatory Agencies, siempre uma'amenda i areklamentun i Dibusion i Minanehan Fenkas Kånton Tåsi (DCRM), NMIAC Chapter 15-20 pot påra mårebisa i posision i muhon i mådisikna na lugat påra manhålan satbabida.

ATTURIDAT: Esti siha na'amendasion, manmadeklara sigun i atturidat niha i Ofisialis i Kuetpon CRM na para uma adopta i neubo na regulasion siha sigun i CMC § 1531(d). Esti siha ni maproponi na regulasion, manma apreba esta ginen i CRM Regulatory Agencies gi halom I mitting i publiko gi Mayu Dia Trenta Uno, Dos Mit Benti Dos.

ALIMENTO YAN I SUSTANSIAN I AREKGLAMENTO: Esti siha na maproponi na amendasion, para umapetsisigi para marebisa I areklamentun I DCRM kosaki huakonfotma yan I posision I madisina na lugat para manhalan satbabida anai klaru matugena gi areklamentun I NMIAC 15-20-401 guatu gi disina na lugat para manhalan satbabida ya annok gi Appendix III gi NMIAC Chapter 15-20.

SITTASION I ASOSIÅT YAN/PAT I MAN NINAFEKTA SIHA NA LAI, AREKGLAMENTO YAN I REGULASION: I amendasion siha ni maproponi, siempre inafekta i NMIAC Chapter 15-20 ni inamemmenda i mantinattiyi siha na probision:

- § 15-20-401 Mådisikna Siha na Lugat

DIREKSION NI PARA MUNA'HA'LOM YAN PUBLIKASION: Esti siha na amendasion ni manmaproposi debidi uma publika gi "Commonwealth Register" gi seksionña pot manmaproponi yan nuebu namanma adopta siha na regulasion (1 CMC § 9201(a)(1)) yan hufanma pega gi katkuet siha na lugåt gi halom i civic center yan i ofisinan i kuetpon gobietnamentu siha gi kada distriton senadot, parehu Englis yan prinsipat na lingguåhin natibu (1 CMC § 9104(a)(1)).

I FINIHU SIHA: I hayi malagu muna'ha'lom katta pot esti i manmaproponi siha natinalaika, debidi una hálom i katta guato gi as Señora Sam Sablan, DCRM Permit Manager, gi esti na Address, pat i fax, hossono i email, yan uma tugi gi hilo'ña - "I MAPROPONI MAREBISA I MADISIKNA NA LUGAT PARA MANHALAN SATBABIDA":

CRM ID No. REGS-011

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Todu finihu siha, debidi humanafanhålom gi hålom trenta (30) dias gi calendario ginen i fecha ni mapublika esti na nutisia (1 CMC § 9104(a)(2).

Ninahålom as Siñot:

8/17/23

Richard V. Salas
Direktot i Dibusion i Minanehan Fenkas Konton Tasi

Date

Rinisibe as Señot:

8/18/23

Oscar Babauta
Espisiåt na Ayudånti para i Administradot

Date

Pine'lu yan Ninota as Señora:

8.28.23

Esther R.M. San Nicolas
Rehistran i Commonwealth

Date

Guaho, i Abugádo Heneråt, hu'fotma na hu'taitai yan hu'aprueba esti siha na regulasion na sufisienti yan dinanchi sigun i 1 CMC § 2153(e) and 1 CMC § 9104(a)(3).

8/21/2023

As Siñot Edward Manibusan
Abugådo Heneråt para i Sankattan na Islan Marianas

Date

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp

Eli D. Cabrera
Administrator

COASTAL RESOURCES MANAGEMENT
Richard V. Salas
Director, DCRM

ARONGORONGOL TOULAP REEL AMMWEL KKA EBWE AYOORA NGÁLI NMIAC CHAPTER 15-20 REEL EBWE SIIWELI IGHA EBWE LO TOWED FLOATATION IYE.

ARONGORONGOL POMMWOL MWÓGHUTUGHUT: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resource Management (CRM) Regulatory Agencies re mwuschel siiweli NMIAC CHAPTER 15-20 bwe ebwe siiweli ngare awela Division of Coastal Resources Management (DCRM) ebwe siweli tafal igha ebwe lo Towed Floatation iye.

BWINGIL NGERE MAMAWAL BWULASIYO: Siwel kkaal nge e mweitingeliir Regulatory Agencies faal 1 CMC §1531(d). Reghal aweewei meeta aweewe kka rebwe ayoora ngere siweliló nge toulap raa toolong rebwe asseling bwe re bwal ghulei meeta mengemengiir.

KKAPASAL ME AWEEWE: Pommwol siiwel ammwelil DCRM ebwe awewei tafal igha ebwe lo Towed Floatation iye e ffat loll ammwelil NMIAC 15-20-401 ngali igha ebwe lo Towed Floatation iye loll Appendix III ngáli NMIAC Chapter 15-20.

TIPETCHOWUL MWÓGHUTUGHUT: Pommwol siiwel kkaal nge sángi NMIAC Chapter 15-20 igha ebwe siweli:

- §15-20-401 Tafal igha ebwe lo iye.

AFAL REEL AMMWELIL ME AKKATÉEWOWUL: Pommwol liiwel kkal nge ebwe akkatééwow loll Commonwealth Register 1161 tálil pommwol me ffél mwóghutughút kka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe apaschetá loll civic center me loll gobetnamento loll senatorial district, fengál reel kkasal English me mwáliyaasch (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiiló yóómw ischil kkapas reel pommwol mwóghutughut kkaal ngáli Sam Sablan, DCRM Permit Manager reel address, fax ngáre email address reel "Proposed Revision to DCRM Permitting Fee Regulations":

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Isiisilongol mángemáng ebwe toolong lóll eligh (30) ráál mwiril aal akkatééwow arongorong yeel 1 CMC § 9104(a)(2).

