

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

SUBCHAPTER 30.3 OUTER COVE MARINA RULES AND REGULATIONS

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Subchapter Authority: 1 CMC §§ 2653, 2654; 2 CMC §§ 1201-1231.

Subchapter History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

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 PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and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

In 1999, the Department of Lands and Natural Resources, Division of Fish and Wildlife published emergency and proposed Outer Cove Marina Rules and Regulations pursuant to PL 6-13. The regulations were in effect for several months as emergency regulations, but they were not permanently adopted. See 21

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Com. Reg. 16629 (Apr. 19, 1999) (effective for 120 days from Mar. 19, 1999) (amending the March 1999 emergency regulations); 21 Com. Reg. 16572 (Mar. 18, 1999) (effective for 120 days from Feb. 19, 1999).

Part 001 - General Provisions

§ 85-30.3-001 Authority and Purpose

(a) Authority. The regulations in this subchapter are promulgated under the authority of 1 CMC §§ 2653 and 2654 providing the Department of Lands and Natural Resources with the authority to adopt rules and regulations in furtherance of its powers and duties, including the responsibility for the protection and enhancement of the natural resources of the islands, including the marine environment. Further, 2 CMC §§ 1201-1231 provides the Department with the authority to manage submerged lands.

(b) Purpose. It is the purpose of this subchapter to maintain Outer Cove Marina in a sanitary, sightly, and orderly condition and to preserve the public health, safety, peace, welfare, and convenience in the use thereof.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-005 Application and Scope

(a) Geographic Area. The regulations codified in this subchapter shall apply to the berthing of vessels at docks, their mooring in the waterways, and other activities conducted within the Outer Cove Marina as depicted in Appendix A.*

(b) Other Laws and Regulations. The regulations in this subchapter in no manner diminish the authority of laws and lawful regulations that otherwise apply to the waters and lands of the Outer Cove Marina.

* So in original. See Commission Comment.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: Appendix A was not included in the original regulation.

§ 85-30.3-010 Notice

If a notice to a permittee or owner is provided for in these rules, that notice shall be personally served on the person. If after diligent effort has been made to effect personal service, no personal service can be made, the marina general manager (hereinafter “manager”) may effect service by:

(a) Posting the notice in a conspicuous place aboard the permittee’s vessel or at the assigned berth; or mooring.

(b) Mailing the notice to the person at the person’s last known address; provided that in an emergency, where life or property is endangered or if, a vessel may interfere with

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other vessels or with the free and proper navigation of a waterway unless immediate action is taken, remedial action may be taken by the manager without prior notice.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the words “permittee,” “rules,” and “marina general manager” pursuant to 1 CMC § 3806(f).

§ 85-30.3-015 Definitions

Unless the context clearly indicates otherwise, the following definitions shall apply to the terms used in this subchapter:

- (a) “Agreement” means the agreement between the boat owner and the Secretary.
- (b) “Assigned berth” means a berth that is assigned to a permittee by a valid regular berthing permit.
- (c) “Berth” means where a vessel:
 - (1) Is laid alongside a dock;
 - (2) Is made fast alongside boat slip.
- (d) “Department” shall mean the Department of Lands and Natural Resources.
- (e) “Division” shall mean the Division of Fish and Wildlife.
- (f) “Dormant vessel” means a floating contrivance that has not been navigated outside the harbor where berthed or moored by means of its propulsion system at a minimum of two times during each quarter of the calendar year on voyages of at least two hours duration.
- (g) “Moor” means to secure a boat by making it fast with cables, lines, or anchors.
- (h) “Mooring” means a device for holding a vessel in place, when an anchor, concrete block, or similar device is placed or dropped on submerged land with a rope or chain attached to a buoy to which the vessel is attached.
- (i) “Passenger” means every person carried on board a vessel other than:
 - (1) The owner or the owner’s representative;
 - (2) The operator;
 - (3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and are paid for their services; or
 - (4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for the guest’s carriage.
- (j) “Vessel” means every description of watercraft, used or capable of being used as

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a means of transportation on water.

(k) “Commercial vessel” means a vessel engaged in the commercial carriage of passengers or cargo and or for commercial fishing in and about the waters of the Commonwealth. “Commercial” is defined as relating to or connected with trade and traffic or commerce in general, as defined in Section 2 of the Preamble of the Lease of Water Dependent Use of Submerged Lands approved by the CNMI legislature.

(l) “Commercial fishing vessel” means vessel engaged in fishing for profit, either by individual, partnership, or corporation.

(m) “Transient vessel” means any vessel visiting the CNMI for a period of not more than seven days.

(n) “Vessel carrying passengers for hire” means any vessel which is used for the carriage of any person or persons for a valuable consideration whether directly or indirectly flowing to the owner, charterer, operator, agent, or any person who has a lien on the vessel.

(o) “Vessel length” means the end-to-end measurement of a vessel taken over the deck, parallel to the waterline from the foremost part of the bow to the aftermost part of the stem; provided, that hull plating, plankings, and extensions aside from the hull proper, such as bowsprit, are not to be included in the measurement; provided further, that an open-type vessel or one with a cockpit shall be measured as if a complete deck existed at the upper level of the hull.

