

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

**SUBCHAPTER 30.5
COMMERCIAL FISHING RECORDING AND REPORTING REGULATIONS**

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Subchapter Authority: 1 CMC §§ 2653, 2654; 5 CMC § 5104.

Subchapter History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

Part 001 - General Provisions

§ 85-30.5-001 Authority

The regulations in this subchapter are promulgated under the authority of 1 CMC §§ 2653(a), (b) 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. Pursuant to 2 CMC §§ 5104(b)(7)(G) and (H), the Department must establish a catch recording and reporting system for any individual and/or business engaged in the commercial harvest, purchase and/or sale of marine life products caught within the Commonwealth waters.

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-005 Purpose

The purpose of this subchapter is to establish regulations to create a recording and reporting system for the commercial harvest, purchase and/or sale of marine life products that are caught within the marine waters surrounding the Commonwealth of the Northern Mariana Islands that would enable the Division of Fish and Wildlife to effectively monitor the harvest, purchase, and sale on a biweekly basis and to regularly report annual catch trends. The regulations serve to insure that accurate and reliable data on commercial harvest, purchase and/or sale of marine life products are uniformly recorded and reported by individuals and businesses harvesting such species from the CNMI waters. This information will provide marine resource scientists, fishery managers and regulatory agencies a sound foundation from which to formulate and rationalize decisions on the management of CNMI fisheries and marine resources.

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-010 Application and Scope

The regulations codified in this subchapter shall apply CNMI wide.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-015 Severability

If any provision of the regulations in this subchapter shall be held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-020 Definitions

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

- (1) “Business” means a company or corporation engaged in commercial harvest, purchase or sale of marine life harvested from CNMI waters, i.e., fish vendors, restaurants, hotels, commercial fishing vessels, etc.
- (2) “Catch Recording” means the documentation of commercial harvest, purchase and/or sale of fish required by the Division.
- (3) “Catch Reporting” means the submission of documentation required by the Division.
- (4) “CNMI waters” means the waters from the low-water line along the coast of the CNMI and extending 200 nautical miles, except for water under federal jurisdiction.
- (5) “Commercial Harvester” means an individual or business catching fish, or other marine species either in whole or in part, that is intended to enter commerce or enter commerce through sale, barter or trade.
- (6) “Commercial Purchaser” means an individual or business who buys marine life for resale or for use in producing value added products.
- (7) “Data Collector” any Division staff, agency or private entity authorized by the Director of Fish and Wildlife to collect, record and report commercial harvest, purchase or sale of locally harvested fish from, i.e., fish vendors, restaurants, hotels, commercial fishing vessels, etc.
- (8) “Department” means the Department of Lands and Natural Resources.
- (9) “Director” means the Director of Fish and Wildlife.
- (10) “Division” means the Division of Fish and Wildlife.
- (11) “Fish” means any aquatic or marine animal life.
- (12) “Individual” means any person engaged in commercial harvesting of fish in CNMI waters.
- (13) “Form” means approved form by Division for catch recording and reporting.

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(14) “License” means the authorization of an individual or business by the Division to commercially harvest, purchase or sale of marine life caught in CNMI waters.

(15) “Marine Life” means any species of marine animals or plants.

(16) “Secretary” means the Secretary of Lands and Natural Resources or his or her designee.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-025 Exemptions

These regulation do not apply to non-commercial harvest of fish resources.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-030 Penalties

Violation of the regulations in this subchapter shall be subject to penalty in accordance with 2 CMC § 5109.

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

Part 100 - General Procedures

§ 85-30.5-101 Licenses

(a) Licenses required.

(1) Licenses will be required for commercial harvesters and vendors that purchase and sale of* fish caught in the CNMI waters. Commercial harvesters and vendors will not be allowed to sell fish without a valid license.

(b) License fees.

(1) The annual license fee is \$25.

(2) Fees collected will be deposited into the Fish and Game Conservation Revolving Fund established pursuant to 2 CMC § 5107.

(c) Duration of license.

(1) A license shall be valid for one year from the date of issuance and must be renewed thereafter for as long as an individual continues to engage in the commercial harvesting of fish in CNMI waters.

(2) The Director may suspend, revoke, modify or cancel any license in addition to any other penalty provided under this act. The Director must notify the licensee in writing of the action and include the factual basis for the action. The notice shall inform the

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licensee that he has a right to contest the action and a right to a hearing. The notice shall provide the licensee with at least five days to request a hearing and/or contest the notice.

(d) Display of license.

(1) An individual or business to whom a license has been issued may not permit any other individual or business to carry, display, or use the license in any way.

(2) Every individual to whom a license has been issued shall carry the license upon his or her person when harvesting or selling fish, and show the license upon request of any conservation officer from the Division.

(e) License conditions.