Isáliyalong:

Mr. Richard V. Salas
Director, Division of Coastal Resources Management

8/17/23
Date

Bwughiyal:

Mr. Oscar Babauta
Special Assistant ngáli Administration

8/18/23
Date

Ammwelil:

Ms. Esther R.M. San Nicolas
Commonwealth Registrar

8.28.23
Date

I apilúghúlúghúw reel 1 CMC § 2153(e) me 1 CMC § 9104 (a)(3), bwe yaa takkal amweri fischiy me aa lléghéló reel fféérúl me aal legal sufficiency.

Mr. Edward Manibusan
Soulemelemil Allégh Lapalap

8/21/2023
Date

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

In Re the Matter of:	**PUA Case No. 21-0174**
Azmery Sultana,	
Appellant,	**DISMISSAL ORDER PURSUANT TO SETTLEMENT**
v.	
CNMI Department of Labor Division of Employment Services-PUA,	
Appellee.	

This matter came for a Status Conference on July 27, 2023 at approximately 10:00 am at the Administrative Hearing Office in Saipan. Appellant Azmery Sultana ("Appellant") was not present but represented by Attorney Michael Dotts. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance Program ("Department") was present and represented by the Department's Benefit Payment Control Unit Supervisor Vincent Sablan and Assistant Attorney General Carl Dela Cruz. Mohammed F. Ahmed was also present.

On July 18, 2023, the parties filed an executed Settlement Agreement and Stipulated Dismissal. During the July 27th Status Conference, the undersigned clarified the payment terms. Upon the parties' concurrence, monthly repayments of $125 shall be made on or before the 15th day of each month, beginning August 2023, until fully repaid. Appellant can make the payment by obtaining a voucher from the Administrative Hearing Office and transmitting it, together with payment, to the CNMI Treasury. A copy of receipt or other proof of payment must be returned to the Administrative Hearing Office upon payment.

Upon review and clarification, the undersigned finds that the terms of the Settlement Agreement are fair under the circumstances and the parties have knowingly and voluntarily agreed to it. Therefore, the Settlement Agreement is approved and accepted for the purposes of

///

dismissal. The terms of the Settlement Agreement are hereby incorporated into this Order.[1] There are no other pending issues to adjudicate. Accordingly, this matter is hereby **DISMISSED**.

So ordered this **27th** day of July, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

[1] This Order shall supersede any conflicting terms of the Settlement Agreement.

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

In Re Matter of:	)	**PUA Case No. 23-0230**
	)	
Miyuki E. Takagi,	)	
	)	
Appellant,	)	**ADMINISTRATIVE ORDER GRANTING PARTIES' REQUEST FOR DISMISSAL**
	)	
v.	)	
	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
	)	
Appellee.	)	
	)	

On August 11, 2023, the parties were ordered to clarify the pending request for dismissal. Based on the joint statement filed, the undersigned finds:

1. Appellant is not qualified for PUA benefits from March 15, 2020 to March 21, 2020;
2. Appellant no longer contests the disqualification; and
3. Overpayment issues were subsequently resolved through a waiver.

In consideration of the foregoing, the undersigned finds dismissal is appropriate. Accordingly, this appeal is **DISMISSED**. The Department's Disqualifying Determination, dated February 9, 2023 is hereby **FINAL**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **17th** day of August, 2023.

/s/
Jacqueline A. Nicolas
Chief Administrative Hearing Officer

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

In Re the Matter of:	)	**Labor Case No. 22-017**
Noh Tae Hwa,	)	
Complainant,	)	**ORDER OF DISMISSAL**
v.	)	
Ok Bang Corporation,	)	
Respondent.	)	

Pursuant to NMIAC § 80-20.1-485(b), "A complaint may be dismissed upon its abandonment or settlement by the party or parties who filed it." On July 19, 2023, the parties appeared for a status conference to discuss the amended determination and report on the possibility of a settlement. During the hearing, the parties reported that they are willing to engage in settlement discussion and were given the time to do so. That same day, Respondent filed a stipulation for dismissal with prejudice and an executed settlement agreement.

Upon review, the undersigned finds that the terms of the Settlement Agreement are fair under the circumstances and the parties have knowingly and voluntarily agreed to it. Therefore, the Settlement Agreement is approved and accepted for the purposes of dismissal. The terms of the Settlement Agreement are hereby incorporated into this Order. There are no other pending issues to adjudicate. Accordingly, this matter is hereby **DISMISSED** pursuant to NMIAC § 80-20.1-485(b).[1] Respondent shall file proof of payment to the Administrative Hearing Office by **August 4, 2023, close of business.**

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

So ordered this **25th** day of July, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

[1] Notwithstanding above, the Administrative Hearing Office shall retain jurisdiction for the purposes of enforcement of the Order.

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

In Re the Matter of:	**Labor Case No. 22-019**
Arleen E. Dycoco,	
Complainant,	**ORDER DISMISSING COMPLAINT FOR LACK OF JURISDICTION**
v.	
FM Corporation dba FM Manpower,	
Respondent.	