(p) “Vessel length overall” (LOA) means the distance between the fore-and-aft extremities of a vessel including hull platings, plankings, and any extensions beyond the hull proper, such as bowsprit, planking, steering device, or other extensions.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the words “permittee” in subsection (b), “Is” in subsections (c)(1) and (c)(2), “vessel,” “of,” “Submerged,” and “legislature” in subsection (k), and “fishing” and “vessel” in subsection (l) pursuant to 1 CMC § 3806(f). The Commission added a semicolon at the end of subsection (c)(1), a period at the ends of subsections (c)(2) and (i)(4), and commas after the words “lines” in subsection (g), “block” in subsection (h), “partnership” in subsection (l), and “plankings” in subsection (l) pursuant to 1 CMC § 3806(g). Subsection (f) was undesignated in the original regulation. The Commission designated it as subsection (f) and re-designated the remaining paragraphs pursuant to 1 CMC § 3806(a). The Commission corrected the spelling of the word “means” in subsection (j) pursuant to 1 CMC § 3806(g). The Commission struck the figure “7” from subsection (m) pursuant to 1 CMC § 3806(e).

Part 100 - Selection of Leases and Permits for Berthing Slips

§ 85-30.3-101 Lease or Permit Required for Tenancy in Outer Cove Marina

(a) Berths: No vessel shall be permitted to be berthed at a dock slip in Outer Cove

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Marina without a lease approved by the Secretary. This includes government-owned vessels that are also required to pay berth fees. There are no exemptions unless mutually agreed upon between the government agency and the Secretary.

(b) Moorings: No vessel shall be permitted to be moored in the waterways of Outer Cove Marina, except as provided for in part 300 for storm and typhoon conditions.

(c) Tenant Vessels Defined: Tenant vessels are vessels for which a valid berthing lease has been issued.

(d) Temporary Permits: The Secretary may issue temporary berthing permits at Outer Cove Marina for visiting or transient vessels, not to exceed thirty days in duration.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the word "Defined" in subsection (c) pursuant to 1 CMC § 3806(f).

§ 85-30.3-105 Categories of Vessel Exclusions

Except as provided for in part 300 of this subchapter, the following vessels shall not be granted leases, issued permits, or be allowed to berth on any dock or moor within the waterways of Outer Cove:

(a) Vessels as a Place of Abode. A vessel on which any person remains overnight for seven or more days in any month is a vessel as a place of abode. A vessel shall be deemed to be lived aboard if a person or persons occupy the vessel and engage in those usual and customary activities associated with a person's residence or abode, such as sleeping, preparation of meals, etc., for any period in excess of forty-eight consecutive hours in any seven-day period. An exception to this exclusion shall apply to a transient vessel that has a holding tank for containment of waste by-products.

(b) Unseaworthy Vessels. A vessel is unseaworthy if it is not in a fit condition or ready for sea voyage. Lessees, permittees, and applicants shall, upon request, demonstrate or allow inspection of vessels for seaworthiness by the Secretary or his or her designee.

(c) Work Boats. The term work boats includes tugboats, crew boats, landing crafts, vessels engaged in cargo trade, fishing trawlers, utility boats, construction boats, barges, and dredges.

(d) Deep Draft Vessels. Vessels with a draft deeper than six feet are deep draft vessels.

(e) Vessels Greater than 100 Feet Long. The length of the vessel shall be determined by its length overall (LOA) rounded upward to the next whole foot, including all permanent and functioning overhangs.

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(f) Vessels without Auxiliary Propulsion. Auxiliary propulsion means an engine, either outboard or inboard, sufficient to provide the vessel with safe maneuvering ability in the marina.

(g) Vessels without Insurance Coverage. Vessels without insurance coverage for third party liabilities will be excluded from the premises. Copy of the insurance policy must be presented with the application.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission struck the figures “7” and “48” in subsection (a) pursuant to 1 CMC § 3806(e). The Commission inserted commas after the words “permittees” in subsection (b) and “barges” in subsection (c) pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of the words “Feet” in subsection (e), “without” in subsection (f), and “premises” in subsection (g) pursuant to 1 CMC § 3806(f).

§ 85-30.3-110 Categories of Exclusion for Leases

No vessel shall be granted a lease for a berthing slip that comes within any of the categories listed in § 85-30.3-105.

(a) Unregistered or Undocumented Vessel. A vessel must have either current CNMI registration or U.S. Coast Guard documentation.

(b) Commercial Vessel. A vessel engaged in the commercial carriage of passengers, including but not limited to, sport-fishing boats, Managaha transfer boats, tour boats, and parasailing tow boats may only be allowed to lease a berthing slip on a month-to-month basis after all non-commercial priority preference berthing slip requests are satisfied. Commercial vessel month-to-month berthing slip leases may only be granted or renewed if there are no pending berthing slip lease requests from non-commercial vessels.

(c) Minimum Length. A vessel with a length overall (LOA) of less than fifteen feet.

(d) Maximum Beam. A vessel with a beam greater than fifteen feet (15'), except that vessels of greater than 15' beam may be berthed at dock G. Beam is defined as the maximum breadth of the vessel.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-115 First-Come, First-Served Priority

(a) Slips shall be assigned on a first-come, first-served basis.

(1) Any person who owns commercial vessel, commercial fishing vessel, or vessel carrying passengers for hire who first submitted his or her completed berthing/mooring application shall be given first priority for the grant of a lease for a berthing slip or mooring space. Incomplete application shall be returned to the applicant for resubmission and will be treated as if it was for the first time.

(2) Vessels shall be matched to slips so as to maximize useable berthing space and

not restrict maneuverability.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission inserted a comma after the word “vessel” in subsection (a)(1) pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of the words “berthing,” “mooring,” and “lease” in subsection (a)(1) pursuant to 1 CMC § 3806(f).

