

TITLE 90: MARIANAS VISITORS AUTHORITY

CHAPTER 90-50 TOUR GUIDE CERTIFICATION RULES AND REGULATIONS

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Chapter Authority: 4 CMC § 2103(o); 4 CMC § 2112(b)(3).

Chapter History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Part 001 - General Provisions

§ 90-50-001 Authority

These regulations are promulgated under 4 CMC § 2103(o), which authorizes MVA to regulate the tour industry through the issuance of certifications to tour operators and tourist land/sea transport operators, and 4 CMC § 2112(b)(3), which grants MVA the authority to promulgate such rules and regulations and establish reasonable fees as are necessary to carry out its statutory mandates.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Commission Comment: The Commission changed “4 CMC § 2112(3)” to “4 CMC § 2112(b)(3)” pursuant to 1 CMC § 3806(g).

§ 90-50-005 Purpose

Pursuant to 4 CMC §§ 2171–2173, the Marianas Visitors Authority is adopting rules, codes of conduct, and regulations establishing a due process procedure within the MVA

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for your guide accreditation and enforcement of standards of conduct and professionalism of tour guides and tour operator businesses.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-010 Scope

These procedures shall govern actions taken by MVA or by agents or other entities acting on behalf of MVA (collectively referred to as “MVA” unless the context requires otherwise) in certifying, accrediting, and enforcing standards of conduct as established by MVA for tour guides and tour businesses.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-015 Definitions

For the purpose of this section, and unless required by context, the following terms shall have the following definitions:

- (a) “Accredited” means any individual that has satisfied all MVA requirements to engage in business as a guide and has been issued a tour guide badge by MVA.
- (b) “Day” means a calendar day.
- (c) “Independent” means any individual, or entity having an independent contractor relationship with a tour operator or a tourist land/sea transport operator.
- (d) “MVA” means the Marianas Visitors Authority.
- (e) “On Duty” means an accredited tour guide that is in the process of guiding an individual or group of tourists or visitors or performing duties as directed by the tour operator.
- (f) “Person” means a natural person or a business association.
- (g) “Tour” means any recreational activity targeted at non-residents of the Northern Mariana Islands in which multiple locations are visited, and which concern:
 - (1) The history and culture of the Northern Mariana Islands;
 - (2) The scenic and historic landmarks and attractions of the Northern Mariana Islands; or
 - (3) The natural environment of the Northern Mariana Islands.
- (h) “Tour Guide” means any person who is employed or retained to guide or conduct tours for tourists, both foreign and domestic, for a fee, commission, or any other form of lawful remuneration.

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(i) “Tour Guide Badge” means a badge provided by MVA to an accredited tour guide for purposes of identification and certification.

(j) “Tourist Land/Sea Transport Operator” means a person who is regularly engaged in providing, for a fee or lawful consideration, tourist transport services to scenic and historic landmarks and attractions of the Northern Mariana Islands as hereinafter defined, either on charter or regular run.

(k) “Tour Operator” means a person who is regularly engaged in the business of extending to individuals or groups, such services pertaining to arrangements and bookings for transportation and/or accommodation, handling and conduct of inbound tours whether or not for a fee, commission, or any form of compensation.

(l) “Tourist” means any visitor or group visiting the Northern Mariana Islands for pleasure or business.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Part 100 - Tour Guide Certification

§ 90-50-101 Certification Required

All persons engaging in business as a tour guide must obtain a certificate of accreditation issued by the MVA in order to conduct tours.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-105 Application

Application for a certificate of accreditation shall be made on a form to be prescribed by the MVA. The applicant shall provide the following:

(a) Proof that the applicant has successfully completed MVA approved training courses and passes MVA approved examinations on:

- (1) The history and culture of the Northern Mariana Islands;
- (2) The scenic and historic landmarks and attractions of the Northern Mariana Islands; and
- (3) Protection and conservation of the natural environment.

(b) A police clearance from the Department of Public Safety.

(c) A traffic clearance.

(d) The fee described in § 90-50-501.

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Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-110 Application Review

(a) Upon receipt of the application, MVA shall review the application within 15 working days. MVA may grant the application, deny the application, or request additional information.

(b) MVA shall notify the applicant in writing of its decision.

(c) Any application that is not accepted or put aside pending additional information within 30 days shall be considered rejected.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-115 Duration of Certification

(a) A tour guide certification shall be valid from the date of issuance for three years unless previously revoked or suspended.

(b) Tour guides may apply for renewal of their certification within 60 days of the date the certification is scheduled to expire. The renewal application shall be made on a form to be prescribed by the MVA and shall be substantially similar to the application described in § 90-50-105.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-120 Badge

(a) MVA shall issue a certification badge to all certified tour guides. This badge shall be in a form prescribed by the MVA and shall be valid for one year from the date of issuance.

(b) Tour guides shall display their badges at all times when conducting tours.

(c) Tour guides shall surrender their badges to MVA upon expiration or cancellation of their certification.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-125 Provisional Certification

(a) Any certified tour operator or certified tourist land/sea transport operator may request provisional certification for its personnel.

(b) A certified tour operator or certified tourist land/sea transport operator that applies for a provisional certification shall provide the following:

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- (1) The event or activity for which the certified tour operator or certified tourist land/sea transport operator requires provisionally certified tour guides;
- (2) A written explanation why the certified tour operator or certified tourist land/sea transport operator is not able to meet the demand for tour guides with currently certified personnel;
- (3) A list of the individuals for whom the certified tour operator or certified tourist land/sea transport operator seeks provisional certification; and
- (4) The fee described in § 90-50-501.