I. INTRODUCTION

This matter came for a Status Conference on June 15, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant Arleen E. Dycoco ("Complainant") was present and self-represented. Respondent FM Corporation dba FM Manpower ("Respondent") was present and represented by President Aldrin Legaspi and Attorney Richard Miller. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Labor Law Enforcement Specialist II Julie Tebuteb.

II. BACKGROUND

On December 6, 2022, Complainant filed a complaint against Respondent for unpaid wages, violation of the employment preference law, unsafe working condition, retaliations, wrongful termination, and the lack of workmen's compensation insurance. Complainant's unpaid wages claim accrued sometime between calendar year 2021 to 2022 in the total amount of $35,635.25. The matter was referred to Enforcement for further investigation. On February 22, 2023, Enforcement filed a written determination. While the determination did not adequately report to the potential agency violations, Enforcement concluded that Complainant was not legally employed by Respondent. Complainant does not contest that she does not have valid employment authorization in the CNMI. Complainant was ordered to show cause why the Complaint should

not be dismissed for lack of jurisdiction. Respondent was also ordered to show cause why the case should not be referred to Enforcement for a proper investigation of agency violations.[1]

III. DISCUSSION

Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss ... a complaint that the hearing officer finds to be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

With respect to employment of foreign national workers, 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). The Employments Rules and Regulations further provide:

> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **U.S. Citizens, CNMI permanent residents or U.S. permanent residents,** and agency complaints filed by the Department, with respect to violations of the requirements of job preference and workforce participation pursuant to the Commonwealth Employment Act of 2007, as amended, and other violations of labor laws application in the Commonwealth. ...
>
> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **foreign national workers,**[2] and agency complaints filed by the Department, with respect to violations of Commonwealth law and regulations regarding employment and other labor laws applicable in the Commonwealth. ...
>
> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by other

[1] Considering that Enforcement subsequently initiated an agency case, no further discussion on this issue is necessary.
[2] "'Foreign national worker' means a person who is not a United States citizen, a United States permanent resident, a 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).

> **nonimmigrant aliens**[3] with respect to violations of Commonwealth law and regulations regarding employment.

NMIAC § 80-20.1-450(b)(1)-(3) (emphasis added). Importantly, "[t]he Administrative Hearing Office does not have jurisdiction with respect to claims of tourists. Those claims are pursuant in the Commonwealth Superior Court." NMIAC § 80-20.1-450(e). The rationale to exclude tourists is based on explicit legislative intent from Public Law 15-108. Thereunder, the Legislature specifically stated:

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

PL 15-108, § 2 (emphasis added). "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).

In response to the Order to Show Cause, Complainant criticizes the above-stated law as a mechanism to perpetuate abuse and exploitation of undocumented workers. However, challenges to the legality of the law are beyond the authority of this office. It is the function of this office to uphold and enforce the laws, as written.

As discussed above, this Office is precluded from adjudicating complaints from workers without valid employment authorization to work in the CNMI. Since Complainant admits that she does not have valid work authorization, this Office does not have jurisdiction over the complaint. Accordingly, dismissal of this labor case is required.[4]

///

///

---

[3] "'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).

[4] While this office does not have jurisdiction to hear complaints from undocumented workers, this dismissal does not preclude Complainant from seeking other avenues of redress from the Court.

IV. CONCLUSION

Based on the foregoing, Complainant fails to establish jurisdiction. Accordingly, this complaint is hereby **DISMISSED**, with prejudice.

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

So ordered this **10th** day of August, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

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

In Re the Matter of:	)	**Labor Case No. 23-002**
Mario De Belen,	)	
Complainant,	)	**ORDER OF DISMISSAL**
v.	)	
Saipan Long Shun Corporation,	)	
Respondent.	)	

I. INTRODUCTION

This matter came for an Order to Show Cause hearing on August 17, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant Mario De Belen ("Complainant") was present and self-represented. Respondent Saipan Long Shun Corporation ("Respondent") was present and represented by Secretary Jian Qin Huang. The Department's Enforcement, Compliance, and Monitoring Section ("Department") was present and represented by Acting Director Jeffrey Camacho. Interpreter Arlene Rafanan was present to facilitate communications.

II. APPLICABLE LAW

Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss ... a complaint that the hearing officer finds to be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

III. DISCUSSION

On February 22, 2023, Complainant filed a complaint against Respondent for unpaid wages in the amount of $52,552.80 accruing on or around March 2019 to January 2023. Upon review of the pleadings, the undersigned found that Complainant failed to state a claim for unpaid wages

within the timeframe of the six-month statute of limitations.[1] Subsequently, the matter was referred to Enforcement for investigation on the remaining claims. On April 26, 2023, Enforcement filed a Determination. Upon request for clarification, Enforcement filed an Amended Determination on June 16, 2023. Therein, Enforcement found that Complainant is not owed any wages during the relevant time period. Complainant was ordered to show cause why his case should not be dismissed for failure to state a claim upon which relief could be granted.

During the Order to Show Cause Hearing, Complainant did not contest or object to any of Enforcement's investigative findings. Apparently, Respondent closed the business on January 31, 2020 due to the pandemic. However, despite notice of the business closure, Complainant claims he continued to work his regular hours as a security guard upon the verbal request of the company's former general manager. Complainant's statements are not credible. At the time, this manager was no longer employed by the company and there was no evidence to show that Complainant was authorized to continue working during the closure. Further, Complainant refused to relinquish keys to the building when requested to do so and Enforcement reports that the business has no employees and is still shut down. And finally, Complainant filed a PUA application certifying that he was not working during the relevant time period. Ultimately, Complainant failed to show cause why this case should not be dismissed.

