

TITLE 145: DEPARTMENT OF PUBLIC LANDS

**SUBCHAPTER 145-20.2
ROTA AGRICULTURAL HOMESTEAD PROGRAM RULES AND REGULATIONS**

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Subchapter Authority: N.M.I. Const. art. XI, PL 15-2, and PL 7-11 § 3 (former 2 CMC § 4383 repealed and reenacted by PL 10-3 § 5).

Subchapter History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018); Proposed 14 Com. Reg. 10179 (Dec. 15, 1992).

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-41115, established the Marianas Public Land Corporation (MPLC), responsible for the management and disposition of public lands. See 2 CMC §§ 4113 and 4114. 2 CMC §§ 4301-4314 set forth the general statutory provisions governing homesteads in the CNMI and designated MPLC as the agency responsible for implementing homestead laws.

PL 7-11, the “Rota Agricultural Homestead Act of 1990,” codified as amended at 2 CMC §§ 4381-4385, is deemed effective on October 24, 1990 pursuant to PL 10-3 (effective Mar. 4, 1996), the “Rota Agricultural Homestead Corrections Act of 1996.” See PL 10-3 § 3 set forth in the commission comment to 2 CMC § 4382. PL 7-11 § 2 authorized the MPLC to administer an agricultural homestead program on Rota. PL 6-15 § 3 (former 2 CMC § 4373) empowered MPLC to promulgate rules and regulations to carry out the purposes of the act.

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 §§ 104 and 306(a):

Section 104. Department of Lands and Natural Resources.

The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

....

Section 306. Department of Lands and Natural Resources

(a) Marianas Public Land Corporation. Pursuant to [N.M.I. Const. art. XI, §4(f)], the Marianas Public Land Corporation is dissolved and its functions transferred to a Division of Public Lands in the Department of Lands and Natural Resources, which shall have at its head a Director of Public Lands.

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

PL 10-3 (effective Mar. 4, 1996), the “Rota Agricultural Homestead Corrections Act of 1996,” codified at 2 CMC §§ 4382 and 4383, amended PL 7-11 to, among other things, update the law to reflect the changes effected by Executive Order 94-3. PL 10-2 § 5 repealed PL 6-15 § 3. 2 CMC § 4383(a) requires the Secretary of the Department of Lands and Natural Resources to establish standards and requirements for the use, occupation and development of the homestead tracts granted under the act.

In 1997, the Legislature passed the “Public Lands and Natural Resources Administration Act of 1997,” PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651, et seq. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the commission comment thereto. 1 CMC § 2654 authorizes the Department of Lands and Natural Resources to adopt rules and regulations in furtherance of its duties and responsibilities.

PL 10-57 § 4 vacated Executive Order 94-3 § 306. PL 10-57 § 3 created a Division of Public Lands within DLNR “headed by a Director serving under the supervision and control of the Secretary and the Board of Public Lands.” 1 CMC § 2671(a). 1 CMC § 2671(b) provided that the Division of Public Lands is the successor to the Marianas Public Lands Corporation pursuant to N.M.I. Const. art. XI §4(f) and assigned all statutory powers and duties of the MPLC to the Division of Public Lands.

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

After PL 12-33 vested the authority to implement the homesteading programs in the new Board of Public Lands Management, the Legislature enacted PL 12-53 (effective on May 29, 2001). PL 12-53, the “Rota Agricultural Homestead Amendment Act of 2001,” amended 2 CMC § 4382 to authorize the Board of Public Lands to designate agricultural lands on Rota for homesteads. However, PL 12-53 did not amend 2 CMC § 4383, which still requires the Secretary of the Department of Lands and Natural Resources to establish standards and requirements for the use, occupation and development of the homestead tracts granted under the act.

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

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

PL 15-2 § 3 (§ 108) requires that the Department of Public Lands “assess the demand for homesteads and develop a program for meeting that need, to the extent practicable, within the available land base.” 1 CMC § 2808. PL 15-2 did not amend 2 CMC § 4383(a), which requires the Department of Lands and Natural Resources to establish standards for homestead tracts in Rota. Consequently, authority over an agricultural homestead program on Rota is unclear.

On December 15, 1992, the MPLC published proposed Rota Agricultural Homestead Program Rules and Regulations pursuant to the authority of PL 7-11. See 14 Com. Reg. 10179 (Dec. 15, 1992). A notice of adoption was never published. This subchapter is reserved for future rules and regulations governing the Rota Agricultural Homestead Program.

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Part 001 - General Provisions

§ 145-20.2-001 Authority

The regulations in this subchapter are promulgated by the Department of Public Lands (“DPL”) pursuant to the authority set forth in Article XI of the Commonwealth Constitution, Public Law 7-11, and Public Law 15-2.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-005 Purpose

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

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-010 Definitions

(a) “Domicile” means that place in which a person maintains a residence with the intention of continuing that residence for an unlimited or indefinite period, and to which that person has the intention of returning whenever absent, even for an extended period.

