

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

CHAPTER 85-30
DIVISION OF FISH AND WILDLIFE

SUBCHAPTER 30.1

NON-COMMERCIAL FISH AND WILDLIFE REGULATIONS

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Subchapter Authority: 1 CMC § 2654; 2 CMC § 5104; 2 CMC §§ 5323(c) and 5324.

Subchapter History: Amdts Adopted 31 Com. Reg. 29532 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29358 (Mar. 26, 2009); Amdts Proposed 25 Com. Reg. 21511 (Dec. 15, 2003);** Amdts Proposed 25 Com. Reg. 21505 (Dec. 15, 2003);** Amdts Adopted 25 Com. Reg. 21445 (Oct. 15, 2003); Amdts Proposed 25 Com. Reg. 20850 (Aug. 22, 2003); Amdts Adopted 25 Com. Reg. 20069 (Feb. 28, 2003); Amdts Proposed 24 Com. Reg. 19593 (Oct. 30, 2002); Amdts Adopted 23 Com. Reg. 18266 (Aug. 16, 2001); Amdts Emergency and Proposed 23 Com. Reg. 17846 (Apr. 23, 2001) (effective for 120 days from Apr. 16, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17498 (Sept. 20, 2000) (effective for 120 days from Sept. 1, 2000); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Emergency and Proposed 17 Com. Reg. 13839 (Dec. 15, 1995) (effective Dec. 6, 1995);* Amdts Adopted 13 Com. Reg. 7663 (Mar. 15, 1991); Amdts Proposed 13 Com. Reg. 7533 (Jan. 15, 1991); Amdts Adopted 13 Com. Reg. 7553 (Jan. 15, 1991); Amdts Proposed 12 Com. Reg. 7159 (July 15, 1990); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 9 Com. Reg. 4848 (Jan. 19, 1987); Amdts Proposed 8 Com. Reg. 4837 (Dec. 16, 1986); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

*A notice of adoption for the December 1995 proposed amendments was never published.

**As of December 2004, notices of adoption for the December 2003 proposed amendments had not been 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 § 2653(b) empowers DLNR to protect wildlife resources including fish, game, and endangered species. 1

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CMC § 2654 authorizes the Department of Lands and Natural Resources to adopt rules and regulations in furtherance of its duties and responsibilities.

PL 2-51 (effective Oct. 19, 1981), the “Fish, Game and Endangered Species Act,” codified as amended at 2 CMC §§ 5101-5109, originally created the Division of Fish and Wildlife within the Department of Natural Resources. PL 10-57 amended that portion of PL 2-51 that created the Division as a part of the re-enactment of tit. 1, div. 2, ch. 13 of the Commonwealth Code. See 1 CMC § 2661 and the commission comment thereto. 1 CMC § 2661(c) assigns the Division the responsibility for the day-to-day administration and enforcement of the Fish, Game and Endangered Species Act, 2 CMC §§ 5101-5109. Pursuant to PL 2-51, the Division is given the power and duty to protect fish, game and endangered and threatened species in the Commonwealth and to issue regulations necessary to carry out the purposes of the act. See 2 CMC § 5104.

The Division of Fish and Wildlife first promulgated permanent “Fish and Game Regulations” in 1983 under the authority of PL 1-8 and PL 2-51. See 5 Com. Reg. 2412 (Aug. 31, 1983). The 1986 Fish and Game Regulations readopted and republished the previous regulations in their entirety with extensive changes. In 2000, the Division issued the “Non-commercial Fish and Wildlife Regulations” that are codified in this subchapter, as amended. The history prior to 2000 is provided in the section histories where applicable.

In May 2007, the CNMI Attorney General’s Office issued an opinion addressing the jurisdiction of the Department of Lands and Natural Resources Division of Fish and Wildlife “to enforce CNMI laws regulating fishing practices and equipment within the Commonwealth’s near shore waters.” 29 Com. Reg 26517 (May 16, 2007). Attorney General Opinion 07-01 regarding the CNMI’s rights over its submerged lands provides:

The CNMI has unimpeded jurisdiction over its internal waters and underlying submerged lands. The CNMI maintains traditional police powers in the three-mile wide territorial sea. The CNMI is entitled to additional rights in its territorial sea and exclusive economic zone, though the specific extent of those rights must be clarified by, and vested through, an act of Congress.

29 Com. Reg 26517 (May 16, 2007).

For the full text of Attorney General Opinion 07-01, see 29 Com. Reg 26517 (May 16, 2007).

Part 001 - General Provisions

§ 85-30.1-001 Authority

The Division of Fish and Wildlife of the Department of Lands and Natural Resources, reorganized under E.O. 94-3, was created by Commonwealth Public Law (PL) No. 2-51 on October 1981, to provide for the conservation of fish, game, and endangered species. Pursuant to 2 CMC §§ 5104(b)(7), 5104(c), the Secretary of the Department of Lands and Natural Resources (DLNR), CNMI, after consulting with the Director, Division of Fish & Wildlife, is authorized to issue regulations necessary to carry out the purposes of PL 2-51, and pursuant to 2 CMC §§ 5108, and 5109 to include:

- (a) Establishing seasons for hunting and fishing.
- (b) Specifying the type, size, and other characteristics or devices used for taking fish and game.

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- (c) Providing for the issuance of recreational fishing and hunting licenses and to impose fees for such licenses.
- (d) Providing bag, creel, and possession limits.
- (e) Setting any necessary geographic or appropriate limits on fishing or hunting.
- (f) Providing for the exemption of conservation officers and other persons from provisions of PL 2-51, when such exemption would be consistent with the overall purposes of PL 2-51.

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (f).