IV. CONCLUSION

Based on the applicable law and after giving the parties notice and an opportunity to respond in the hearing, the undersigned finds that dismissal of the labor case is appropriate. Complainant fails to state a claim upon which relief can be granted. Accordingly, this matter is hereby **DISMISSED**.

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

So ordered this **17th** day of August, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

[1] *See* Order Dismissing Claims Outside the Six-Month Statute of Limitations, issued March 21, 2023.

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

In Re the Matter of: Md. Mahamudul Hasan, Complainant, v. Triple K Corporation dba Global Security Agency, Respondent.	**Labor Case No. 23-014** **ORDER OF DISMISSAL FOR FAILURE TO STATE A CLAIM, FAILURE TO ESTABLISH JURISDICTION, AND FAILURE TO APPEAR**

I. INTRODUCTION

This matter came for an Order to Show Cause hearing on August 9, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant Md. Mahamudul Hasan ("Complainant") failed to appear.[1] Respondent Triple K. Corporation dba Global Security Agency ("Respondent") was present and represented by General Manager and Vice President Marie Rizallie S. Punzalan and Legal Counsel Anthea Yuan.

II. BACKGROUND

As a preliminary matter, "[e]xcept for good cause shown, failure of a party to appear at a hearing after timely being served notice to appear shall be deemed to constitute a waiver of any right to pursue or contest the allegation in the complaint." NMIAC § 80-20.1-480(l). Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss ... a complaint that the hearing officer finds to be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

[1] Complainant was served the Order to Show Cause Notice through alternative service to the parties' designated contact information on July 12, 2023. Based on the proof of service, notice and service were effective.

III. DISCUSSION

On June 28, 2023, Complainant filed a complaint against Respondent for unpaid wages in the amount of $61,140.00 accruing on or around July 2019 to June 16, 2023. Additionally, Complainant alleged unlawful deductions for processing the CW-1 application. Upon review of the pleadings, the undersigned found: (1) a majority of the unpaid wages fall outside the six-month statute of limitations; and (2) Complainant failed to established jurisdiction. Complainant was ordered to show cause why the case should not be dismissed. Complainant filed no response to the written order. Complainant failed to appear to the scheduled hearing.

1. A majority of Complainant's claim is outside the six-month statute of limitations.

Pursuant to 3 CMC § 4962, "[n]o labor complaint may be filed more than six months after the date of the last-occurring event that is the subject of the complaint, except in cases where the actionable conduct was not discoverable upon the last-occurring event." *See also* 4 CMC § 9246. "If a complaint is not timely filed, the hearing office ***shall*** dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e). Emphasis added.

Complainant filed this complaint on June 28, 2023 but is seeking back wages from July 2019 to June 2023. Considering that wages are generally owed biweekly, a claim for unpaid wages is discoverable shortly after it is due. For an unknown reason, Complainant waited approximately 4 years to assert his claims. Based on the six-month statute of limitations, Complainant can only recover claims asserted within six months of filing the complaint. Accordingly, the claims for unpaid wages accruing before December 28, 2022 are time-barred.

2. Complainant fails to establish jurisdiction for the remaining claims.

With respect to employment of foreign national workers, 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). The Employments Rules and Regulations further provide:

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

> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **foreign national workers,**[2] and agency complaints filed by the Department, with respect to violations of Commonwealth law and regulations regarding employment and other labor laws applicable in the Commonwealth. ...
>
> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by other **nonimmigrant aliens**[3] with respect to violations of Commonwealth law and regulations regarding employment.

NMIAC § 80-20.1-450(b)(1)-(3) (emphasis added). Importantly, "[t]he Administrative Hearing Office does not have jurisdiction with respect to claims of tourists. Those claims are pursuant in the Commonwealth Superior Court." NMIAC § 80-20.1-450(e). The rationale to exclude tourists is based on explicit legislative intent from Public Law 15-108. Thereunder, the Legislature specifically stated:

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

PL 15-108, § 2 (emphasis added). "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).

In filing this complaint, Complainant left the question with respect to jurisdiction blank. Further, upon review of other supporting documents filed, there is insufficient information to establish jurisdiction of this claim. Accordingly, dismissal for lack of jurisdiction is appropriate.

///

---

[2] "'Foreign national worker' means a person who is not a United States citizen, a United States permanent resident, a 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).

[3] "'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).

IV. CONCLUSION

Based on the applicable law, the undersigned finds that dismissal of the labor case is appropriate. First, Complainant fails to state a claim within the six-month statute of limitations. Second, Complainant fails to establish jurisdiction for his claim to unpaid wages. Third, after notice and an opportunity to respond, Complainant failed to appear. Accordingly, this matter is hereby **DISMISSED**.

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

So ordered this **9th** day of August, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

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

In Re Matter of:	**DUA Case No. 22-001**
Milan Fargo,	
Appellant,	**ADMINISTRATIVE ORDER**
v.	
CNMI Department of Labor, Division of Employment Services-DUA,	
Appellee.	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on July 18, 2023 at 9:00 a.m. at the Administrative Hearing Office. Appellant Milan Fargo ("Appellant") failed to appear. Appellee CNMI Department of Labor Division of Employment Services – Disaster Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera. There were no other witnesses that provided testimony at the hearing.

For the reasons stated below, the Department's Determination dated April 1, 2019 and the Department's Redetermination dated May 10, 2019 is **AFFIRMED**. Appellant is not eligible for benefits for the period of November 3, 2018 to November 17, 2018.

