

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

CHAPTER 85-100

BROWN TREESNAKE PREVENTION REGULATIONS

Part 001	General Provisions	§ 85-100-110	Issuance of the Snake Inspected Certificate
§ 85-100-001	Authority		
§ 85-100-005	Purpose		
§ 85-100-010	Definitions	Part 200	Penalties
		§ 85-100-201	Penalties
Part 100	Snake Inspection Certification	Part 300	Severability and Effective Date
§ 85-100-101	Prohibition	§ 85-100-301	Severability
§ 85-100-105	Making the Snake Inspection Determination	§ 85-100-305	Effective Date

Chapter Authority: 1 CMC § 2654; 2 CMC § 5301-5310; 2 CMC §§ 5320-5329.

Chapter History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005); Proposed 15 Com. Reg. 10728 (July 15, 1993).*

*A notice of adoption for the July 1993 proposed regulations was never published.

Commission Comment: PL 1-8, tit. 1, ch. 13 (effective Aug. 10, 1978), formerly codified at 1 CMC §§ 2651, et seq., originally created a Department of Natural Resources within the Commonwealth government.

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:

Section 104. Department of Lands and Natural Resources.

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

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

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 §§ 2651-2691. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and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.

2 CMC § 5302 directs the Director of Natural Resources (now the Secretary of Lands and Natural Resources) to issue animal quarantine regulations.

The “Animal Health Protection and Disease Control Act,” PL 4-55 (effective Aug. 22, 1985) is codified as amended at 2 CMC §§ 5320-5329. 2 CMC § 5321 provides for the protection of the CNMI from the introduction and spread of exotic animals. The Director of Natural Resources (now the Secretary of Lands and Natural Resources) is authorized to issue regulations consistent with the act. 2 CMC § 5323.

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

This chapter sets forth the Department of Land and Natural Resources regulations for the prevention of brown treesnakes in the Commonwealth of the Northern Mariana Islands.

Part 001 - General Provisions

§ 85-100-001 Authority

Under the authority granted by the Commonwealth Plant and Animal Quarantine Act and the Animal Health Protection and Disease Control Act, 2 CMC §§ 5301, et seq., and 2 CMC §§ 5320, et seq., respectively, the Secretary of the Department of Lands and Natural Resources hereby promulgates the regulations in this chapter to control the introduction and prevent the further dissemination of injurious pests and diseased animals into the Commonwealth.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

§ 85-100-005 Purpose

To prevent the establishment and limit the entry of non-native reptiles and amphibians in the Commonwealth of the Northern Mariana Islands, with particular emphasis on the prevention of the establishment of the brown treesnake *Boiga irregularis*.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

§ 85-100-010 Definitions

For the purpose of this chapter, the following terms are defined in alphabetical order:

- (a) “Consolidated” means goods or containers that are off-loaded and opened on Guam before shipment to CNMI.
- (b) “Secretary” means the Secretary of the Department Lands of Natural Resources.
- (c) “High-risk cargo” means:
 - (1) Any shipment leaving Guam by sea or by air, including cargo (e.g. construction materials, pipes, machinery, lumber) or goods originating, transshipped, or consolidated in Guam, which has not received a Guam Snake Inspection Certificate; or,
 - (2) Any shipment so identified by Division of Agriculture-Quarantine or Division of Fish and Wildlife-Brown Treesnake staff.
- (d) “Non-native” means any species whose natural origin is from a place other than the Commonwealth of the Northern Mariana Islands.

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

- (e) “Shipment” means goods that are transported by air or sea.
- (f) “Snake-exclusion area” means any area from which the entry of snakes is prevented by methods determined effective by the Division of Fish and Wildlife-Brown Treesnake staff and approved by the Secretary in consultation with the Directors of the Divisions of Fish and Wildlife and Agriculture.
- (g) “Snake inspection certification” means the written certification issued by Division of Agriculture-Quarantine staff or Division of Fish and Wildlife-Brown Treesnake staff, which establishes that the shipment has been inspected by a means listed in § 85-100-105.
- (h) “Transshipped” means goods or containers that are off-loaded and reloaded in Guam.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

Commission Comment: In subsection (b), the Commission changed “Department Lands of Natural Resources” to “Department of Lands and Natural Resources” to correct a manifest error.

Part 100 - Snake Inspection Certification

§ 85-100-101 Prohibition

(a) Shipments and cargo are prohibited from entering the Commonwealth of the Northern Mariana Islands without inspection and issuance of a snake inspection certification by Division of Agriculture-Quarantine staff or Division of Fish and Wildlife-Brown Treesnake staff.

