

**TITLE 20: DEPARTMENT OF COMMERCE**

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**CHAPTER 20-70  
RULES OF PRACTICE AND PROCEDURE**

<b>Part 001</b>	<b>General Provisions</b>	§ 20-70-105	Form of Judicial Review
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Chapter Authority: 1 CMC § 2454; Executive Order 94-3 (effective Aug. 23, 1994).

Chapter History: Amdts Adopted 22 Com. Reg. 17090 (Mar. 20, 2000); Amdts Proposed 22 Com. Reg. 17031 (Jan. 18, 2000); Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

Commission Comment: 1 CMC § 2451 originally created the Department of Commerce and Labor. 1 CMC § 2454 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 103:

Section 103. Department of Commerce.

The Department of Commerce and Labor is re-designated the Department of Commerce.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

**Part 001 - General Provisions**

**§ 20-70-001 Scope of Rules**

The rules in this chapter supplement the Commonwealth Administrative Procedure Act [1 CMC §§ 9101, et seq.] and govern the practice and procedure in the respective Divisions of the Department of Commerce of the Commonwealth of the Northern Mariana Islands (“Commerce”) in all actions pursued by the Secretary of Commerce (“Secretary”), his designees, and/or other litigants.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

**§ 20-70-005 Application**

Cases Pending When Rules Adopted. Proceedings in all cases or other matters before Commerce upon the effective date of this chapter shall be governed by the rules in this chapter, unless the proceeding was initiated prior to the effective date of this chapter, in which case the parties may

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or may not stipulate to the adoption of the rules in this chapter in any proceeding initiated prior to the effective date of this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

### **Part 100 - Rules of Practice and Procedure**

#### **§ 20-70-101 Appointment of Hearing Officer**

(a) In all actions pursued by the Secretary, his designees, and/or other litigants, whether the action is for an administrative declaratory ruling or an administrative contested case, the Secretary shall appoint a person or persons as hearing officer(s) who are competent, impartial, and familiar with the administrative hearing process.

(b) Following the opening of the administrative record, the proceedings will continue, and may recess from time to time if necessary, until the administrative record is closed. Once the administrative record is closed no further written or oral submissions may be received into the administrative record. Following the issuance of a written decision, after the close of the administrative record, no requests to reopen the record or reconsider the written decision shall be entertained without the approval of the Secretary of Commerce, or his designee.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17090 (Mar. 20, 2000); Amdts Proposed 22 Com. Reg. 17031 (Jan. 18, 2000); Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b).

The 2000 amendments added new subsection (b) and amended subsection (a).

#### **§ 20-70-105 Form of Judicial Review**

There shall be two forms of judicial review; one of which will be known, pursuant to 1 CMC § 9107, as a “declaratory ruling appeal,” the other of which, pursuant to 1 CMC § 9112, will be known as a “contested case appeal.”

Modified, 1 CMC § 3806(f), (g).

History: Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

Commission Comment: The commission moved the comma after “declaratory ruling appeal” inside the closing quotation mark.

#### **§ 20-70-110 Commencement of Appeals**

A declaratory ruling appeal is commenced by the filing of a notice of appeal in the Commonwealth Superior Court; a contested case appeal is also commenced by the filing of a

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notice of appeal in the Commonwealth Superior Court. Following the filing of a notice of appeal in the Commonwealth Superior Court, jurisdiction shall vest in the Commonwealth Superior Court.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

### **§ 20-70-115 Preparation of Transcripts for Appellate and Other Purposes**

(a) Upon the request of any party for a transcript of any proceedings in Commerce, including the transcription of a proceeding for the purposes of judicial review, the requesting party shall be responsible to transcribe the proceedings. It shall be the sole responsibility of the party requesting the transcript to assure that the transcript is completed, certified, filed with the Superior Court and served on any necessary party to the appeal, and to pay for the transcription costs in accordance with any applicable Commonwealth statute or Commonwealth Rule of Civil or Appellate Procedure.

(b) If any party has any reason to doubt or question the accuracy of any transcription produced pursuant to this section, the original tape(s) shall be made available to ascertain the accuracy of the transcription. In the case of any conflict, the audio on the original tape(s), shall prevail.

(c) In the event a person designated to do the transcription work dies, becomes incapacitated, or certifies to the court that for other reasons they are unable to complete the transcript within the time designated by the reviewing forum, it is the responsibility of the party ordering the transcript to notify the opposing party as soon as such death, incapacity, or inability is discovered.

(d) Any transcript prepared shall be in a form acceptable to the reviewing forum. Any such transcript shall be accompanied by a written certification of the person actually doing the transcribing work, in a form acceptable to the reviewing forum.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) through (d).

### **§ 20-70-120 Supplementation of These Rules**

The rules in this chapter may be supplemented, revised, and/or adapted as the need arises pursuant to the provisions of the Commonwealth Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 17 Com. Reg. 13390 (May 15, 1995); Proposed 17 Com. Reg. 13273 (Apr. 15, 1995).

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Commission Comment: The commission changed "Procedures" to "Procedure" to correct a manifest error.