(1) Any license, issued pursuant to the regulations in this subchapter, may include any conditions deemed necessary by the Division to further the functions delegated to the Division by law. To include the reporting of catch and sales of marine life.* Information on licenses will include type of license, name, date of birth, gender, height, weight, eye and hair color, village of residence, address, contact information, business license number, primary fishing method, and type(s) of gear used and expiration of the said license.

(f) Issuance of license.

(1) Any individual or business who will engage in commercial harvest of marine life in CNMI waters must apply for a commercial harvest license at the Division.

(2) Prior to the issuance of a license the applicant shall read and agree to the terms and conditions of the license.

(3) The Director reserves the right to refuse issuance of a license to any individual or business found to be in violation or noncompliance of any part of regulations under the Division. An individual or business whose application is denied may contest the denial by requesting a hearing within five days of notice of the denial.

* So in original.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-105 Data Reporting

(a) Recordation.

(1) The Division will develop a form which will include the following fields: Type of license activity, vendor name, business license number, address, phone number and contact person; fisherman name, license number and phone number; date and time; location of fishing; hours fished; number and gears used; fish species sold, discarded, fish counts and weights by species and price per pound; fish species not sold, counts, weights and reason fish was not sold.

(2) The Division will provide the hard copies or electronic forms to all commercial purchasers and harvesters at no cost.

(3) Commercial harvesters and purchasers should identify all fish harvested and

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purchased to the lowest taxonomic level as possible. Fish species/family, common name, local names will be acceptable, however, lumping groups of fish as “miscellaneous or assorted” reef fish or bottom fish is unacceptable. If recorded as “miscellaneous or assorted” penalties may be imposed.

(4) Commercial harvesters and purchasers shall record all fish whether sold or not sold.

(5) Commercial harvesters and purchasers are required to record and report to the Division all fish harvested and purchased regardless if other data collection programs are collecting similar data.

(6) The Division personnel will work with commercial harvesters and purchasers to establish fish identification and recording procedures.

(7) Any commercial purchaser is required to document each transaction on the required form to include but not limited* the license number of the commercial harvester, a signature to verify that the commercial harvester had sold the fish to the commercial purchaser.

(8) Commercial harvesters are required to fill out the Division forms when selling to non-commercial purchasers.

(9) All non DFW staff data collectors must be authorized by the Director through a special data collection permit. A non DFW staff data collector not authorized by the Director is not covered by this regulation.

(b) Reporting.

(1) The Division will visit all commercial purchasers at their place of business two times a month (1st, and the 15th) to pick up filled out forms.

(2) Commercial harvesters are required to drop off their forms every 1st and 15th of the month with a 3-day grace period at the Division data office or in the form drop off box.

(3) Commercial harvesters and purchasers must contact Division if problems arise with respect to reporting.

* So in original.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

§ 85-30.5-110 Prohibited Conduct

The following conduct is prohibited and subject to penalty:

(a) (1) Harvesting fish for commercial purposes without obtaining a valid license and or complying with mandatory reporting of catch harvested and sold;

(2) Selling fish without a valid license if required to obtain a license under this subchapter;

(3) Using a license known to be fictitious or fraudulent;

(4) Selling fish using a license known to have been cancelled, revoked, or suspended;

(5) Selling fish using a license belonging to another commercial harvester;

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(6) Obtaining a license using a false or fictitious name or address in any application for licenses.

(7) The penalty upon first conviction shall be a fine of twice the cost of the required license, or \$50 whichever is greater.

(8) The penalty upon second and subsequent convictions shall be a mandatory minimum fine of four times the cost of the required license, or \$100, whichever is greater.

(b) Failure to Have in Possession a Valid License.

(1) Any commercial harvesters and purchasers, who sells fish without having on his person or in his immediate possession a valid license, shall be guilty of an infraction.

(2) The penalty shall be a fine of \$25.

(c) Failure to Comply with Terms, Stipulations, Conditions, Requirements and/or Restrictions of License.

(1) Any person who fails to comply with any or all of the terms, stipulations, conditions, requirements, or restrictions of any license shall be guilty of a misdemeanor.

(d) Submission of False Information to the Division.

(1) Any person who knowingly and willfully submits false information to the Division for the purpose of obtaining a license shall be guilty of a misdemeanor.

(i) The penalty shall be a fine of \$1,000.

(2) Any person who knowingly and willfully submits false information, misleading information, or omits information required by law to be delivered to the Division shall be guilty of a misdemeanor.

(i) The penalty upon first conviction shall be a fine of \$1,000.

(ii) The penalty upon second and subsequent convictions shall be a maximum fine of \$2,000, with a mandatory minimum fine of \$250.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 41 Com. Reg. 42682 (July 28, 2019); Proposed 41 Com. Reg. 41339 (Feb. 28, 2019).

Commission Comment: This section was originally proposed as subsection “(c)” of § 85-30.5-105. Due to its discrete subject matter, the Commission codified it as its own section.