The 1990 amendments amended the opening paragraph. The 2000 amendments amended the opening paragraph and subsections (a) through (f). The Commission inserted commas after the words “size” in subsection (b) and “creel” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 85-30.1-005 Purpose

To establish clear, simple and uniform regulations governing the hunting, fishing, and conservation of fish and wildlife with respect to law as set forth in PL 2-51, §§ 5(a), (b) and (c).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

§ 85-30.1-010 Regulations Superseded

The regulations in this subchapter supersede all rules and regulations issued by the Department of Lands and Natural Resources in effect prior to the adoption of these regulations for non-commercial fish and wildlife activities.

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Modified, 1 CMC § 3806(d), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

§ 85-30.1-015 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(d).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

§ 85-30.1-020 Definitions

For purposes of the regulations in this subchapter, the following terms are defined in alphabetical order:

(a) “Act” means CNMI PL 2-51, “the Fish, Game and Endangered Species Act,” 2 CMC § 5101.

(b) “Aquarium fish” means any fish captured in CNMI waters with the intent or the subsequent use for decorative or display purposes.

(c) “Bag limit” means the maximum number of game animals that may be legally taken in one hunting day.

(d) “Beach seine/drag net” means

(1) Any seine (net) that is hauled or dragged over the bottom into shallow water or onto the beach, either by hand or with power winches, or

(2) Any seine (net) where one or more ends is attached to the beach and the remaining end is deployed into the water where the bottom and surface of the seine act as natural barriers which prevent the fish from escaping from the area enclosed by the net.

(e) “Captive wildlife” means wildlife that is confined, regularly tended and showing signs of ownership that is less than three generations from the feral stage.

(f) “CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(g) “CNMI” means the Commonwealth of the Northern Mariana Islands.

(h) “Commercial fishing or hunting” means fishing or hunting in which the fish or wildlife harvested, either in whole or in part, is intended to enter commerce or enter commerce through sale, barter or trade.

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- (i) “Conservation officer” means an employee of the Department of Lands and Natural Resources assigned to the Division of Fish and Wildlife whose primary duty is to enforce the provisions of PL 2-51 [2 CMC §§ 5101-5109], and the regulations issued under PL 2-51. Conservation officers are official CNMI law enforcement personnel. The Secretary, Department of Lands and Natural Resources and the Director, Division of Fish and Wildlife are conservation officers ex-officio under provisions of PL 2-51.
- (j) “Director” means the Director of the Division of Fish and Wildlife, Department of Lands and Natural Resources.
- (k) “Division” means the Division of Fish and Wildlife.
- (l) “Domesticated” means wildlife cultivated, confined, regularly tended, captive, or showing signs of ownership that is at least three generations from the feral stage.
- (m) “Electronic shocking device” means a device that maims, stuns, or kills fish or wildlife with an electric current.
- (n) “Endangered species” mean any species designated by the Director as being in imminent danger of extinction, and may include the designation of any portion of a listed species range as the critical habitat of such species.
- (o) “Enforcement section supervisor” means the conservation officer designated by the Director to supervise the conservation officer staff.
- (p) “Exotic” means all species not native to CNMI.
- (q) “Export” means to remove from any land or water area under the jurisdiction of the CNMI to any other place in the world.
- (r) “Feral” means not domesticated, cultivated, confined, regularly tended or showing signs of ownership such as: cattle, pig, goats, and deer.
- (s) “Firearm” means any barreled weapon from which any shot, bullet, or other missile can be discharged.
- (t) “Fish” means finfish, molluscs, crustaceans, and all other forms of aquatic animal and plant life other than mammals and birds.
- (u) “Fishing” or “to fish” means any activity which does, or is intended to, or can reasonably be expected to, result in catching, taking, or removing fish.
- (v) “Fish weir” means any trap placed in the water which is used to harvest fish.
- (w) “Flora” means all aquatic or terrestrial plants found in the CNMI.

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- (x) “Game animal” means any species of mammal, bird, reptile, or crustacean designed by law or regulation as a species that is subject to legal hunting. However, game animals may be subject to moratoriums placed on hunting.
- (y) “Gillnet” means any net made of any material that is designed to capture fish by entangling them through the gills.
- (z) “Hunting” or “to hunt” means to chase, pursue, worry, follow after or on the trail of, stalk or lie in wait for the purpose of taking animals, and includes molesting, trapping, attempting to trap or shooting at animals, whether or not the animal is then or subsequently captured, killed, or injured.
- (aa) “Import” means to land on, bring into, or attempt to land on, bring into, or introduce into any place under the jurisdiction of the CNMI.
- (bb) “Lobster” means only the spiny lobster of the genus *Panulirus*.
- (cc) “Marine invertebrates” means any marine animal lacking vertebrate, including, but not limited to, starfish, crabs, sea cucumbers, bivalves and gastropods and any part of such species whether alive or dead.
- (dd) “Northern Islands” means all islands and adjacent islands north of Saipan to include Farallon De Medinilla, Anatahan, Sarigan, Guguan, Alamagan, Pagan, Agrihan, Asuncion, Maug Islands and Uracas (Farallon De Pajaros).
- (ee) “Person” means any individual, corporation, society, organization, or other entity.
- (ff) “Plant” means any plant belonging to a species that is wild by nature or that is not easily distinguishable from such a species.
- (gg) “Poison” means any substance capable of stunning, harming or killing fish through biochemical or biophysical means, including but not limited to hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names such as Clorox and Purex and bleaching powders, preparations containing Rotenone, Tephrosin, or plant materials from *Barringtonia asiatica*, *Coculus ferrandianus*, *Hura drepitans*, *Piscidia erythrina*, *Derris* spp., *Tephrosia purpurea*, and *Wikstroemia* spp.
- (hh) “Protected species” includes all species of resident and migratory birds, mammals, reptiles, fish, and plants which have been designated as protected by the Director and which may not be hunted or harassed.
- (ii) “Public hunting area” means those public lands designated by the Division of Public Lands to be controlled or managed by the Division where the public may hunt game animals.