(b) “Marriage” means a legal status requiring the issuance of a marriage license and a ceremony performed by a person authorized under Commonwealth law or the laws of another jurisdiction recognized by the Commonwealth, or a customary marriage between citizens that is solemnized in accordance with recognized customs and Commonwealth law.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

Part 100 - Rota Agricultural Homestead Program Requirements

§ 145-20.2-101 Designation of Homestead Areas

DPL may designate areas suitable for farming and agricultural activities, and shall use such designated areas for the distribution of agricultural homestead lots. No applicant may be granted an agricultural homestead lot outside of the designated area without the prior approval of the DPL Secretary.

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History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-105 Establishment of Area

All eligible applicants shall be entitled to a maximum area of one hectare or 10,000 square meters of agricultural land.

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-110 Persons Eligible to Homestead

All applicants for agricultural homestead lots must meet and satisfy all of the following criteria:

- (a) An applicant must be 18 years of age, or over, and a citizen of the Commonwealth of the Northern Mariana Islands, and of Northern Marianas descent as provided for in the CNMI Constitution.
- (b) An applicant must have been domiciled on the island of Rota for not less than five years.
- (c) An applicant or his/her spouse must not own or have an interest in agricultural land within the Commonwealth of the Northern Mariana Islands which equals or exceeds a half hectare or 5,000 square meters.
- (d) An applicant or his/her spouse must not have been a recipient of an agricultural homestead lot from a previous agricultural homesteading program.
- (e) An applicant shall not receive more than one agricultural homestead lot.
- (f) If two applicants marry, the applicants must notify DPL of the marriage and one of the applications must be withdrawn. If an applicant marries a permittee, the applicant must notify DPL and withdraw the application. If two permittees marry, the permittees must notify DPL of the marriage and one of the permits must be canceled. If an applicant or permittee marries the recipient of an agricultural homestead lot, the permittee or applicant must notify DPL of the marriage and withdraw his/her application or cancel his/her permit.

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-115 Priority of Applicants

DPL shall take into consideration the date of application, so that an earlier applicant shall take precedence over a later applicant, all other factors being equal. Applicants who have incomplete files will not be considered until all required documents and information is submitted. DPL shall then prioritize the applications submitted according to the following categories:

- (a) Residency Status
 - (1) Applicants physically residing on the island of Rota will be given first priority.

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(2) Applicants physically residing somewhere other than the island of Rota, will be given second priority.

(b) Ineligible Applicants

(1) Those applicants who are determined ineligible to receive agricultural lots due to constitutional and statutory restrictions shall be notified in writing of such determination. The notification shall specify the reasons for ineligibility and inform the applicant of a right to appeal the determination within 30 days from the date of the notice.

(c) In order to verify the information provided in the application and in order to accurately determine the actual need and priority for an agricultural homestead lot, DPL may require the applicant to provide additional documentation as DPL deems appropriate.

Modified, 1 CMC § 3806(a).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-120 Application Procedure

(a) All applicants for agricultural homestead shall fill out an application form provided by DPL. Applications may be submitted in the Saipan Office or directly to the Rota Office. Applications shall be date stamped by the DPL when received.

(b) All applications must be signed and notarized under penalty of perjury.

(c) All applications must be accompanied by a \$100 non-refundable application fee.

(d) After submission of an application, DPL shall verify the eligibility of the applicant and all essential facts set forth by the applicant, and if necessary, require the applicant to appear before the DPL Resident Director or Homestead Director or his/her designee for an interview to clarify or verify the information given in the application. Approval or disapproval of application shall be rendered no later than 90 days after receipt of a completed application.

(e) It is the applicant's responsibility to notify DPL of any changes to their mailing address or other contact information. Any letters, notices, or other documents mailed to the applicant's last known address on file and returned by the postal service as undeliverable, unable to forward, etc. will result in the applicant's file being placed under inactive status until such time they update their contact information.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-125 Issuance of Homestead Permit

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(a) DPL shall issue a permit to enter upon, use, and improve the land once the agricultural tract has been surveyed, monumented, mapped, and is ready for homesteading. The DPL shall conduct a lottery wherein the eligible applicant will pick their lot by blind draw.

(b) After an agricultural lot is drawn by an eligible applicant, the DPL shall prepare an agriculture homestead permit for the applicant, and shall give a copy of the map showing the agriculture homestead tract as surveyed, and shall also physically show the tract to the homesteaders.

(c) A permit fee of \$100 shall be paid by the homesteaders due and payable at the time the permit is executed.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-130 Conditions of Occupancy

(a) The homesteader shall enter upon and commence the use and improvement of the agriculture lot consistent with a land utilization and planting program approved by DPL within 90 days after the receipt of the permit. Upon noncompliance with the foregoing, the permit shall expire and be null and void and the homesteader shall be construed to have waived all rights in and to the land. DPL shall then have the right to enter and possess the land.