II. JURISDICTION

The Disaster Unemployment Assistance program (DUA) was established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121), as amended. By Executive Order No. 12673, the Federal Emergency Management Agency (FEMA) was delegated the responsibility of administering the Stafford Act and FEMA further delegated the US Department of Labor in administering the DUA program and payment of DUA benefit assistance, in conjunction with the applicable state agencies. Effective April 6, 2022 and in accordance with 20 CFR 625.30(a), the CNMI Department of Labor, Administrative Hearing

Office was designated to hear Disaster Unemployment Appeals stemming from Super Typhoon Yutu (DR-4404-MP).

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

III. PROCEDURAL BACKGROUND & ISSUES

On October 24, 2018, Super Typhoon Yutu devastated the islands of Tinian and Saipan. As one of the strongest typhoons recorded in the U.S. at the time, torrential rain and sustained winds of 130-180 mph killed two citizens, injured at least 133 others, and damaged or destroyed significant portions of the islands' buildings and critical infrastructure. On October 26, 2018, the US President issued a major disaster declaration and made federal funding available to affected individuals. Said relief included disaster unemployment benefits to eligible claimants.

Here, Appellant filed a claim for unemployment benefits under the DUA program for the above-mentioned disaster (DR-4404-MP). Appellant's claim was ultimately denied by the CNMI Department of Labor and Appellant sought to appeal the Department's denial. Originally, the Hawaii Employment Security Appeals Referee's Office (ESARO) was the designated entity to decide appeal cases for this disaster. Due to the ESARO's extensive backlog, the CNMI Department of Labor's Administrative Hearing Office was redesignated to hear first-level appeals on April 6, 2022.

Upon redesignation, the Administrative Hearing Office issued a Notice of Hearing. The matter was continued a number of times due to delays in procuring a dictation program, Appellant's illnesses, and Appellant's other hardships. On June 20, 2023, the Administrative Hearing Office granted Appellant a brief continuance because he just lost his hearing aids and was in the process of obtaining a new one. The hearing was scheduled for July 18, 2023 and the undersigned noted that further requests for continuances would not be entertained given the delayed progress in this case and available accommodations. On July 13, 2023, Appellant requested another continuance because Medicaid did not fund a replacement hearing aid and other hardships related to "aging and homelessness." In consideration of the pending nature of this case, the uncertainty of Appellant's continuing circumstances, and the availability of accommodations, the request for a continuance was not entertained and effectively denied.

The hearing was held on July 18, 2023. The issue on appeal was: (1) Whether the claim and appeal were timely filed; and (2) whether Appellant is eligible for DUA benefits.

IV. FINDINGS OF FACT

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

1. Super Typhoon Yutu hit the CNMI on October 24, 2018. The incident was declared a disaster on October 26, 2018.[1]
2. In response to the disaster declaration, the Department launched the Disaster Unemployment Assistance (DUA) program and began receiving applications on November 15, 2018.
    a. In order to notify potential claimants, the Department issued a number of press releases with instructional information that was widely circulated on the Department's website, local news, and social media.[2]
    b. Additionally, the Department published the Benefit Rights Information Handbook and made forms available to the public.[3]
3. On or around November 19, 2018, Appellant submitted an application for unemployment assistance under the DUA program.[4]
4. Appellant applied for DUA benefits from the week ending November 3, 2018 to week ending November 17, 2018.
5. In the initial application,[5] Appellant self-certified under penalty of perjury that, at the time period claimed for benefits:
    a. He was a US and CNMI Permanent Resident;
    b. He was unemployed and in search for suitable work;
    c. Yutu destroyed his car – thereby limiting his ability to find work; and
    d. He is disabled and Yutu exacerbated prior medical conditions, such as asthma.

///

///

[1] Exhibit 1.
[2] Exhibit 2
[3] Exhibit 3.
[4] Exhibit 4-8
[5] Exhibit 6.

6. Despite notice[6] of the requirement to submit supporting documents and requests[7] from the Department, Appellant did not provide substantiating documents to support his claim for DUA benefits.[8]
   a. There were insufficient records to verify that Appellant was a US or CNMI Permanent Resident with authorization to work in the CNMI during the time period claimed for benefits.[9]
   b. There were insufficient records to substantiate that Appellant's employment was affected as a direct result of the disaster.[10]
7. Appellant was unemployed prior to the disaster and at all times relevant to this claim.
   a. Previously, Appellant worked as an Environmental Tech Trainee for the Department of Community and Cultural Affairs ("DCCA"), Office of Aging under the Senior Community Service Employment Program ("SCSEP"). There, Appellant worked part-time for approximately 4 hours a day or 20 hours a week at the rate of $7.25 per hour. On or around April of 2018, Appellant completed the 4-year employment training program and was not retained for further employment for reasons unrelated to the Disaster.[11]
   b. On August 8, 2018, Appellant was issued a business license[12] for "On-Timeliness Monetizers Company." The company was meant to provide educational services but was not in operation. Appellant did not obtain income or profit from operation of this business.
   c. There is no evidence to demonstrate that Appellant was ever scheduled to begin employment or unable to reach the place of employment after Super Typhoon Yutu.
8. On April 1, 2019, the Department issued a disqualifying determination.[13] Therein, the Department found that Appellant's unemployment was not caused by the disaster and

---

[6] *See* Exhibits 2-3.
[7] *See* Exhibit 12.
[8] *See* Exhibit 5.
[9] *See* Exhibits 5 and 8.
[10] *See* Exhibit 5 and 9-11.
[11] Exhibits 9-10.
[12] Exhibit 11.
[13] Exhibit 13.

disqualified Appellant from DUA benefits from weeks ending November 3, 2018 to November 17, 2018.