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(jj) “Resident” means a person, including an alien, who for the proceeding twelve consecutive months has maintained a permanent place of abode in the CNMI.

(kk) “Resident Director” means the supervisor of DLNR personnel on Tinian, Rota, and other islands in the CNMI with the exception of Saipan.

(ll) “Surround net” means any net made from non-monofilament materials that catches fish by herding them toward a collection area in the middle of the net and which is not designed to entangle fish in any way.

(mm) “Scoop net” means any net suspended from a frame and used by hand to retrieve fish.

(nn) “Season limit” means the maximum number of game animals that a hunter may legally take during an entire hunting season.

(oo) “Secretary” means the Secretary of the Department of Lands and Natural Resources, CNMI.

(pp) “Southern Islands” means all islands and adjacent islands south of Farallon de Medinilla to include Saipan, Bird Island, Forbidden Island, Managaha, Tinian, Aguijan, Naftan Rock, Rota, and Anjota Island.

(qq) “Subsistence fishing” means the taking of fishing for, or possession of fish, shellfish, or other fisheries resources by a resident for subsistence purposes, when no other reasonable means of providing sustenance is available.

(rr) “Subsistence hunting” means the taking of wildlife to provide sustenance for the taker and the taker’s family when no other reasonable means of providing sustenance is available. See § 85-30.1-320(b) for examples and clarification.

(ss) “Take” means to capture, attempt to capture, harvest, kill, attempt to kill, hunt, trap, spear, collect, fish, pursue, harm, harass, or in any manner disturb, or attempt to do the above activities.

(tt) “Threatened species” means any species designated by the Director as threatened with extinction, and may include the designation of any portion of a listed species range as the critical habitat of such species.

(uu) “Unprotected species” includes all species that are not designated as threatened, endangered, protected or game species.

(vv) “Vessel” means any structure designed for navigation in the water or air.

(ww) “Wildlife” means all species of (terrestrial) mammals, birds, reptiles, and amphibians that occur in the wild in the CNMI. In addition, terrestrial crustaceans, such

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as coconut crabs (*Birgus latro*), land crabs (*Cardisoma hirtipes* and *C. carnifex*) are classified as wildlife in the CNMI.

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

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended former subsections (a), (o) and (s). The 2000 regulations readopted and republished this section with numerous amendments and additions.

In subsection (e), the Commission inserted the final period. In subsection (s), the Commission changed the final semi-colon to a period.

In subsection (rr), the original cross-reference was to part 3 § 50.2, a section that does not exist. The Commission changed the cross reference to part 4 § 50.2, codified at 85-30.1-320(b). The Commission inserted commas after the words “captive” in subsection (l), “stuns” in subsection (m), “goats” in subsection (r), “bullet” in subsection (s), “taking” in subsection (u), “reptile” in subsection (x), “killed” in subsection (z), “organization” in subsection (ee), “Rota” in subsections (kk) and (pp), and “reptiles” in subsection (ww) pursuant to 1 CMC § 3806(g).

§ 85-30.1-025 Exemptions

Division staff and conservation officers shall be exempt from provisions of the Act and regulations issued under the Act when acting in the course of their official duties, provided those duties are consistent with the overall purposes of PL 2-51 [2 CMC §§ 5101-5109].

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

§ 85-30.1-030 Penalties

Violations of fish and wildlife regulations in this subchapter shall be penalized in accordance with PL 2-51 §10, 2 CMC § 5109, as amended.

Modified, 1 CMC § 3806(d), (f).

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History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Part 100 - Threatened and Endangered Species

§ 85-30.1-101 Locally Designated Threatened and Endangered Species

The Secretary, after consultation with the Director, may designate species or subspecies of fish, wildlife, and plants as threatened or endangered. This designation may include the designation of any portion of a listed species or subspecies range as the critical habitat of such species or subspecies. Table 1 contains a list of species that have been designated as threatened or endangered.

History: Amdts Adopted 31 Com. Reg. 29532 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29358 (Mar. 26, 2009).

Table 100-1 Common, Scientific, & Local Names for CNMI Threatened and Endangered Species

CNMI Name	Chamorro Name	Carolinian Name
Birds:		
Micronesian Megapode (<i>Megapodius laperouse laperouse</i>)	Sasangat	Sasangal
Common Moorhen (<i>Gallinula chloropus</i>) (<i>G.c. guami</i>) - Mariana Islands sub-species	Pulattat	Ghereel Bweel
Guam Swiftlet (<i>Aerodramus</i>)	Chachaguak	Leghekiyank
Mariana Crow (<i>Corvus kubaryi</i>)	Aga	Mwii
Nightingale Reed-Warbler (<i>Acrocephalus luscinia</i>)	Ga'ga' karisu	Malul ghariisu

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Rota Bridled White-eye (<i>Z.c. rotensis</i>)	Nosa	Littchogh
Mammals:		
Marianas Fruit Bat (<i>Pteropus mariannus</i>)	Fanihi	
Sheath-tailed Bat (<i>Emballonura semicaudata</i>)	Payesyes	
Reptiles:		
Green Sea Turtle (<i>Chelonia mydas</i>)	Haggan	
Hawsbill Turtle (<i>Eretmochelys imbricata</i>)	Haggan Karai	
Micronesian Gecko (<i>Perochirus ateles</i>)	Gaali'ek	Micronesian Gecko (<i>Perochirus ateles</i>)
Plants:		
Fire Tree (<i>Serianthes nelsonii</i>)	Trongkon guafi	
Cat's Tail or Disciplina (<i>Lycopodium phlegmaria var. longifolium</i>)		

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 31 Com. Reg. 29532 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29358 (Mar. 26, 2009); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

Commission Comment: The Department of Lands and Natural Resources first adopted a part 6 entitled "Threatened or Endangered Species" as an amendment to the 1986 Fish and Game Regulations. See 13 Com. Reg. 7663 (Mar. 15, 1991); 13 Com. Reg. 7533 (Jan. 15, 1991). The 2009 amendments removed the Tinian Monarch bird from this section.

§ 85-30.1-105 Regulations

The Secretary, in consultation with the Director, may develop regulations and procedures designed to protect and enhance populations of threatened or endangered species as provided in 2 CMC § 5108. A species or subspecies is considered threatened or endangered when the Secretary, in consultation with the Director, determines that its numbers have decreased to such an extent as to indicate that its continued existence is threatened.

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History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

§ 85-30.1-110 Prohibitions

A species or subspecies listed as threatened or endangered may not be harvested, captured, harassed or propagated except under the terms of a special permit issued by the Director for scientific purposes, or for propagation in captivity for the purpose of preservation. A person who, without a special permit issued in accordance with the regulations in this subchapter, harvests, injures, imports, exports, captures, or harasses a species or subspecies listed under this section, intentionally or not, is in violation of this subchapter and subject to the penalties established under 2 CMC § 5109.

Modified, 1 CMC § 3806(d).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

Commission Comment: The Commission corrected the spelling of “may” pursuant to 1 CMC § 3806(g). The Commission inserted a comma after the word “captures” pursuant to 1 CMC § 3806(g).

Part 200 - Licenses

§ 85-30.1-201 General Procedures

(a) License Required

(1) A person may not take regulated fish or game unless that person has been issued a license from the Division or any designated agent of the Division. Unprotected wildlife may be taken year-round without a hunting license. A license is required for the taking of any of the following fish and game:

- (i) Sambar deer (Binado) - *Cervus unicolor*
- (ii) Philippine Turtle-dove (Paluman apu) - *Streptopelia bitorquata*
- (iii) Precious corals - *Corallim* spp.
- (iv) Hermatypic and other hard corals, soft corals and stony hydrozoans
- (v) Land crab (Panglao tunas) - *Cardisoma hirtipes*
- (vi) (Panglao echung) - *Cardisoma carnifex* and other terrestrial crabs
- (vii) Coconut crab (Ayuyu) - *Birgus lataro*

(viii) Any species of fish or marine invertebrates taken by a method or for a purpose regulated by part 400 herein.

(2) Any species not listed above, and not designated as protected, threatened, or endangered, is considered unprotected wildlife and may be taken at any time without a license.

(3) Any person engaged in fishing or hunting, or having in his or her possession, fish or wildlife taken in the CNMI, shall upon request and being shown proper identification, allow a conservation officer to immediately inspect any fish or wildlife taken by or under control of the person and licenses, and permits, if any, or any articles or materials used in such fishing or hunting. Any person engaged in fishing or hunting, or having in his or her possession fish or wildlife taken in the CNMI, shall upon request and being shown proper

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identification, allow a Division biologist or technician to collect data and/or reports on fish or wildlife taken by or under the control of the person.

(b) Application and Issuance of Licenses

(1) Licenses for taking of fish and game listed in parts 200 and 300 herein shall be issued by the Division or any of its agents upon written application in a form prescribed by the Division, and upon payment of a fee as required by the regulations in this subchapter. Any false statement or information rendered in the application, issue or use of the license shall invalidate the license issued and subject the individual who made the false statement to punishment and penalty, or both, as prescribed in 2 CMC § 5109.

(2) A person who has resided in the CNMI for one year or longer may apply as a resident; all other persons must apply as non-resident. A person need not apply for a license in order to possess game taken by another person, but a “certificate of origin” letter signed by a valid license holder and verified by the Division, must accompany the game animal or parts thereof at all times. (See § 85-30.1-301).

(3) The Division may require the applicant to provide any of the following as proof of residency of twelve consecutive months:

(i) Any bill in the applicant’s name for services provided to applicant’s stated CNMI residence for one year, such as a CUC bill or telephone services bill addressed to the applicant at his or her CNMI address; or

(ii) Pay check stubs from applicant’s CNMI employer reflecting applicant’s one year residency in the CNMI; or

(iii) Any other documentation which satisfies the Division that applicant has resided within the CNMI for more than twelve consecutive months.

(4) A person shall not be issued a license if that person:

(i) Has been convicted of any violation of the regulations in this subchapter or any other law relating to the taking of any fish and game within the previous one year period;

(ii) Has failed to provide the information required to issue a license or has made false statements in his or her application;

(iii) Has not returned hunter report cards when required for the previous years, if the person has previously been issued a license number; or

(iv) Has not furnished for inspection a valid CNMI identification card allowing the possession of firearms, if the application is for a hunting license.

(c) Non-commercial License

	Resident	Non-Resident
(1) Sambar Deer	\$10 (lottery)	Not allowed
(2) Wild Goat/Pig/Cow	\$5	\$25
(3) Philippine Turtle-Doves	\$10	\$75
(4) Sea Crab	\$10	\$75
(5) Land Crab	\$10	\$75
(6) Coconut Crab	\$10	\$75
(7) Aquarium Fish	\$10	\$100
(8) Net		
0-50 feet	\$10	\$75
50-100 feet	\$25	\$100
(9) Scientific Research	\$10	\$10

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(d) Duration of License

(1) A license shall be valid from 0000 hour of January, or the date of issuance (whichever is later), until 2400 hour of December 31 of the same year. The license shall be valid to hunt only the species indicated on the license, only during the period covered by the license and authorized by the regulations in this subchapter, including each part of any “split” seasons.

(2) The Director may suspend, revoke, modify or cancel any license or permit issued in addition to any other penalty provided under the Act.

(e) Display of License

A person to whom a license has been issued as provided in subsection (a), may not permit any other person to carry, display or use the license in any way. Every person to whom a license has been issued shall carry the license upon his or her person when fishing or hunting,, and shall show the license upon demand of any officer authorized to enforce the fish and game laws of the CNMI.

(f) License Conditions

Any license, or permit 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.

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

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The original paragraphs of subsections (a) and (d) were not designated. The Commission designated subsections (a)(1) through (a)(3) and (d)(1) and (d)(2).

The 1990 amendments added new subsections (a)(2) and (b)(4)(iii) and amended former subsections (a), (b)(1), (b)(2), (c), (d)(1) and (f). The 2000 regulations added new subsections (a)(2), (b)(3) and (f), deleted former subsection (e), re-designated accordingly and amended subsections (a)(1), (a)(3), (b)(1), (b)(2), (b)(4)(i) through (iv), (c), (d)(1), (d)(2) and (e). The Commission inserted a comma after the word “threatened” in subsection (a)(2) pursuant to 1 CMC § 3806 (g).

§ 85-30.1-205 Scientific Research License

(a) Purpose

The purpose of the scientific research license is to gain access to research data, acquired in the CNMI, for use in resource management.

(b) Persons Requiring License

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(1) A person conducting research on wild or feral animals in the CNMI, or on captive populations of such animals, which involves the capture, handling, collection, or harassment of fish or wildlife, must have a scientific research license unless excepted by this section.

(2) Research conducted by a team requires that only the team leader(s) have a license if:

- (i) The team leader is always present during field studies.
- (ii) All other members of the team are under the team leader's direct supervision.

(c) Issuance of License

(1) Upon applying for the license, the applicant must provide a written statement including names and addresses (permanent and CNMI) of all the team members, description of research plan, approximate duration of the research, and any anticipated support (transportation, equipment, personnel participation, etc.) that might be requested from the CNMI government, and fee of \$10.

(2) Prior to issuing the license, the Director shall analyze the benefit of the particular research to the CNMI and determine whether it exceeds any potential harm to the resource involved.

(3) The license may be issued only upon agreement by the license holder that a complete report on the results of the research (including data collected) will be submitted to the Division within one year from date of license issuance. The license may be conditioned by the Director to fulfill the obligations of the Division and the regulations in this subchapter.

(d) Exemption from Regulations

The Director may exempt license holders from specific requirements of this section provided that the Director specify the extent and duration of the exemption in writing and that this information accompany the license holder at all times that licenses activities are being undertaken.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended subsection (b)(1). The 2000 regulations amended subsections (a), (b)(1), (b)(2), (c)(1), (c)(3) and (d). The Commission inserted a comma after the word "collection" in subsection (b)(1) pursuant to 1 CMC § 3806(g).

§ 85-30.1-210 Export License

(a) Persons Requiring License

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Any person who removes any fish or wildlife from the jurisdiction of CNMI for export must obtain an export license.

(b) Issuance of License

(1) Upon application for an export license, the Director shall determine the extent of the proposed commercial export activity and its anticipated impact upon the natural resources of the CNMI.

(2) Based upon such determination, the Director may issue a license contingent upon specific terms and conditions. Such specific terms shall include any limit necessary for the protection of fish and game on the number, size, reproductive state and geographic location of the species covered by the license.

(c) Record Keeping

(1) A person granted an export license shall be required to submit records to the Division at the end of the year and to maintain the following records which must be presented upon renewal of the export license:

(i) Form of wildlife or fish such as: dead, cooked, frozen, live, rawhides, garments, etc.;

(ii) Number of items;

(iii) Weight;

(iv) Common and scientific names;

(v) Exact place of origin;

(vi) Date and place of export;

(vii) Date of subsequent disposition or sale;

(viii) Manner of disposition such as: sale, trade, consumed, etc.

(2) The licensee shall permit conservation officers and Division biologist and/or technicians to examine and copy these records during regular working hours upon request by the conservation officer or Division biologist and/or technicians.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 2000 regulations amended subsections (a) through (c). The Commission inserted semicolons at the ends of subsections (c)(1)(i) through (c)(1)(vii) pursuant to 1 CMC § 3806(g).

Part 300 - Hunting Regulations

§ 85-30.1-301 General Regulations

(a) Legal Hunting Hours

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Legal hunting hours for game animals shall be from one-half hour before sunrise to one-half hour after sunset, and only during the designated hunting season. Coconut crabs may be hunted during any time of day or night during the designated hunting season.

(b) Hunting License Required

A person may take a game animal only if that person has been issued a hunting license authorizing the taking of that species of game animal. Hunting licenses may be obtained from the local office of the Division of Fish and Wildlife, or from an authorized agent.

(c) License or "Certificate of Origin" Letter to Be in Possession

A person must carry a valid CNMI hunting license while hunting. Any person in possession of a game animal, mounted specimen, antlers, skin, meat, or any part of the animal must have a valid CNMI hunting license or a certificate of origin. A certificate of origin is a letter or statement signed by the valid CNMI license holder who killed the animal and which is certified by the Director, Resident Director or Enforcement Section Supervisor. The certificate of origin must state:

- (1) Species and sex of animal;
- (2) Date killed;
- (3) Hunting license number and date issued;
- (4) Person to whom given;
- (5) Animal part and amount given, and be attached to the animal or animal part where it can be readily seen by the conservation officer or others.

(d) Inspection of License and Hunter's Bag

Upon request, every person engaged in hunting or transporting a game animal or parts thereof must surrender for inspection his or her license or "certificate of origin" letter and all game in his/her possession to any conservation officer or other CNMI officer authorized to inspect under CNMI laws.

(e) Legal Hunting Age

The legal hunting age for CNMI is sixteen years of age or older. Only persons who may legally possess firearms, bows, or crossbows may hunt game with firearms, bows, or crossbows. A valid gun registration number is required on the license of all hunters who intend to use firearms to take wildlife. Individuals sixteen years of age or under may be issued hunting licenses for species that may be legally taken without the use of firearms or bows. Hunting licenses for persons under the age of eighteen years may be conditioned on successful completion of Department sponsored or sanctioned rifle or bow training programs.

(f) Hunter Report Cards

Every person issued a hunting license will also be issued a hunter report card. Hunters must provide all information required on the report card. Completed hunter report cards must be turned in to the Division within ten days after the close of the season. Every person who is issued a license to hunt deer will also be issued a registered deer tag. If the hunter kills a deer, he or she must immediately attach the deer tag to the carcass in the manner prescribed on the tag instructions. After gutting the deer, the hunter must

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immediately bring the deer to the DFW designated deer check station and allow check station staff to weigh and inspect the deer, and to record the tag number. Possession of an untagged or unregistered deer is prohibited. Any hunter who brings any part of that deer to another CNMI island must obtain a certificate of origin from the check station staff, the Director, or the Resident Director, or the Enforcement Section Supervisor. The hunter must present the certificate of origin to custom or quarantine officials upon entering another CNMI island.

(g) Prohibited Activities

The following activities are prohibited. It is illegal for a person to:

- (1) Hunt while under the influence of alcohol or a narcotic or other disabling drug.
- (2) Take wildlife while riding or on any motorized vehicle including automobiles, motorized bikes, motor powered boats, helicopters, or airplanes.
- (3) Take or pursue wildlife while riding on an animal.
- (4) Use fire or artificial light as an aid in taking wildlife, except that artificial light may be used to hunt coconut and land crabs during the specified season.
- (5) Discharge a gun, bow and arrow, or cross bow in an attempt, to take a game animal within a village or within two hundred meters of a human dwelling. It is likewise illegal to discharge such weapons across a public road, or within twenty-five meters of a road.
- (6) Use dogs to hunt anything except game birds.
- (7) Sell or barter game animals or game animal products with the exception of feral goats, feral pigs, or feral cows.
- (8) Possess any game animal, mounted specimen, antlers, skin, meat, or any part thereof without having a hunting license valid at the time of kill or a "certificate of origin" letter, as defined in § 85-30.1-201(c).
- (9) Hunt, kill, or possess any threatened, endangered, or protected species, or any part thereof, without a valid scientific permit.
- (10) Start a fire in a designated wildlife area or wildlife sanctuary.
- (11) Hunt while on official CNMI government travel unless specifically authorized in writing by the Secretary prior to travel.
- (12) Discharge any weapon within five hundred meters of a known, occupied bat roost. This will be enforced even in the event of a bat season being opened.
- (13) Hunt in closed areas.

(h) Hunting Areas and Access

Hunting may only be conducted on public lands designated by the Director or on private lands with permission from the landowner.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 9 Com. Reg. 4848 (Jan. 19, 1987); Amdts Proposed 8 Com. Reg. 4837 (Dec. 16, 1986); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982)

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(effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1987 amendments added subsection (c)(5) and amended subsection (g)(7). The 1990 amendments amended subsections (c) and (c)(4), (e) and (g), and added subsections (g)(9) and (10). The 2002 regulations amended subsections (a) through (f), (g)(5), (g)(7), (g)(9) and (g)(8), and added subsections (g)(11) through (g)(13). The Commission inserted commas after the words “meat” in subsection (c), “bows” in subsection (e), “helicopters” in subsection (g)(2), “pigs” in subsection (g)(7), “meat” in subsection (g)(8), and “kill” in subsection (g)(9) pursuant to 1 CMC § 3806(g).

§ 85-30.1-305 Hunting Seasons, Harvest Limits for and Transportation of Game Animals

(a) **Hunting Seasons and Harvest Limits**

The species of wildlife listed in table 300-1 are game animals in the CNMI and may be legally hunted during their respective hunting seasons. The hunting season ends at midnight on the last day of the season. Individual hunters must be in possession of a valid hunting license for each game species to be taken and must abide by the respective bag limit, season limit and the season. Consult table 300-1 for information on hunting seasons and harvest limits.

(b) **Transportation of Game Animals**

(1) Transportation between islands within the Commonwealth of the game animals, or any parts thereof, after the end of the season is prohibited. However, if the person transporting the game animals, or any parts thereof, has a certificate of origin for the game animals that is signed by either the Director of DFW or the Resident Director or the Enforcement Supervisor, as stipulated in § 85-30.1-301(c), then the game animals, or any parts thereof, may be transported between islands of the Commonwealth.

(2) The certificate of origin authenticates that the game animal or parts thereof was legally caught during the hunting season. It is not intended to extend the hunting season or increase harvest limits. Therefore, transportation between the islands of the CNMI of game animals, or parts thereof, with a certificate of origin will be allowed for a period of up to fifteen days after the end of the season for that particular game animal.

Table 300-1 CNMI Game Species

Game Animals	Bag Limit (Total/CNMI)	Season Limit (Total/CNMI)	Season
Sambar Deer (Rota only)	1	1	9/1 - 11/30
Wild Goat/ Pig/Cow	No Limit	No Limit	Open all year
Philippine	5	20	4/15 - 5/31

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Turtle-dove	10	20	10/1 - 11/30
Coconut Crab	5	10	9/15 - 11/15
Land Crab	No Limit	No Limit	4/1 - 6/30 and 10/1 - 12/31

Note: Unprotected wildlife may be taken year round without a hunting license.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 25 Com. Reg. 21445 (Oct. 15, 2003); Amdts Proposed 25 Com. Reg. 20850 (Aug. 22, 2003); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 9 Com. Reg. 4848 (Jan. 19, 1987); Amdts Proposed 8 Com. Reg. 4837 (Dec. 16, 1986); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The original paragraphs of subsection (b) were not designated. The Commission designated subsections (b)(1) and (b)(2). The Commission substituted section numbers pursuant to 1 CMC § 3806(d).

The 1987 amendments amended the first row of table 300-1. The 1990 amendments amended the opening paragraph and table 2. The 2000 regulations re-designated and amended table 300-1.

The 2003 amendments amended the opening paragraph of subsection (a) and added a new subsection (b). The notice of adoption for the 2003 amendments changed the proposed language of this section. See 25 Com. Reg. at 21446 (Oct. 15, 2003).

§ 85-30.1-310 Special Regulations for Particular Species

(a) Deer

(1) Only antlered, male deer may be taken. Visible evidence of the sex of the deer must accompany the carcass while in the field and during transportation to the check station and the hunter's residence.

(2) Before the beginning of the hunting season, the Director will determine the number of deer licenses that will be made available for that season. The Division will announce a period during which people may register for deer hunting licenses. Licenses for deer hunting will be allocated based on a random drawing from among those people who have registered. A new registration file will be created each year.

(b) Coconut Crabs

(1) A coconut crab which measures less than three inches wide across the back may not be taken at any time.

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- (2) A female crab, regardless of size, may not be taken when it is carrying eggs beneath the abdomen (berried).
- (3) The only legal means of taking coconut crabs is by hand.
- (4) The sale of coconut crabs captured in the CNMI is strictly prohibited.
- (5) The preserving or mounting of coconut crabs for display purposes or the sale of such crabs within the CNMI is strictly prohibited.

(c) Bird Eggs

The taking of eggs from any species of land or sea bird is prohibited unless a special permit is issued by the Director. Any special permit is subject to the conditions on that permit as specified by the Director.

(d) Other Species of Birds, Reptiles, Mammals and Plants

Hunting for any species listed in table 300-2 is prohibited.

Table 300-2: List of Protected Wildlife and Plant Species in the CNMI

Protected Wildlife	Order, Family, Species	Common Names
Seabirds (including, but not exclusive to:)	Order Procellariiformes	
	-Family <i>Diomedidae</i>	Albatrosses
	- <i>Phaethon lepturus</i>	White-tailed Tropicbird
	- <i>Sula leucogaster</i>	Brown Booby
	- <i>Sula sula</i>	Red-footed Booby
	- <i>Sula dactylatra</i>	Masked Booby
Long-legged, long-necked Waders	Order Ciconiiformes	
	- <i>Egretta sacra</i>	Pacific Reef-Heron
	- <i>Bubulcus ibis</i>	Cattle Egret
Waterbirds	Family Rallidae	
	- <i>Rallus owstoni</i>	Guam rail
	- <i>Gallinula chloropus</i>	Mariana Common Moorhen
Shorebirds	Order Charadriiformes	
	- <i>Anous minutus</i>	Black Noddy
	- <i>Anous stolidus</i>	Brown Noddy
Native Forest Birds	<i>Megapodius laperouse</i>	Micronesian Megapode
	<i>Gallinula xanthonura</i>	White-throated Ground-Dove
	<i>Ptilinopus roseicapilla</i>	Mariana Fruit-Dove
	<i>Aerodramus vanikorensis</i>	Island (Gray) Swiftlet
	<i>Corvus kubaryi</i>	Mariana Crow
	<i>Monarcha takatsukasae</i>	Tinian Monarch
	<i>Rhipidura rufifrons</i>	Rufous Fantail
	<i>Acrocephalus luscini</i>	Nightingale Reed-warbler
	<i>Aplonis opaca</i>	Micronesian Starling
		Rota Bridled White-eye*
	Golden White-eye	
Reptiles	<i>Chelonia mydas</i>	Green Sea Turtle (Haggan)

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Protected Wildlife	Order, Family, Species	Common Names
	<i>Eretmochelys imbricate</i>	Hawksbill Turtle (Haggan Karai)
	<i>Perochirus ateles</i>	Micronesian Gecko (uali'ek)
Marine Mammals	Cetaceans	Whales and Porpoises
Plants	<i>Serianthes nelsonii</i>	Fire tree (Trongkon guafi, Hayun lago)
	<i>Lycopodium phelgmaria</i>	cat's tail or discipina fern
	<i>Osmoxylon mariannense</i>	(no common name)
	<i>Tabernaemontant rotensis</i>	(no common name)

* So in original. No scientific name is provided for the Rota Bridled White-eye.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986);

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2).

The 1990 amendments deleted former subsections (b)(4) and (c). The 2000 regulations added new subsections (a)(2), (c) and (d), and amended subsections (a)(1) and (b)(4).

§ 85-30.1-315 Authorized Means of Taking Game Species

(a) Only firearms meeting current CNMI caliber/gauge and registration requirements and bows of forty pound draw or more may be used to harvest game animals with the exception of live captures as otherwise provided herein for specific species.

(b) If bows and arrows are used to hunt deer, goats, or pigs, the arrows must be fitted with arrow-heads that are at least seven-eighths inch across at the widest point and have no fewer than two cutting edges.

(c) Unless authorized under this section, firearms, devices, nets, explosives, traps, snares, chemicals, etc. may not be used to take game animals. However, wild goats, pigs, or cows may be captured alive in nets, traps, and leg hold snares.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986);

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Commission Comment: The 1990 amendments amended subsection (a). The 2000 regulations amended subsection (a). The Commission inserted commas after the words “goats” in subsection (b) and “pigs” and “traps” in subsection (c) pursuant to 1 CMC § 3806(g).

§ 85-30.1-320 Moratoriums and Subsistence Hunting

(a) Moratorium on Hunting

(1) The Secretary, after consultation with the Director, may suspend the legal hunting of any or all wildlife species if the Director finds:

(i) Wildlife populations have declined in numbers such that they cannot support hunting; or,

(ii) Hunting presents a threat to human safety; or,

(iii) Circumstances prevent reasonable compliance with or enforcement of hunting regulations.

(2) All moratoria must be announced through public media at least fourteen days prior to the effective date. A moratorium on hunting will remain in effect until the Secretary, in consultation with the Director, determines that hunting is again warranted.