§ 85-30.3-120 Grant of Berthing Lease

Upon selection for the grant of a lease, an applicant shall have ten days to complete the berthing lease, execute it, and pay the first month’s berthing fees and the security deposit. Failure to do so will result in the denial of the application and the award of the lease to another applicant.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the spelling of the word “month’s” pursuant to 1 CMC § 3806(g).

§ 85-30.3-125 Security Deposit

(a) A security deposit in the amount of three months’ berthing fees shall be required of a new applicant for a berthing lease.

(b) A security deposit in the amount of six months’ berthing fees shall be required of an evicted lessee or permittee whose application is being reconsidered pursuant to § 85-30.3-710.

(c) All security deposits may be applied to expenses incurred by the Department for enforcing violations of lease or permit terms or violations of the rules and regulations in this subchapter, including but not limited to curing delinquent berthing fees and expenses for impoundment or removal of a vessel pursuant to §§ 85-30.3-701 and 85-30.3-705.

(d) The security deposit shall not be considered to be an advance payment of berthing fees by the lessee or permittee. In the event that all berthing fees are paid on a timely basis, then at the conclusion of any lease or permit period, the lessee or permittee shall be entitled to a return of his or her security deposit without interest.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the spelling of the word “months” in subsections (a) and (b) pursuant to 1 CMC § 3806(g).

§ 85-30.3-130 Mooring Permits

[Reserved.]

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-135 Location of Moorings

[Reserved.]

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-140 Restriction on Moorings

Until the Department installs mooring buoys in the premises, no vessel shall be allowed to place anchors for mooring purposes.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the word “premises” pursuant to 1 CMC § 3806(f).

Part 200 - Fees

§ 85-30.3-201 Fees for Berthing Slips

The following fees shall be assessed lessees assigned berths, on a monthly basis:

- (a) Vessels 20.0 feet to 29.0 feet in length: \$5.00 per foot.
- (b) Vessels 29.1 feet to 42.0 feet in length: \$7.00 per foot.
- (c) Vessels 42.1 feet to 52.0 feet in length: \$10.00 per foot.
- (d) Vessels 52.1 feet to 65.0 feet in length: \$15.00 per foot.
- (e) Vessels 65.1 feet to 100.0 feet in length: \$20.00 per foot.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-205 Fees for Moorings

- (a) Vessel 20.0 ft. to 29.0': \$2.50 per foot
- (b) Vessel 20.1 ft. to 29.0': \$3.50 per foot
- (c) Vessel 29.1 ft. to 42.0': \$5.00 per foot.
- (d) Vessel 42.1 ft. to 65.0': \$7.50 per foot.
- (e) Vessel 65.1 ft. to 100.0': \$10.00 per foot.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-210 Fees for Visiting Vessels

(a) The following fees shall be collected daily for mooring or berthing in the Outer Cove Marina:

- (1) First day of arrival shall be free.
- (2) Every day, or a fraction of a day, thereafter shall be charged according to the prevailing fees for the size of boat, plus other applicable charges, prorated.

(b) **Maximum Stay Permitted.** A visiting vessel may stay only as long as permitted by the Secretary, and subject to the availability of mooring or berthing spaces.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-215 Delinquency

(a) The due date for berthing slip lease and/or mooring payment shall be no later than the 10th day of each month (e.g., January lease payment is due by January 10).

(b) All delinquent payments made after the 10th day of each month, shall be charged a 10% late fee for each month that payment is not made.

(c) Failure to pay berthing or mooring fees for a period of 30 days after the date that those fees are due, shall constitute delinquency, and shall be grounds for cancellation of the lease or permit pursuant to § 85-30.3-701.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-220 Passenger Departure Fees

A passenger departure fee of \$4.00 will be charged to every passenger boarding on a vessel carrying passengers for hire, regardless of water activity or destination. Boat owners will be billed each month and the billing shall be paid to the Department within fifteen days from the date of the billing.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the words “passenger departure fee” pursuant to 1 CMC § 3806(f). The Commission struck the figure “15” pursuant to 1 CMC § 3806(e).

Part 300 - Typhoons and Tropical Storms

§ 85-30.3-301 Storm Conditions Defined

Storm conditions means the government has declared that Saipan is currently in tropical storm condition 2 or 1 or typhoon condition 2 or 1.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-305 Typhoon Contingency Plan

All references to storm or typhoon preparation shall be in accordance with the current year's typhoon contingency plan. The plan specifies where each vessel will be berthed or moored in the event of a storm. The plan may be amended by the Secretary as necessary to accurately reflect the assigned berthing and mooring locations of all vessels during storm conditions.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-310 Temporary Lifting of Exclusions during Storm Conditions

In the event of storm conditions, vessels excluded from Outer Cove Marina under §§ 85-30.3-105(a) through 85-30.3-105(f) may enter and moor in Outer Cove Marina provided that they have applied for and received an approved non-tenant storm condition permit from the marina office, in accordance with §§ 85-30.3-330 and 85-30.3-335. The permit will specify where the non-tenant vessel may berth or moor in the marina area during storm conditions, according to the typhoon contingency plan. All vessels registered in the typhoon contingency plan but which do not hold a valid lease issued pursuant to § 85-30.3-101 are required to leave within forty-eight hours after the return to condition 3 or the giving of the all clear signal.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-315 Emergency Moorings