9. On May 1, 2019, Appellant submitted a request for reconsideration.[14] Therein, Appellant argues that reconsideration is warranted because he was unable to go to work because Super Typhoon Yutu damaged his car and gave him a foot infection.
10. On May 10, 2019, the Department issued a Redetermination.[15] Therein, the Department found that Appellant's request for reconsideration did not provide sufficient evidence to warrant reversal of their initial determination.
11. On May 22, 2019, Appellant filed the present appeal[16] and the matter was scheduled for an Administrative Hearing.
12. Appellant failed to appear at his scheduled hearing.
13. During the hearing, the Department did not contest the timeliness of the claim.
14. During the hearing, the Department did not contest the timeliness of the appeal filing.

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 application is timely.

"Claimants must file their initial application within 30 days after the announcement of the of the major disaster as a result of the which the individual became unemployed. . . ." 20 CFR § 625.8. After the declared disaster, the Department began accepting applications on November 15, 2018. The filing deadline of January 15, 2019 was extended to February 14, 2019. Appellant filed his initial application on November 19, 2018 – well before the filing deadline. Accordingly, Appellant's application is timely.

2. Appellant's appeal is timely.

"Any determination or redetermination . . . may be appeals by the applicable ... [within] 60 days from the date the determination or redetermination is issued or mailed . . . ." 20 CFR § 625.10. The Department's redetermination was issued May 10, 2019. Appellant filed his appeal approximately two weeks later on May 22, 2019. Accordingly, Appellant's appeal is timely.

---

[14] Exhibit 14.
[15] Exhibit 15.
[16] Exhibit 16.

3. Appellant's unemployment was not a direct result of the Disaster.

In order to be eligible for DUA benefits, an applicant must meet all the requirements under 20 CFR § 625.4. Specifically, an applicant must file a timely application[17] demonstrating that, during the disaster assistance period,[18] he or she was unemployed as a direct result[19] of the disaster, was able and available to work, and did not refuse to work.

Unemployment is caused by a major disaster when: (1) unemployment follows the date the major disaster began; (2) the individual is unable to reach the place of employment as a direct result of the major disaster; (3) 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 major disaster; (4) the individual assumed the role of breadwinner or major support for a household after the former breadwinner or head of household died as a direct result of the major disaster; or (5) the individual cannot work because of an injury caused as a direct result of the major disaster. 20 CFR § 625.5(a). In cases of self-employment, causation is met when: (1) unemployment follows the date the major disaster began; (2) the individual is unable to reach the place where services are performed as a direct result of the major disaster; (3) the individual was scheduled to commence regular services, but does not have a job or is unable to reach the place where services were to be performed as a direct result of the major disaster; or (4) the individual cannot perform services because of an injury caused as a direct result of the major disaster. 20 CFR § 625.5(b). An individual's unemployment is considered a direct result of the major disaster when it is the immediate result – rather than a longer chain of events precipitated or exacerbated by the disaster. 20 CFR § 625.5(c). A direct result is evident when the unemployment resulted from: (1) physical damage or destruction to the place of employment; (2) the place of employment was closed by the federal, state, or local government in response to the disaster; or (3) lack of work, or loss of revenues, provided that, prior to the disaster, the employer or the business received at least a majority of its revenue or income from an entity that was either damaged, destroyed, or closed in the disaster. *Id.*

Appellant does not satisfy the above-stated requirements to establish his unemployment was a direct result of the disaster. Based on his application, Appellant became unemployed on April 25, 2018 – well before the declared disaster and for reasons unrelated to the disaster. While

[17] *See* 20 CFR § 625.8.
[18] *See* 20 CFR § 625.7.
[19] *See* 20 CFR § 625.5.

Appellant claims to be self-employed, a copy of the business license is insufficient evidence. There is no showing that Appellant ever generated income that was directly affected by the disaster. While his continued unemployment or lost business opportunity may have arguably been exacerbated by the circumstances of the disaster or business, Appellant fails to establish that the Disaster was a direct or immediate result of the disaster. Further, any potentially lost job or business opportunity is purely speculative and insufficient to establish the "direct cause" requirement.

4. Appellant failed to provide sufficient evidence to determine that he is a US Citizen, non-citizen national, or qualified alien.

DUA is a federal public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). 8 USC §1611(c). Under PRWORA, Federal public benefits can only be provided to United States citizens, non-citizen nationals, and qualified aliens. 8 USC §1611(a). A qualified alien is defined as legal permanent residents, refugees, aliens paroled into the U.S. for at least one year, aliens granted asylum or related relief, Cuban-Haitian entrants, certain battered spouses and children, certain victims of abuse and extreme cruelty, and certain victims of trafficking. 8 USC §1641. Qualified aliens must also have an employment authorization document (EAD). Individuals holding only an EAD do not qualify for DUA benefits. If an individual provides documentation demonstrating status as an alien paroled into the U.S. for at least one year, he or she would qualify for benefits, provided the individual met all other eligibility requirements.