(b) The homesteader shall, at all times, maintain all boundaries clear of any and all weeds, trash, and underbrush.

(c) DPL shall show the homesteader the actual boundaries of the homestead lot. However, any subsequent request by homesteader for retracement of boundaries by DPL may be undertaken only after a \$300 fee is paid in advance.

(d) During the period of occupancy, the homesteader shall observe and comply with all rules, regulations, and requirements concerning the use, occupation, and development of the homestead lot.

(e) No permanent structure, e.g. reinforced concrete or hollow concrete blocked construction, is allowed during the term of the permit. All temporary construction for housing of people shall provide sanitation facilities approved by the Bureau of Environmental and Coastal Quality (BECQ).

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-135 Homestead Progress Inspection

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- (a) DPL shall conduct inspections of the homestead at least once a year, or more often as it deems necessary, to determine compliance with the homestead requirements. Notice of Inspection shall be given to the homesteader at least ten days in advance.
- (b) After each inspection, the homestead inspection team shall issue a brief report on the progress of and the compliance of the homesteader.
- (c) In the event that a homesteader is not complying with the homestead requirements, the inspection team shall so note in its report and inform the homesteader of the requirement he/she is not complying with. Appropriate written warnings shall be given to the homesteader. Such notice shall contain specific corrective actions to be taken by the homesteader to bring himself/herself into compliance with the homestead requirements.
- (d) All inspection reports shall be signed by the homestead inspector.
- (e) It is the homesteader's responsibility to notify DPL of any changes to their mailing address or other contact information. Any letters, notices, or other documents mailed to the homesteader's last known address on file and returned by the postal service as undeliverable, unable to forward, etc. could result in the homesteader losing the opportunity to contest the revocation of their lot.

Modified, 1 CMC § 3806(a), (e), (g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-140 Deeds of Conveyance

Deeds of conveyance shall be issued by DPL for homestead lots entered pursuant to the Rota Agriculture Homestead Act of 1990. Upon maturity of the permit and only upon execution of a certification by DPL certifying that the homesteader has resided on the island of Rota for three years from the date of entry upon the homestead lot and has complied with all laws, rules, and regulations appertaining to the homestead. DPL shall issue the deed of conveyance within six months of the time the homesteader becomes eligible to receive the deed of conveyance.

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-145 Transfer of Homestead Permit

No rights in or to a homestead permit shall be sold, assigned, leased, transferred, or encumbered. Except that in the event of the death of the homesteader prior to the issuance of a deed of conveyance, all rights under the permit shall inure to the benefit of such person or persons, if any, as the homesteader shall designate in the permit or letter filed with DPL. In the event that the homesteader makes no designation, the permit shall be revoked, and the land, together with all appurtenances thereto entered thereunder, shall revert to DPL or its successor.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

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§ 145-20.2-150 Penalties

(a) Grounds for Revocation of Permit. If at any time after the issuance of the homestead permit, and before the expiration of the permit period, the homesteader abandoned the land or failed to comply with the laws, then the permit shall be revoked and the land shall revert to DPL or its successor. DPL may at its discretion allow the homesteader an extension of the permit period.

(b) Grounds for Disqualification.

(1) If an applicant knowingly and willfully submits false information to DPL under penalty of perjury, the matter shall be referred to the Attorney General for prosecution and the applicant's permit shall be revoked and the applicant shall be disqualified from participation in the agricultural homesteading program.

(2) If an applicant negligently or recklessly submits false information to DPL, or otherwise misleads DPL, the applicant may be disqualified from participation in the agriculture homestead program permanently or for a period of time to be determined by the Secretary.

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-155 Notice and Hearing

An applicant whose application for an agricultural homestead has been received, verified, and found ineligible, shall be informed in writing of such decision, the reason therefore, and provided notice of a right to appeal the decision within 30 days of the date of the letter. Such hearing shall be held no later than 90 days after receipt of such notice by the applicant. The applicant has the right to be represented by a counsel of his/her choosing and to bring witnesses to the hearing. No later than 30 days after the hearing, the hearing officer, on behalf of the DPL, shall issue his/her decision. If the hearing officer denies an application, a written decision to that effect shall be prepared and given to the applicant. Such a decision shall be deemed final.

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).

§ 145-20.2-160 Waiver

DPL, upon recommendation of the inspection team, the Rota Director, and upon a showing of good cause, may temporarily waive a homestead requirement in the regulations in this subchapter and the conditions imposed on the permit, provided that no provisions set forth in the Constitution or by statute shall be waived.

History: Adopted 40 Com. Reg. 40926 (Sept. 28, 2018); Proposed 40 Com. Reg. 40814 (July 28, 2018).