In the event of storm conditions, any vessel permitted in Outer Cove may moor across the channel of the waterway if the following conditions are observed and the vessel does not obstruct other permitted vessels according to the typhoon contingency plan:

- (a) The vessel operator must follow the directions of the Secretary or his designee.
- (b) The vessel must be moored in a manner that will not jeopardize the safety of adjacent vessels in a storm.
- (c) All floats, gangways, and other floating obstacles other than vessels must be removed entirely from the water and secured on high ground.
- (d) All loose objects on the vessel shall be either removed or sufficiently tied down to withstand typhoon strength winds.
- (e) Mooring lines must use chafing protection on the vessel and at the end where they are fastened to trees, posts, or other objects out of the water.
- (f) Vessels entering the Outer Cove Marina specifically for storm protection, which are not registered according to the typhoon contingency plan, shall be placed in available

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locations on a first-come, first-served basis by the Secretary or his designee.

(g) Mooring lines must be removed from crossing the channel and all other locations that impede the movement or navigation of vessels in the waterways within twelve hours of the announcement of the all clear signal.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-320 Unattended Vessels during Storm Conditions

Any vessel with a berthing lease that is within Outer Cove Marina during storm conditions and is not attended to by a person or persons who adequately secure the vessel for typhoon strength winds shall have its lease or permit terminated. It is the obligation of every boat owner to adequately secure his vessel so that it does not present a hazard to other vessels in the marina.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-325 Secretary's Authority

The Secretary is empowered to regulate all vessel movement and placement within Outer Cove Marina, its boundaries and shore areas prior to or during storm conditions. The Secretary or his/her designee shall:

(a) Announce when the marina is officially closed to vessel movement into or out of it when condition 2 is aired by weather broadcast, via, VHF marine band radio on channel 16 as notice to mariners. This broadcast will be transmitted at ten minute intervals for one hour.

(b) Advise owners of trailerable vessels to remove them from the marina before storm condition 2 or typhoon condition 2.

(c) Monitor the placement of non-tenant vessels according to size and berth space. Nontenant vessels are accorded refuge at Outer Cove Marina pursuant to compliance with §§ 85-30.3-330 and 85-30.3-335.

(d) Ensure that no vessels moor or anchor in the marina channel.

(e) Penalize and assess fines pursuant to CNMI laws for violations of this section.

(f) [Reserved.]

(g) [Reserved.]

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-330 Non-tenant Storm Condition Permit Procedures

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An owner of any vessel that is not a tenant at Outer Cove Marina who wishes to berth or moor within its premises during storms or typhoons must apply for a non-tenant storm condition permit in accordance with §§ 85-30.3-330(a) through 85-30.3-330(d) below:

- (a) Complete an application and submit it to the marina office during the open application period, held each year between January 1 and March 31;
- (b) Produce evidence of current, adequate, and applicable insurance coverage along with the application;
- (c) Pay the required annual fee if the application is approved; and
- (d) Have a current vessel inspection report and certificate of number, as applicable.
- (e) Any application submitted that cannot show evidence required by §§ 85-30.3-330(a) through 85-30.3-330(d) above will be denied.
- (f) No non-tenant vessel has the right to infringe upon the safety and welfare of the tenants of Outer Cove Marina.
- (g) All applications are subject to availability of berthing slips or mooring spaces at the marina.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the words “non-tenant storm condition permit” pursuant to 1 CMC § 3806(f). The Commission inserted a comma after the word “adequate” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 85-30.3-335 Non-Tenant Storm Condition Permit Fees

The fees to be charged for the privilege to berth, moor, or anchor within Outer Cove Marina premises during storm conditions are assessed on an annual basis, are due and payable when the application is received and approved, and are not refundable. Fees are charged as follows:

- (a) Vessels under 20 feet in length: Not permitted
- (b) Vessels 20 feet to 30 feet in length: \$50.00
- (c) Vessels 31 feet to 40 feet in length: \$55.00
- (d) Vessels 41 feet to 50 feet in length: \$60.00
- (e) Vessels over 51 feet in length: \$65.00

(f) Vessels at anchor: \$30.00.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: The Commission changed 51 over feet to over 51 feet in subsection (e) to correct a manifest error. The 2006 amendments changed subsection (e).*

* So in original. See Commission Comment.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission inserted a comma after the word “moor” pursuant to 1 CMC § 3806(g).

The original regulation included a History and Commission Comment section that does not reflect the actual history or Commission comments to this section.

Part 400 - Use of Outer Cove Marina

§ 85-30.1-401 General Statement and Restrictions on Mooring Dormant Vessels

(a) It is the policy of the Department that the moorings and berthing in the Saipan small boat harbor be used for the purposes of accommodating vessels used for commercial boating activities involving transportation of passenger on water to and from the other islands in the CNMI, or for commercial fishing. Therefore, occupancy of berths and mooring areas at the small boat harbor shall be limited to vessels actively utilized as a means of transportation on water.

(b) The use permit relating to any dormant vessel shall be revoked, unless the owner presents valid evidence that the vessel is temporarily dormant due to circumstances beyond the owner’s control.

(c) The owner shall remove the dormant vessel from the harbor upon revocation of the use permit. The Department reserves the right to restrict the use of the premises property or facilities to those who observe these rules and make full and timely payment of their fees and charges.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the word “premises” in subsection (c) pursuant to 1 CMC § 3806(f).