Appellant's status is unclear based on the information and evidence provided. In his application, Appellant certifies he is not a US citizen. Instead, Appellant claims to be a CNMI and USA green card holder. Yet, Appellant does not provide sufficient evidence to support his claim. Appellant's appeals documents include: (1) a poorly copied Saipan Identification Card; (2) a senior citizen discount card; (3) a Social Security Card; and (4) an immigration court order. These documents are insufficient to determine status. First, the two identification cards issued by the local government cannot verify status. Second, the Social Security Card does not specify work-authorized immigration status. Third, the immigration court order identifies a different person, Nassir Kourbanov, and the court's findings fall short of granting any type of non-citizen national or qualified alien status. Accordingly, Appellant fails to provide sufficient evidence to determine his status.

VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The Department's Determination dated April 1, 2019 and the Department's Redetermination dated May 10, 2019 is **AFFIRMED** ; and
2. The Appellant is **NOT ELIGIBLE** to receive DUA benefits for weeks ending November 3, 2018 to week ending November 17, 2018.

This decision becomes final unless you file a request for review by the Regional Employment and Training Administrator, U.S. Department of Labor, within fifteen (15) days after the date of this order, shown above. The request for review can be filed directly with the Regional Administrator by mailing the request to: ETA Regional Administrator, U.S. Department of Labor; 90 7th Street, Ste. 17-300; San Francisco, CA 94103, or through the CNMI Department of Labor, Administrative Hearing Office at 1357 Mednilla Ave, Capitol Hill, Saipan, 96950 for transmittal to the Regional Administrator. The timely request can also be emailed to the Regional Administrator at RO6-RA-SF@dol.gov. ***The request for review should include the Appellant's name, claimant ID/or case docket number, and a copy of this decision.***

So ordered this **11th** day of August, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

List of Admitted Exhibits:

1. Exhibit 1: Copy of USDOL letters regarding DUA program
2. Exhibit 2: Copy of Department's Press Releases regarding DUA;
3. Exhibit 3: Copy of DUA Benefit Right Handbook
4. Exhibit 4: Copy of Appellant's Letter, dated October 27, 2018
5. Exhibit 5: Copy of Documentation Checklist
6. Exhibit 6: Copy of Appellant's Initial Application, filed November 19, 2018;
7. Exhibit 7: Copy of Appellant's Supplemental Questionnaire form for Self-Employed Individuals, filed November 19, 2018
8. Exhibit 8: Appellant's Identification Cards;
9. Exhibit 9: Copy of Appellant's Notification of Personnel Action;
10. Exhibit 10: Copy of Appellant's Certification of Completion for SCSEP Program;
11. Exhibit 11: Copy of Appellant's Business License;
12. Exhibit 12: Copy of Adjudicators Case Notes;
13. Exhibit 13: Copy of Department's Disqualifying Determination, dated April 1, 2019;
14. Exhibit 14: Copy of Appellant Letter for Reconsideration, received May 1, 2019;
15. Exhibit 15: Copy of Department's Redetermination, dated May 10, 2019; and
16. Exhibit 16: Copy of Appellant's Appeal Letter, filed May 22, 2019.

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

In Re Matter of:	)	**Enforcement Investigation No. 22-012-10**
	)	**Compliance Agency Case No. 22-013**
Department of Labor, Enforcement and Compliance,	)	
	)	
Complainant,	)	**ORDER AND JUDGMENT**
v.	)	
	)	
Kauila Enterprises, Alfredo J. Cabael, and Mary Ann Cabael,	)	
	)	
Respondents.	)	
	)	

I. INTRODUCTION

This matter came for an Administrative Hearing on August 7, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant CNMI Department of Labor, Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Labor Law Enforcement Specialist III Norman Rasiang. Respondents Kauila Enterprises, Alfredo J. Cabael, and Mary Ann Cabael (collectively, "Respondents") was present and represented by Attorney Mark Scoggins.

II. JURISDICTION

The Administrative Hearing Office shall have jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth. 3 CMC § 4942.

This is an agency enforcement case against Respondents for multiple violations under the CNMI labor regulations and statutes. Accordingly, jurisdiction is established.

III. FINDINGS OF FACT

Based on the parties' filings and admissions, the undersigned finds:

1. Respondents operate a manpower and construction business.
2. Pursuant to NMIAC § 80-20.1-445, Enforcement conducted an investigation against Respondents in relation to the manpower business. In accordance with their investigation, Enforcement requested a number of required records.
3. Respondents were unable to provide all the requested records.

4. On October 24, 2022, Enforcement initiated the above-captioned compliance agency case by filing a Determination and Notice of Violation against Respondents.
5. On February 10, 2023, the Department filed an Amended Determination alleging a violation of: (1) failure to maintain and submit required records; (2) failure to satisfy the 30% workforce participation objective; and (3) providing materially false or misleading information to the Department in violation of 3 CMC § 4963(d).
6. Respondents admitted that they did not maintain or provide 486 required records requested by the Department, as set forth in Enforcement's Amended Determination and supporting exhibits.
7. Respondents admitted that they did not meet the 30% workforce participation objective for the nine reported quarters, dating from the first quarter (January - March) of 2020 to the first quarter (January - March) of 2022, as set forth in Enforcement's Amended Determination and supporting exhibits.
8. Enforcement orally moved to withdraw the remaining claim under 3 CMC § 4963(d). Respondents had no objection to its dismissal.

IV. CONCLUSIONS OF LAW

Based on the applicable law and evidence presented, the undersigned concludes:

1. Respondent failed to maintain and immediately submit required records pursuant to 3 CMC § 4967 and NMIAC § 80-20.1-501.
2. Respondent failed to meet the 30 % workforce participation objective pursuant to 3 CMC § 4525 and NMIAC § 80-20.1-210.
3. Pursuant to NMIAC § 80-20.1-485(b), the claim for 3 CMC § 4963 is dismissed.
4. Pursuant to NMIAC § 80-20.1-485(c), the Administrative Hearing Office has authority to impose a fine or sanction of up to $2,000 for each violation. Based on a totality of circumstances and other mitigating evidence, a reduced or suspended sanction is warranted.