(b) All statements, whether written or oral, made to Division of Agriculture-Quarantine staff or Division of Fish and Wildlife-Brown Treesnake staff in regards to a shipment’s contents, shipping history, or inspection history shall be true and accurate. No person may interfere, in any way or manner, with the inspection procedures or with the inspection personnel.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

§ 85-100-105 Making the Snake Inspection Determination

Division of Agriculture-Quarantine or Division of Fish and Wildlife-Brown Treesnake staff are responsible for determining which method, or combination of methods, of inspection are appropriate for the type of goods or cargo entering the Commonwealth. All fees associated with the inspection (e.g., lift fees, overtime) are to be the responsibility of

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

the shipping agent. A snake inspection certification will not be issued until all associated fees are paid by the shipping agent. Inspection methods include:

(a) Containment in snake exclusion area: All high-risk cargo shall be required to undergo a 72 hour quarantine period in a snake exclusion area, unless an emergency waiver is authorized by the Secretary. All other shipments may be inspected by containment in a snake-exclusion area.

(i) Emergency waiver — The Secretary, in consultation with the Directors of the Divisions of Fish and Wildlife and Agriculture, may authorize a waiver of the 72 hour quarantine period in order to protect public health or safety. A request for an emergency waiver shall: be made in writing; state the public health or safety justification; and state the requested alternative inspection method(s) for the cargo or goods.

(b) Canine detection: Shipments may be inspected by a canine trained in detecting snakes.

(c) Visual inspection: Shipments may be inspected visually when all interior and exterior surfaces and spaces of the goods or cargo can be thoroughly viewed by the inspector. This type of inspection may require that all cargo be 100% broken or unloaded in order to provide a complete visual inspection. For example, visual inspections may be suitable for straight pipe if the interior of each pipe is checked and the load is broken open to check all open spaces. Visual inspection is not a suitable means of certification for curved pipes or for materials with complex hiding places such as vehicles. Inspection of these items may be supplemented with the injection of a known volatile irritant and containment.

(d) Other Methods: The Secretary may approve any snake detection method that has been determined effective by the Directors of the Divisions of Fish and Wildlife and Agriculture.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

Commission Comment: The Commission removed the “to” before the “be” in the second sentence of subsection (c) to correct a manifest error.

§ 85-100-110 Issuance of the Snake Inspected Certificate

Upon completed inspection by a method, or combination of methods, identified in § 85-100-105, the Division of Agriculture-Quarantine or the Division of Fish and Wildlife-Brown Treesnake inspector shall issue a certificate stating that the cargo or goods have been inspected. The snake inspection certificate shall state, clearly and legibly, the following information:

(a) The name and title of the inspector and office issuing the certificate;

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

- (b) The locations of transshipment or consolidation, if any;
- (c) The consignor for the shipment;
- (d) The consignee for the shipment;
- (e) The contents in the shipment, including a copy of the bill of lading;
- (f) The methods described in § 85-100-105 by which the cargo or goods were inspected; and
- (g) The signature of the person making the snake inspected determination.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

Commission Comment: The Commission changed “Browntree snake” to “Brown Treesnake” in the first sentence of this section and changed “landing” to “lading” in subsection (e) to correct manifest errors.

Part 200 - Penalties

§ 85-100-201 Penalties

Pursuant to the Commonwealth Plant and Animal Quarantine Act and the Animal Health Protection and Disease Control Act, criminal or civil penalties shall be imposed on any person (e.g., shipping agents, transportation companies) for violations of the regulations in this chapter (e.g., falsifying documents, falsely reporting history of cargo, or failure to secure snake free certification). 2 CMC § 5310 and 2 CMC § 5329, respectively.

(a) **Criminal Penalties:** Violators of the regulations in this chapter shall, upon conviction, be imprisoned for not more than six months or fined not more than* two thousand dollars or both for each infraction. 2 CMC § 5310 and 2 CMC § 5329(a).

(b) **Civil Penalties:** Pursuant to 2 CMC § 5329(b), violators of the regulations in this chapter may be assessed with no more than the following fines:

- (1) First offense: \$100.00
- (2) Second offense: \$500.00
- (3) Third offense: \$1,000.00
- (4) Subsequent offenses: Subject to trial in court of law.

(c) **Other Civil Remedies:** The Secretary may

- (1) Take all necessary measures, when emergency quarantine actions are required. 2 CMC § 5304.
- (2) Refuse entry, confiscate, destroy, or order the return to its place of origin any shipment found in violation of the regulations in this chapter. 2 CMC § 5308.

(3) Seek restitution for all costs expended in the development and implementation of any program to capture, control, or eradicate a snake entering the Commonwealth by way of a violation of this chapter.

* So in original.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

Commission Comment: The Commission removed a dash at the end of the first sentence of this section and inserted periods at the end of subsections (b)(iv) and (c)(ii).

Part 300 - Severability and Effective Date

§ 85-100-301 Severability

Should any provision of the regulation in this chapter or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and/or the application of the affected provision to other persons or circumstance shall not be affected thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

§ 85-100-305 Effective Date

The regulations in this chapter will take effect ten calendar days after the notice of adoption is published in the Commonwealth Register.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 25518 (Jan. 30, 2006); Proposed 27 Com. Reg. 25333 (Dec. 30, 2005).

Commission Comment: The Commission inserted “the” before “notice” in this section.