(c) MVA may grant or deny applications for professional certification at its sole discretion.

(d) Provisional certifications shall be valid for seven calendar days from the date of approval. No individual shall receive more than three provisional certifications within one calendar year.

(e) MVA reserved the right to waive the provisional certification requirement for conducting any MVA related business.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Part 200 - Tour Operator and Tourist Land/Sea Transport Operator Certification

§ 90-50-201 Certification Required

All persons engaging in business as a tour operator or a tourist land/sea transport operator must obtain a certificate of accreditation issued by the MVA in order to conduct tours.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-205 Application

Application for a certificate of accreditation shall be made on a form to be prescribed by the MVA. The applicant shall provide the following:

- (a) Proof that the applicant is a member in good standing with the MVA;
- (b) Proof that the applicant maintains an office within the CNMI;
- (c) A certification that the applicant does not employ any tour guides that are not certified pursuant to these regulations;
- (d) Proof that the applicant maintains a bank account in the CNMI under the business's name;
- (e) The applicant's business license;

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(f) The name of an employee or a retained independent contractor who is fluent in the English language; and

(g) The fee described in § 90-50-501.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-210 Application Review

(a) Upon receipt of the application, MVA shall review the application within 15 working days. MVA may grant the application, deny the application, or request additional information.

(b) MVA shall notify the applicant in writing of its decision.

(c) Any application that is not accepted or put aside pending additional information within 30 days shall be considered rejected.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-215 Duration of Certification

(a) A tour operator or a tourist land/sea transport operator certification shall be valid from the date of issuance for three years unless previously revoked or suspended.

(b) Tour operators and tourist land/sea transport operators may apply for renewal of their certification within 60 days of the date the certification is scheduled to expire. The renewal application shall be made on a form to be prescribed by the MVA and shall be substantially similar to the application described in § 90-50-205.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-220 Quarterly Listing of Employees and Contractors

All certified tour operators and certified tourist land/sea transport operators shall submit to MVA a listing of all tour guides they employ or employed or with whom they have or had an independent contractor relationship during every calendar quarter. This listing shall be submitted quarterly: 15th of January, April, July, and October.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Part 300 - Code of Conduct

§ 90-50-301 Applicability

The Code of Conduct applies to all tour guides, provisionally certified tour guides, tour operators, and tourist land/sea transport operators.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

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§ 90-50-305 Prohibited Activities

- (a) No person shall make any false or misleading statements in the course of applying for or renewing a tour guide certification, a provisional tour guide certification, a tour operator certification, or a tourist land/sea transport operator certification.
- (b) No person shall promote, facilitate, or conduct any activities that are in violation of federal, Commonwealth, or local law including the anti-litter law.
- (c) No provisionally certified tour guide shall solicit or receive any compensation in the course of their employment or independent contractor relationship unless they are authorized to do so by a tour operator or a tourist land/sea transport operator.
- (d) No person shall be under the influence of any intoxicant, narcotic, or hallucinogenic while conducting a tour.
- (e) All guides or operators will actively engage in informing and preventing their patrons from littering, and adhere to all environmental laws on our islands and shall be held accountable for their patrons' actions while under their tour guidance.
- (f) No person shall make any false or misleading statements in the course of advertising tours.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Part 400 - Penalties

§ 90-50-401 Sanctions

- (a) The MVA may initiate administrative proceedings to sanction any person who violates any provision of this chapter. Administrative proceedings shall be conducted pursuant to the Administrative Procedure Act, 1 CMC §§ 9101–9115.
- (b) Sanctions may include revocation of a certification, refusal to issue or renew a certification, monetary sanctions, or equitable sanctions.

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

§ 90-50-405 Authorized Agents

- (a) All notices of violations to be issued by the MVA under these rules be issued by any person duly authorized by the MVA. A duly authorized person shall enforce all the rules and issue any notices of violations to interested persons.
- (b) Every notice required by these rules:

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- (1) Shall be in writing and shall be dispatched to the person by any reasonable manner including, but not limited to, U.S. Mail, fax, or personal delivery.
- (2) The MVA shall be deemed to have made a reasonable attempt to notify the person if the MVA uses the most recent address information provided by the person as required under these rules.
- (3) Any notice shall be in compliance with the Commonwealth's Administrative Procedure Act and shall inform the person:
- (i) That the MVA intends to refer the person's certification status to appropriate government agencies for potential action(s) as provided by law;
 - (ii) The person shall have 15 working days after the date of the notice to file with the MVA a notice of defense or to request a hearing. Failure to provide the request within 15 working days will deem the request waived;
 - (iii) Any such notice of defense or request for hearing must be in writing;
 - (iv) The MVA will consider any evidence presented by the person before it makes a decision; and
- (c) If the MVA does not receive a notice of defense or a request for hearing within 15 working days of the date of the notice, the MVA shall make a decision on the matter as soon as practicable.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).

Part 500 - Fee Schedule

§ 90-50-501 Fees

Action	Fee
Tour Guide Certification Application	\$ 50
Tour Guide Renewal Application	\$ 50
Tour Guide Badge Renewal	\$ 20
Badge Replacement for lost/stolen	\$100
Tour Operator or Tourist Land/Sea Transport Operator Certification Application	\$100
Tour Operator or Tourist Land/Sea Transport Operator Renewal Application	\$100
Provisional Certification of Application	\$ 10

History: Adopted 39 Com. Reg. 39949 (Sept. 28, 2017); Proposed 39 Com. Reg. 39832 (July 28, 2017).