§ 85-30.3-405 Insurance

(a) All boat owners are required to procure third party liability insurance coverage for their boats, in the event owner’s vessel caused damages to other vessel or the improvement of the premises during storm and during their normal activities. A copy of

the insurance policy must be provided to the Department.

(b) The owner shall ensure that the policy is maintained; failure to keep the policy active shall result in termination of the lease permit and the owner will be required to remove the uninsured boat from the premises.

(c) The Commonwealth shall not be liable for any damages resulting from the use of the premises or during storm conditions.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the word “premises” in subsection (a) pursuant to 1 CMC § 3806(f).

Part 500

[Reserved.]

Part 600 - Special Events

§ 85-30.3-601 Special Events Defined

Special events include use of the Outer Cove Marina facilities for events including, but not limited to, fishing derbies and holiday celebrations, hosted by a person, a company, a non-profit organization, or a government agency. Marina facilities include, but are not limited to, berthing docks, launching ramp, trash bins, weigh station, convenience dock, parking area, water facilities, and channel access.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-605 Permit Required

(a) Sponsors of special events are required to apply for a permit from the Secretary for the special event. Application must be made in writing, on a form supplied by the Department. A non-refundable fee of \$50.00 will be charged for the use of the marina facilities for the special event. No special event may be held in Outer Cove Marina without a permit approved by the Secretary and full payment of the special event fee.

(b) The Secretary may require a security deposit of \$250 as a condition of the special event permit.

(c) The Secretary may require the event sponsor to obtain and provide evidence of event insurance coverage.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Part 700 - Leases and Permits

§ 85-30.3-701 Cancellation

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- (a) The Secretary may cancel and terminate any lease or permit upon five days written notice to the lessee or permittee for failure to comply with:
- (1) Any provision of the lease or permit, including without limitation, nonpayment of lease rent or permit fees;
 - (2) The Outer Cove Marina rules and regulations in this subchapter; or
 - (3) The Boating Safety rules and regulations [NMIAC, title 150, chapter 20].
- (b) In addition, if there is any change of circumstances that causes a vessel to come within §§ 85-30.3-105 or 85-30.3-110, the lease or permit may be canceled upon twenty-four hours' notice.
- (c) Notice shall be deemed served within twenty-four hours of the time said notice is deposited in the United States Postal Service, if mailed by first-class mail, postage prepaid, to the lessees or permittee's address as designated on the lease or permit. In the case of personal service, notice shall be effective upon such service.
- (d) The notice shall specify the applicable provision of the lease or permit, Marina Regulations in this subchapter or Boating Safety Regulations [NMIAC, title 150, chapter 20] with which the lessee or permittee has failed or refused to comply, the date and time on or before which the slip must be vacated, and the cancellation date.
- (e) The lessee or permittee shall be liable for all berthing or mooring fees that accrue prior to the date of cancellation.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-705 Impoundment of Vessel upon Cancellation of Lease or Permit

- (a) If the lessee or permittee fails or refuses to remove his or her vessel from a slip on or before the date of cancellation of the lease or permit, the Secretary or his designee shall impound or remove the vessel at the lessee or permittee's risk and expense.
- (b) Impoundment shall consist of chaining the vessel to the dock and placing a dated sign upon the vessel explaining the reasons for impoundment.
- (c) The Secretary or his designee may also remove the vessel from the slip or mooring and retake possession of the slip or mooring.
- (d) Neither the Department nor the Commonwealth government nor any of its officers or employees shall be liable for any such actions and all lessees and permittees waive all claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this provision.
- (e) The lessee or permittee shall reimburse the Department for costs incurred in moving and storing the vessel. In addition to costs, the lessee or permittee shall also be subject to the fines for impoundment and removal as set forth in § 85-30.3-1101.

(f) A vessel that is not removed by the cancellation date shall be deemed to be an illegally berth* vessel and shall be subject to fines set forth in § 85-30.3-1101.

* So in original.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-710 Reconsideration of Evicted Lessees or Permittees

(a) A lessee or permittee evicted from the marina under part 700 of this subchapter who would like reconsideration of his or her eviction from Outer Cove Marina must make a new application. The Secretary will consider the new application if all delinquent berthing fees and fines are paid, and any other violations or lease or permit provisions are cured.

(b) The Department may require an advanced deposit of six months' rental fees for any such new application, which shall be distinct from the required security deposit under § 85-30.3-125.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the spelling of "months" in subsection (b) pursuant to 1 CMC § 3806(g).

§ 85-30.3-715 Reassignment of Slips

(a) The Secretary shall have the right to temporarily or permanently reassign berthing slip spaces and to move or cause to be moved any vessel so reassigned. A lessee or permittee, by applying for and accepting the use of a slip, shall be deemed to have consented to the reassignment and movement of the vessel to another slip:

- (1) For the proper operation, maintenance and repair of Outer Cove Marina;
- (2) For the convenience of the Commonwealth;
- (3) For a special event; or
- (4) In case of an emergency.

(b) The lessee or permittee further consents to the movement of the vessel by the Secretary if, after notice to move the vessel is given by the Secretary, the lessee or permittee fails to comply with any such notice. The lessee or permittee shall reimburse the Department for costs incurred in moving the vessel.

(c) Neither the Department nor the Commonwealth government nor any of its officers or employees shall be liable for such action and all lessees and permittees waive all claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this provision.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

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Commission Comment: The Commission corrected the commas at the end of subsections (a)(1) through (a)(3) to semicolons pursuant to 1 CMC § 3806(g).

§ 85-30.3-720 Non-Transferability of Lease

A lessee or permittee shall not give, sell, sublease, assign, or transfer, or attempt to give, sell, sublease, assign or transfer, whether voluntarily or involuntarily, the use of a designated slip, the lease or permit therefore, or any interest therein. No agreement, whether oral or in writing, between the lessee or permittee and any other person, firm, or entity may be made in connection with:

- (a) The use of a designated slip by a person other than the lessee or permittee,
- (b) The use of a designated slip by a vessel other than one owned by the lessee or permittee,
- (c) The transfer of ownership of or an interest in a vessel, or
- (d) A transfer of an interest in a corporation or partnership (general or limited) or joint venture owning a vessel, by which agreement lessee or permittee attempts to give, sell, sublease, assign, or to otherwise transfer the lease or permit and interest therein, or the right to use the designated slip, shall make the lease void and shall constitute grounds for the cancellation of the lease.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-725 Sale of Vessel

- (a) A lessee or permittee may retain his or her designated slip for a period of thirty days after transferring title to or agreeing to sell his or her vessel provided:
 - (1) The lessee or permittee shall notify the Secretary in writing of the sale of the vessel and his or her intent to acquire another vessel of appropriate length for the occupancy of the slip within five days of the date the agreement for the sale of the vessel is entered into, and
 - (2) The lessee or permittee shall pay slip fees equal to the amount specified in the lease or permit for the vessel sold pending the acquisition of another vessel.
- (b) An extension of an additional period may be granted at the discretion of the Secretary upon presentation of proof of a contract to purchase or construct another vessel.
- (c) If the lessee or permittee does not acquire and accept delivery of another vessel of appropriate length for the assigned slip within the thirty day period or any extension thereof; the lease or permit shall be canceled. The lessee or permittee shall remain liable for all fees accruing prior to cancellation.
- (d) A lessee or permittee shall notify the Secretary in writing within five days of any change of ownership in his or her vessel resulting from a gift, sale, lease, withdrawal,

addition or substitution of partners, the sale or transfer of stock in a closely held corporate ownership of the vessel or a change of officers or directors of a closely held corporation owning the vessel. If a lessee or permittee fails or refuses to notify the Secretary within five days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

§ 85-30.3-730 Partnerships and Corporations

(a) No lease will be issued in the name of a partnership, corporation, joint venture, or other legal entity.

(b) A lease or permit for a vessel which is registered or documented by a partnership, corporation, joint venture, or other legal entity will be issued only to a natural person whose name appears on the Outer Cove Marina waiting list and whose interest in the vessel is equal to or greater than that of each of the other partners, stockholders, members, or associates.

(c) An application for a berthing lease for a vessel owned by a partnership, corporation, joint venture, or other legal entity shall submit to the Secretary a fully executed marine bureau statement of ownership.

(d) If a lessee or permittee fails or refuses to notify the Secretary of a change to any of the information contained in the marine bureau statement of ownership within five days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission inserted commas after the words “venture” in subsections (a) and (c) and “members” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 85-30.3-735 Absence from Slips or Moorings

(a) In the event of an absence from a slip or mooring of more than seven days, the Secretary shall be notified of the intended length of absence so that the slip may be made available to other vessels under a temporary permit.

(b) In the event that the planned absence is greater than ninety days, then a leave of absence must be requested from the Secretary. The Secretary may grant a leave of absence for a reasonable period. If the period is deemed to not be reasonable, then the lease or permit shall be canceled.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-740 Temporary Slip or Mooring Permit

The Secretary may issue temporary permits to occupy and use an assigned but vacant slip

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or mooring or unassigned slips or moorings upon such terms and conditions as may be required for the efficient operation of Outer Cove Marina.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-745 Waiver of Liability

Neither the Commonwealth of the Northern Mariana Islands government nor any of its officers or employees shall be liable to a lessee or permittee and their guests for any damages to persons or property within Outer Cove Marina.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Part 800 - General Regulations

§ 85-30.3-801 Application

The regulations in this part shall control the conduct of all lessees and permittees of Outer Cove Marina and shall be incorporated as a part of any berthing lease or temporary slip permit. The regulations in this part may be changed from time to time and shall apply prospectively as changed or amended to all existing lessees and permittees.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-802 Commercial Use of Slips

The slip or dock structure within the Premises may be used for commercial purposes if it can be demonstrated that, if appropriate terms, conditions, and limitations are placed upon such conduct, it can be undertaken without risk to safe navigation, without endangering the public health, safety, or welfare (with due regard to other lessees of slips), and in a manner that will promote public convenience and necessity. Noncommercial vessel* may lease slips in accordance with the lease agreement.

* So in original.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the words "lease agreement" pursuant to 1 CMC § 3806(f).

§ 85-30.3-804 Storage on Docks

Nothing shall be stored on the dock by any lessee or permittee. Each lessee or permittee is responsible for keeping the adjacent dock area clean and free of litter. A lessee or permittee shall not place items on the dock except for short periods of time (not more

than thirty minutes); and at such times shall place the items in such a manner so as to not obstruct free passage along the dock.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-806 Fenders on Dock

No lessee or permittee shall install fender material, dock wheels, or carpet on the docks without the express permission of the Secretary. Upon installation, title to said fender or dock wheels shall be vested in the Commonwealth.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-808 Movement of Vessels in Marina

Movement of vessels within Outer Cove Marina shall only be for the purposes of entering or leaving a slip or mooring.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-810 Speed within the Marina

(a) Basic Speed Law: No vessel shall be operated at such a speed in the Outer Cove Marina and its channel that a wake is created that will disturb other vessels docked or moored or cause destruction of the shoreline. This shall apply to all vessels for the full length of the channel. The speed limit is five miles per hour.

(b) Vessels Engaged in the Commercial Carriage of Passengers. Heavy displacement vessels, such as those which carry passengers to Managaha or Tinian Island or those greater than twenty tons, are particularly prone to causing destructive wakes at slow speeds. Operators of these vessels shall maintain their speeds at less than 5 mph while traveling at the entrance and within the premises.

(c) All Other Vessels: All vessels not specified in § 85-30.3-810(b) shall observe a 5 mph speed limit within Outer Cove Marina for the full length of the channel.

(d) Complaints: Lessees and permittees are encouraged to report incidents of vessels traveling in excess of the speed limits.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the word “premises” in subsection (b) pursuant to 1 CMC § 3806(f).

§ 85-30.3-812 Toilet Usage

Toilets or marine heads shall not be used aboard a vessel in Outer Cove Marina.

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History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-814 Mooring of a Vessel

A lessee or permittee shall, at all times, ensure that his or her vessel is safely moored with lines adequate for the weather conditions.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-816 Maintenance Work on Vessel

(a) Major repair or reconstruction work (such as overhaul of engines and fiber glassing of boats) shall not be performed in or at any slip or mooring areas.

(b) No repair or other work on a vessel shall be performed before sunrise or after sunset, except in the case of emergency repairs to keep a vessel afloat. The Secretary may provide written authorization to have a vessel repaired after sunset in the marina if the repairs require a longer period of time provided that the repairs do not infringe upon the safety and welfare of the tenants of Outer Cove Marina. Such authorization must state a start and ending time and date for the repairs.

(c) Tools and equipment must not be placed on the dock in a manner that will obstruct free passage along the dock. The dock area must be kept in a neat, clean, and orderly condition.

(d) No material of any type resulting from maintenance work, such as solvents, paints, sandpaper, and other non-biodegradable materials shall be allowed to enter the water of Outer Cove Marina.

(e) Spray painting, welding, burning, and other hazardous activities are strictly prohibited in the marina.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-818 Garbage and Littering

(a) A lessee, permittee, or other user of the premises may not have or keep on a vessel or on the adjacent dock any garbage or decaying matter. Trash bins are provided at the Outer Cove Marina parking area for proper disposal of trash and other disposable materials.

(b) A lessee, permittee, or other user of the premises may not throw, place, leave, deposit, or abandon, or cause to be thrown, placed, deposited, or abandoned, any litter within the Outer Cove Marina and the adjacent areas of American Memorial Park except in receptacles designated by the Department for the disposal of such materials. A lessee or permittee shall place only that garbage or litter within such receptacles as is generated during and results from a vessels voyage.

(c) A lessee, permittee, or other user of the premises may not place, throw, deposit, or discharge, or cause to be placed, thrown, deposited, or discharged into the waters of Outer Cove Marina any litter, sewage, garbage, gaseous liquid or solid materials.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission corrected the capitalization of the word “premises” in subsections (a), (b), and (c) pursuant to 1 CMC § 3806(f).

§ 85-30.3-820 Fire Safety

(a) **Basic Rule:** A lessee or permittee may not use or permit his or her vessel to be used or maintained in a manner that creates or constitutes a potential fire hazard.

(b) **Fire Extinguishing Equipment:** A vessel berthed in the Outer Cove Marina must have at least two operable hand portable fire extinguishers containing ten pounds of dry chemicals.

(c) **Fueling:** Vessels may not be fueled within Outer Cove Marina.

(d) **LPG:** A vessel equipped with liquid propane gas for cooking must also be equipped with a solenoid or a warning indicator for detecting LPG leaks.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-822 Dumping of Hazardous Substances

(a) A lessee or permittee may not dump, discharge or pump oil, spirits, gasoline, diesel, distillate, any petroleum product, any other flammable materials, detergent, cleaning solutions, or any substance that violates CNMI Water Quality Standards [NMIAC, title 65, chapter 130] into the waters of Outer Cove Marina, upon any of the docks, or on any land adjacent to the marina.

(b) Combustible materials must be stored in receptacles specially marked for combustibles and petroleum products. In the absence of such a receptacle, a lessee or permittee shall remove the substances for disposal at a site other than the marina or American Memorial Park.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission inserted a comma after the word “solutions” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 85-30.3-824 Swimming

A person may not swim in the Outer Cove Marina, except as necessary to moor or anchor a vessel, clear a fouled propeller, assist a vessel in clearing another vessel’s mooring

lines, or remove a vessel that is grounded.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-826 Fishing

Fishing in Outer Cove Marina is strictly prohibited. The prohibition includes fishing from any docks of the marina and adjacent locations and shoreline, and fishing from the banks within Outer Cove Marina.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-828 Visitors

Visitors, unless accompanied by a lessee or permittee, or designated by the lessee or permittee in writing, shall not be permitted on the docks after sunset.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-830 Small Children on Docks

Children under ten years of age are not permitted on the docks without the immediate presence of their parents or other responsible adults.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-832 Obstructions Placed in Water

No float, pier, dock, pile, ramp, or other obstruction may be placed in the Outer Cove Marina without the prior authorization of the Secretary.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission inserted a comma after the word “ramp” pursuant to 1 CMC § 3806(g).