V. JUDGMENT

Accordingly, **JUDGMENT** is hereby entered against Respondent. Pursuant to 3 CMC §4964 and NMIAC § 80-20.1-485(c), Respondent is **SANCTIONED** $25.00 for each violation under 3 CMC § 4967, and $1,000 for each violation under 3 CMC § 4525, a total of $21,150, all suspended except $12,000. Respondent is **ORDERED** to pay the reduced sanction of $12,000 in monthly

installments of at least $1,000.00, on or before the 15th of each month, beginning August 2023. Monthly payments shall continue until the imposed sanction is fully paid. In order to make payment, Respondent or a designee must obtain a voucher from the Administrative Hearing Office. The voucher, together with payment, must be submitted to CNMI treasury. A receipt or other proof of payment must be promptly submitted to the Administrative Hearing Office on or before the due date of each payment.

The amount of $9,150 is **SUSPENDED** provided that Respondent satisfied all the following conditions:

1. Respondent timely pays the above-mentioned sanctions; and
2. Respondent commits no further violations of CNMI labor laws and regulations from the date of this Order to one year after the sanction and any subsequent penalties is fully paid.

Enforcement is **ORDERED** to monitor the terms and conditions of Respondent's suspended sanction and may file a request to reopen this case should Respondent fail to comply. In that event, Respondent shall be subject to additional penalties and reinstatement of all or part of the suspended sanction without the need for an additional hearing.

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

So ordered this **8th** day of August, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

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

In Re Matter of:	)	**Enforcement Investigation No. 23-001-03**
	)	**Compliance Agency Case No. 23-001**
Department of Labor, Enforcement and Compliance,	)	
	)	
Complainant,	)	**ORDER AND JUDGMENT**
v.	)	
	)	
Just Corporation, Winscos Market,	)	
	)	
Respondent.	)	
	)	

I. INTRODUCTION

This matter came for an Administrative Hearing on July 25, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant CNMI Department of Labor, Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Labor Law Enforcement Specialist III Norman Rasiang. Respondent Just Corporation, Winscos Market ("Respondent") was present and represented by Justin Ayuyu.[1]

II. DISCUSSION

On March 8, 2023, Enforcement initiated the above-captioned compliance agency case and the matter was scheduled for a prehearing conference. Enforcement filed a Determination and Notice of Violation. During the prehearing conference Enforcement clarified a number of issues and the matter was scheduled for an Administrative Hearing on July 25, 2023. In support of Enforcement's Determination, Enforcement included 14 supporting documents or proposed exhibits.[2] Based on the filings, Enforcement alleges the following claims and violations:

1. Failure to maintain and submit required records pursuant to 3 CMC § 4967;
2. A violation of the employment preference requirement under 3 CMC § 4521.
3. Failure to post a job vacancy announcement in violation of 3 CMC § 4522; and
4. Unauthorized employment in violation of 3 CMC § 4963;

[1] Mr. Ayuyu's wife Sahnaj Hossain was present to observe but did not testify in the hearing.
[2] Enforcement's Amended Determination and Exhibits are hereby incorporated into this Order and Judgment.

During the Administrative Hearing, Respondent did not contest or object to any of the allegations or proposed exhibits. Upon full notice of the allegations and an opportunity to respond, Respondent confirmed and admitted to multiple violations of the above-mentioned claims.

During the Hearing, Respondent requested a reduced sanction in consideration of their attempts to cure the violations and their economic circumstances. Respondent proposed a $20,000 sanction with monthly installments of $1,000 per month. Enforcement was amenable to the total amount and a payment plan.

III. JUDGMENT

Accordingly, **JUDGMENT** is hereby entered against Respondent.

1. Respondent committed six violations for failure to maintain and submit required records pursuant to 3 CMC § 4967;
2. Respondent committed three violations for a violation of the employment preference requirement under 3 CMC § 4521.
3. Respondent committed three violations for failure to post a job vacancy announcement in violation of 3 CMC § 4522; and
4. Respondent committed three violations for unauthorized employment in violation of 3 CMC § 4963;

Pursuant to 3 CMC §4964 and NMIAC § 80-20.1-485(c), Respondent is **SANCTIONED** $2,000 for each violation, a total of $30,000, all suspended except $20,000. Respondent is **ORDERED** to pay the entire sanction of $20,000 in monthly installments of at least $1,000.00, on or before the 15th of each month, beginning August 2023. Monthly payments shall continue until the imposed sanction is fully paid. Payment may be made by check or money order to the CNMI Treasury. A receipt or other proof of payment must be promptly submitted to the Administrative Hearing Office by the due date of each payment.

The amount of $10,000 is **SUSPENDED** provided that Respondent satisfies all the following conditions:

1. Respondent timely pays the above-mentioned sanctions; and
2. Respondent commits no further violations of CNMI labor laws and regulations from the date of this order to one (1) year after payment of the $20,000 sanction is complete.

///

///

Enforcement is **ORDERED** to monitor the terms and conditions of Respondent's suspended sanction and may file a request to reopen this case should Respondent fail to comply. In that event, Respondent shall be subject to a reinstatement of all or part of the suspended sanction without the need for an additional hearing.

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

So ordered this **25th** day of July, 2023.

/s/
JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer