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NoraV Borja

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE ADOPTION OF THE
RULES GOVERNING PROCEDURE FOR
TRAFFIC AND OTHER INFRACTIONS

ADMINISTRATIVE ORDER 2024-ADM-0001-RUL

ORDER ADOPTING RULES OF TRAFFIC PROCEDURE

¶ 1 On November 6, 2023, the proposed *NMI Rules Governing Procedure for Traffic and Other Infractions* were submitted to the Twenty-Third Northern Marianas Commonwealth Legislature for approval. On December 14, 2023, the House of Representatives adopted the proposed rules. Sixty days have passed since the rules were submitted, and the Senate has not disapproved of the rules.

¶ 2 IT IS HEREBY ORDERED that the *NMI Rules Governing Procedure for Traffic and Other Infractions* are adopted pursuant to Article IV, § 9 of the NMI Constitution. These rules supersede any previous conflicting court rules and became effective on January 5, 2024.

SO ORDERED this 23rd day of January, 2024.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLONA
Associate Justice

/s/

PERRY B. INOS
Associate Justice



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NORTHERN MARIANA ISLANDS JUDICIARY

RULES GOVERNING PROCEDURE FOR TRAFFIC AND OTHER INFRACTIONS

Effective January 5, 2024

TABLE OF CONTENTS

Rule 1. Authority, Title, Scope, Purpose, and Construction 1

Rule 2. Definitions 1

Rule 3. Commencement of Action. 2

Rule 4. Citation or Complaint Form and Notice to Appear 2

Rule 5. Procedure on Failure to Appear; Warrant 4

Rule 6. Separation of Cases 4

Rule 7. Presence of Defendant at Sentencing 4

Rule 8. Plea of Guilty; Procedure 4

Rule 9. Payable Violations; Traffic Clerk 5

Rule 10. Amendment to Process or Pleading 6

Rule 11. Applicability to Cases Pending at Effective Date 7

Effective January 5, 2024

Rule 1. Authority, Title, Scope, Purpose, and Construction.

- (a) **Authority.** These rules are promulgated pursuant to Article IV, Section 9(a) of the NMI Constitution.
- (b) **Title.** These rules shall be known and cited as the NMI Rules of Traffic Procedure (“NMI. R. TRAFF. P.”).
- (c) **Scope of Rules.** These rules govern the procedure in the NMI Superior Court to hear and determine cases involving traffic offenses and civil infractions, including, but not limited to, those defined under:
 - (1) 1 CMC §§ 28064, 28067, 28071 [Designated Fire Lanes Act];
 - (2) 2 CMC §§ 3411–17 [Litter Control Act];
 - (3) 9 CMC §§ 6101–8102 [Vehicle Code]; and
 - (4) 9 CMC §§ 8203–04 [Mandatory Liability Auto Insurance Act].
- (d) **Purpose and Construction.** These rules are intended to provide for the just determination of cases governed under these rules. They shall be construed to ensure simplicity, uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.
- (e) **Other Rules.** Other rules and laws which govern criminal procedure shall, insofar as they are applicable, supplement these rules.

Rule 2. Definitions.

The following definitions apply throughout these rules unless the context clearly indicates otherwise:

- (a) “Court” means the NMI Superior Court.
- (b) “Motor Vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.
- (c) “Moving Traffic Offense” means any violation committed while a driver is operating a vehicle in motion, including any temporary or intermittent stop in the course of operating a vehicle in motion on any roadway or highway in the Commonwealth.