§ 85-30.3-834 Signs

(a) No lessee or permittee shall place, erect, or maintain any sign, display, or notice on any property, structure, or improvement within the Outer Cove Marina, without the prior written authorization of the Secretary.

(b) A lessee or permittee may place one sign on the exterior of a vessel advertising the sale or offering for sale of said vessel; provided however, the size of any such sign shall not exceed nine inches by twelve inches and the lettering thereon shall not exceed four inches in height. Such a sign shall be displayed on the vessel for seven consecutive calendar days that is written on the authorization.

(c) Application for another week to post a sign shall be made again to the Secretary.

(d) The Secretary may require the removal of any nonconforming or unauthorized sign, display, or notice. In the event that a lessee or permittee refuses to remove it, such shall constitute grounds for cancellation of the lease or permit.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The Commission inserted commas after the words “erect” and “display” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 85-30.3-836 Maintenance of Marina

A lessee or permittee shall immediately notify the Secretary of the need for repairs to the docks or any dangerous conditions in the marina requiring attention.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-838 Alteration of Docks

A lessee or permittee shall not alter any dock in any way without the prior written consent of the Secretary.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-840 Nuisance

No lessee or permittee may use his or her vessel in such a manner or maintain it in such a condition that its presence in the marina is a nuisance. A nuisance is defined as when the health or safety of others is threatened or their quiet and peaceful use of the marina is interfered with.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-842 Guests Aboard at Night

A lessee or permittee shall not have more than five guests aboard his or her vessel while at its berthing space between the hours of 8:00 p.m. and 4:00 a.m. The exception to this rule shall be when a vessel is departing or arriving at its berth space. In such an event, any guests may remain only as long as engaged in performing any acts necessary for the departure or arrival, such as the loading and unloading of the vessel.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-844 Noise

A lessee or permittee may not create, or allow to be created by any person, animal, machinery, hardware, sound system, radio, television, or any form of device, any sound

which may be considered offensive or a nuisance to any other users of the marina, taking into consideration the circumstances of the time, place, and nature of the sound.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Part 900

[Reserved.]

Part 1000 - Enforcement

§ 85-30.3-1001 Effect of Regulations on Lease and Permits

(a) The rules and regulations in this subchapter, as stated herein, and as they may be amended from time to time, are express conditions of every lease and permit.

(b) A violation of the rules and regulations in this subchapter may result in the cancellation of a lease or permit and/or the imposition of a fine by the Secretary.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-1005 Enforcement of Regulations

(a) The rules and regulations in this subchapter may be enforced against persons who are not lessees or permittees by an action for specific performance and/or damages.

(b) The Secretary of Lands & Natural Resources shall enforce the regulations and may designate marina enforcement personnel enforce the regulations in this subchapter.

(c) The Director of Fish and Wildlife shall instruct and train designated marina enforcement personnel in the proper procedures for the issuance of citations and/or notices pursuant to the regulations in this subchapter.

(d) Marina enforcement personnel must wear uniforms identifying them as enforcement and must carry identification cards in the performance of their duty.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Commission Comment: The original regulation designated the paragraphs as “(a),” “(b),” “(d),” and “(e).” The Commission re-designated them pursuant to 1 CMC § 3806(a).

§ 85-30.3-1010 Discretion of the Secretary in Removing Applicants from Waiting List

The Secretary may remove an applicant for a berth lease from the waiting list for failure to comply with the regulations in this subchapter or to obey the directives of the Secretary. No application will be accepted if that person has an unpaid debt to Outer Cove Marina for prior usage of the facility. Upon complete payment of all debts in

arrears, the Secretary may consider including the applicant on the waiting list.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

§ 85-30.3-1015 Nature of Lease and Permit

No person has a right to a lease or a permit or the use of the government docks or the Outer Cove Marina. Upon execution of a lease agreement or a permit, a holder obtains certain rights to the extent provided in the agreement.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Part 1100 - Fines

§ 85-30.3-1101 Fines

Assessment of fines for violation of the Outer Cove Marina Rules and Regulations in this subchapter is as follows:

- (a) Illegally berthed vessel: \$4.00 per linear foot per day.
- (b) Impounded vessel:
 - (1) \$25.00 per week for vessels from 20 feet to 30 feet in length;
 - (2) \$50.00 per week for vessels from 31 feet to 45 feet in length; and
 - (3) \$75.00 per week for vessels over 45 feet in length.
- (c) Trailer removal: \$25.00 per trailer.
- (d) Vessel removal:
 - (1) \$50.00 per vessel from 20 feet to 30 feet in length.
 - (2) \$100.00 per vessel from 31 feet to 45 feet in length.
 - (3) \$250.00 per vessel over 45 feet in length.
- (e) Illegal parking: \$25.00 per day.
- (f) Unauthorized signs: \$10.00 per sign after warning to remove it.
- (g) Unauthorized persons on dock: \$10.00 per person after warning to leave.
- (h) Articles and equipment on dock: \$50.00 per occurrence after warning to remove it.
- (i) Dumping of hazardous substances: \$500.00 per occurrence.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).

Part 1200 - Miscellaneous Provisions

§ 85-30.3-1201 Severability

If any section or portion of a section herein is invalid, it shall be deleted from this subchapter and shall not invalidate the remaining sections of the regulations.

History: Adopted 35 Com. Reg. 34266 (Sept. 28, 2013); Proposed 35 Com. Reg. 34038 (July 28, 2013).