Effective January 5, 2024

- (d) “Non-Moving Traffic Offense” means any parking or standing of a motor vehicle not in operation in violation of a statute, ordinance or regulation.
- (e) “Payable Violation” means any violation that does not include a possibility of imprisonment or the penalty for violation is not governed by 9 CMC § 7112(b).
- (f) “Non-Payable Violation” means any violation of Title 9 of the Commonwealth Code where the provided penalty includes the possibility of imprisonment or where the penalty for the violation is governed by 9 CMC § 7112(b).
- (g) “Other Infraction” means any violation governed under these rules that is not a traffic offense and is punishable by a civil fine, including, but not limited to, infractions under the Designated Fire Lanes Act, the Litter Control Act, or the Mandatory Liability Auto Insurance Act.
- (h) “Notice of Violation” means the complaint, information, citation, or E-citation, notifying the violator of the offense(s) charged or committed.
- (i) “Oath” means a pledge to the tell the truth which includes an affirmation.
- (j) “Traffic Offense” means any violation of a statute, ordinance or regulation relating to the operation or use of motor vehicles and any violation of a statute, ordinance or regulation relating to the use of streets and highways by pedestrians or by the operation of any other vehicles.

Rule 3. Commencement of Action.

- (a) An action is commenced when a citation is E-filed.
- (b) Where applicable, an action may be commenced pursuant to Rule 4(b).
- (c) A notice of violation is issued when a citation is delivered to the violating party or affixed conspicuously to the vehicle.
- (d) All pending cases governed by these rules shall be E-filed as of the effective date of these rules.

Rule 4. Citation or Complaint Form and Notice to Appear.

- (a) **Form.** In all cases, the citation or complaint shall contain violator information, the statute(s) violated, and a notice for the violator to appear in court on a date and time certain.
 - (1) For traffic offenses, citations shall be in electronic format known as the “E-citation” and be substantially in the same

Effective January 5, 2024

format as set out in the appendix of forms. The Supreme Court maintains authority over all forms under these rules, including citations, and may modify them at any time without notice.

- (2) When E-citation is unavailable, the citation may be issued in paper form known as the “Citation and Notice to Appear” and be substantially in the same format as set out in the appendix of forms. The paper citation shall be electronically filed and served in compliance with the NMI Rules for Electronic Filing and Service.
- (3) For other infractions governed under these rules, paper citations or complaints shall be electronically filed and served in compliance with the NMI Rules for Electronic Filing and Service.

(b) Complaint or Information.

- (1) The Commonwealth may initiate a traffic case in which the citation is in the form of a complaint in accordance with Rule 3 of NMI Rules of Criminal Procedure, or in the form of an information, in accordance with Rule 7 of NMI Rules of Criminal Procedure.
- (2) A traffic offense may be included in an information if the traffic offense qualifies for joinder with other offenses under NMI Rule of Criminal Procedure 8(a).
- (3) When a charge is orally amended in court before trial, the Commonwealth must file a written complaint or information in accordance with Rule 3 or Rule 7 of NMI Rules of Criminal Procedure respectively three days prior to the trial date, reflecting the current charges against the defendant. The defendant and the court may waive this requirement. Failure to comply with this rule shall render the oral amendment void and revert the proceedings to the charges before the oral amendment.

Notes

[1] Rule 4 was previously Rule 3 in the 1996 version of these rules.

[2] Rule 4(b)(1). This rule authorizes the filing of a complaint or information to initiate a traffic case, rather than requiring the filing of citations.

Effective January 5, 2024

Rule 5. Procedure on Failure to Appear; Warrant.

The court shall issue a warrant for the arrest of any defendant who fails to appear or answer a citation or notice to appear served upon them and upon which a complaint has been filed.

Rule 6. Separation of Cases.

- (a) **Separate Trial.** If practicable, all cases governed under these rules shall be tried separate and apart from other cases, and may be designated as the traffic docket.
- (b) **Other Case; Designation of Particular Time.** The court shall designate a particular day or days, or a particular hour daily on certain days, for the trial of cases on the traffic docket.
- (c) **Objections Before Trial; Waiver.** The defendant shall object to the validity or regularity of the complaint or process issued before trial, or the objection will be deemed waived.

Rule 7. Presence of Defendant at Sentencing.

The defendant shall be present at the imposition of sentence in all cases, except in cases involving payable violations. A defendant who was initially present at trial, or who had pleaded guilty or nolo contendere, waives the right to be present when the defendant is voluntarily absent during sentencing.

Rule 8. Plea of Guilty; Procedure.

Before accepting a plea of guilty or nolo contendere for non-payable violations, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

- (a) the Commonwealth's right, in a prosecution for perjury or false statement, to use against the defendant any statement that the defendant gives under oath;
- (b) the right to plead not guilty, or having already so pleaded, to persist in that plea;
- (c) the right to a trial;
- (d) the right to be represented by counsel—and if necessary have the court appoint counsel—at trial and at every other stage of the proceeding;
- (e) the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses;
- (f) the defendant's waiver of these trial rights if the court accepts a plea of guilty or nolo contendere;

Effective January 5, 2024

- (g) the nature of each charge to which the defendant is pleading;
- (h) any maximum possible penalty, including imprisonment, fine, and special parole or supervised release terms;
- (i) any mandatory minimum penalty;
- (j) any applicable forfeiture;
- (k) the court's authority to order restitution;
- (l) the court's obligation to impose a fee;
- (m) the terms of any plea agreement provision waiving the right to appeal or to collaterally attack the sentence; and
- (n) that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

Rule 9. Payable Violations; Traffic Clerk.

- (a) **Designation of Traffic Clerk.** The Clerk of the Superior Court and the deputy clerks are designated as traffic clerks.
- (b) **Authority of the Traffic Clerk.** The traffic clerk shall have the authority to:
 - (1) accept the defendant's entry of appearance;
 - (2) process waiver of trial;
 - (3) accept admission or denial of liability;
 - (4) set trial dates; and
 - (5) assess payment of fines and fees in accordance with a schedule of approved fees on any payable violation for which an admission has been entered.
- (c) **Offenses Not Within the Authority of the Traffic Clerk.** The traffic clerk does not have authority over the disposition of non-payable violations.
- (d) **Schedule of Fines.** The traffic clerk shall post on the court's public bulletins and website a schedule of fines for specific traffic offenses and other infractions.
- (e) **Plea and Payment of Fines and Costs.**
 - (1) *Non-Moving Traffic Offenses.* Any person charged with a non-moving traffic offense may pay the fines and costs for each violation in the citation, together with a signed plea of guilty and a waiver of trial, to the traffic clerk by mail, online payment, or at the court.
 - (2) *Moving Traffic Offenses.* Any person charged with a moving traffic offense that is payable within the authority

Effective January 5, 2024

of the traffic clerk may enter a plea of guilty, waive trial, and pay the fines and costs. Prior to plea, waiver, and payment, the violator shall be informed in writing:

- (A) of the right to stand trial;
 - (B) that signing a plea of guilty will have the same force and effect as a judgment of court; and
 - (C) that the record of conviction will be sent to the Bureau of Motor Vehicles of the Commonwealth of the Northern Mariana Islands or the appropriate officers of the license issuing state.
- (3) *Other Infractions.* For other infractions payable within the authority of the traffic clerk, a violator may enter an admission of violation and pay the fines and costs.
- (f) **Procedure After One or More Convictions.** Any person who has been found guilty of or who has signed a plea of guilty to one or more previous moving traffic offenses in the preceding twelve months within the jurisdiction of the court shall not be permitted to appear before the traffic clerk unless the court shall, by general order applying to certain specified offenses, permit such appearance.

Notes

- [1] Subsection (e)(2). The rights waiver mentioned in this subsection include the rights listed in Rule 8 except for Rule 8(a), (d), (g), (i)–(k).
- [2] Rule 10 was titled “General Provisions” in the previous version of these rules. It has been removed because it did not pertain to procedural matters.

Rule 10. Amendment to Process or Pleading.

The court may amend or permit amendment of any charging instrument, process, or pleading for any omission or defect therein, or for any variance between the charging instrument and the evidence adduced at the trial. If the defendant is substantially prejudiced in the presentation of their case as a result of the amendment, the court shall adjourn the hearing to some future time, upon such terms as the court shall think proper.

Notes

- [1] Rule 10 was previously Rule 12.

Effective January 5, 2024

Rule 11. Applicability to Cases Pending at Effective Date.

Upon their effective date, these rules apply to all pending traffic and civil citations.