(b) Subsistence Hunting

The Secretary, after consultation with the Director, may in certain cases make exemptions in the seasons, harvests, and regulations for individuals engaged in subsistence hunting, provided however that no exemption to the regulations will be made in the case of threatened or endangered species. Examples of valid subsistence hunters include permanent residents living on the remote northern islands north of Saipan. Wildlife taken under subsistence conditions must be utilized as a personal food source and not sold or traded. Permanent residents of the northern islands may legally offer game species taken as subsistence to legitimate off-island guests during mealtime. Such game must be consumed by the guest on the permanent resident's premises and may not be transported off island. Off island residents may not legally take game in the northern islands except in accordance with normal season and license provisions. Permanent resident is defined by 1 CMC § 6201, or amending legislation.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended subsection (b). The 2002 regulations amended subsections (a)(1), (a)(2) and (b).

On April 15, 1988, the Department suspended the legal hunting of sambar deer anywhere in the Commonwealth during the spring season from May 1st until May 31st pursuant to the authority of subsection (a) of this section. See 10 Com. Reg. 5535 (Apr. 15, 1988). The Commission inserted a comma after the word “harvests” in subsection (b) pursuant to 1 CMC § 3806(g).

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§ 85-30.1-325 Special Hunting Permits

(a) The Secretary, after consultation with the Director, may authorize special hunting or fishing permits only for the following reasons:

(1) To prevent wildlife from causing significant economic damage. Example: Special hunting permits to control wildlife depredation of agricultural crops.

(2) To mitigate any adverse impact that wildlife may have on the environment. Example: Special hunting permits for the reduction of feral animals to prevent damage to wildlife habitat caused by over grazing or over browsing.

(3) To avert any danger or safety hazard to humans or domestic animals. Example: Special hunting permits to eliminate diseased or dangerous wildlife that pose a threat to humans or livestock.

(b) Each request for a special hunting permit must be investigated and evidence supporting the request must be gathered by the Division before a permit can be issued. Personnel from the Department of Public Safety and the Division of Plant Industry shall supply, upon request, written justification for special hunting permits.

(c) Wildlife control actions may be carried out by Division personnel, without a special permit.

(d) Special permits will be issued free of charge by the Director for a specified period of time. A full report including the measures taken, personnel involved and the number, and kind of wildlife killed or captured, must be submitted within thirty days following the expiration of the special hunting permit. Compliance with reporting requirements will be a significant consideration in future renewal or extension of special permits.

Modified, 1 CMC § 3806(e).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended subsection (d). The 2000 regulations amended subsections (a), (b) and (d).

§ 85-30.1-330 Wildlife Conservation Areas

(a) The Director may acquire and designate land and/or aquatic habitats or easements as wildlife sanctuaries in accordance with 2 CMC § 5104(a)(5). Wildlife sanctuaries are created to protect important wildlife populations and their habitat.

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(b) The islands of Guguan, Uracus, Maug and Asuncion are designated as wildlife conservation areas in accordance with 2 CMC § 5104(a)(5) and article XIV(2) of the CNMI Constitution. Landing on these islands is prohibited without prior approval from the Director, except in the case of actual emergency.

(c) The following wildlife conservation areas have been established on Saipan and Rota under the management of the Department:

- (1) Saipan: Kagman Wildlife Conservation Area
Bird Island Wildlife Conservation Area
Saipan Upland Mitigation Bank (northern portion of the Marpi Forest)
- (2) Rota: I Chenchon Bird Sanctuary
Sabana Protected Area
Liyo Conservation Area

(d) General Prohibitions

Except as provided for in subsection (e) below, no person shall, in any wildlife conservation area,

- (1) Hunt or fish,
- (2) Be in possession of any firearm, slingshot, bow and arrow, shot or any instrument that could be used for the purpose of hunting,
- (3) Have in his possession any animal, carcass, nest, egg, or a part of any of those things,
- (4) Damage, destroy, or remove a plant except those plants used for traditional medical purposes,
- (5) Carry on any agricultural activity, graze livestock or harvest any natural or cultivated crop,
- (6) Allow any domestic animal to rum at large,
- (7) Camp or light or maintain a fire,
- (8) Operate a conveyance,
- (9) Destroy or molest animals or carcasses, nests, or eggs thereof,
- (10) Remove, deface, damage, or destroy any artifact, natural object, building, fence, poster, sign, or other structure,
- (11) Carry on any commercial or industrial activity,
- (12) Disturb or remove any soil, sand, gravel, or other material, or
- (13) Dump or deposit any rubbish, waste material or substance that would degrade or alter the quality of the environment.

(e) Permits

(1) The Director may, on application, issue a permit to any person authorizing that person to carry on an activity described in subsection (d) in any wildlife conservation area where that activity will not interfere with the conservation of wildlife. A persons* to whom a permit has been issued shall:

- (i) Have the permit in his/her possession at all times while in the wildlife area; and
- (ii) Show the permit to any conservation officer immediately on request.

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(2) Every permit expires on the expiry date set out in the permit or, where a permit does not contain an expiry date, on December 31st of the year in which it was issued. The Director may cancel or suspend a permit where it is necessary to do so for the conservation of wildlife or wildlife habitat in a wildlife area.

(f) Where the Director has published a notice in a local newspaper or posted a notice at the entrance of any wildlife area or on the boundary of any part thereof prohibiting entry to any wildlife area or part thereof, no person shall enter the area or part thereof set out in the notice.

* So in original.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986);

Commission Comment: The original paragraphs of subsections (c) and (e) were not designated. The Commission designated subsections (c)(1) and (c)(2) and (e)(1) and (e)(2).

The 1990 amendments amended subsections (a) and (b). The 2000 regulations amended subsections (a) and (b) and added subsections (c) through (f).

The Commission inserted commas after the words “egg” in subsection (d)(3), “destroy” in subsection (d)(4), “nests” in subsection (d)(9), “damage” and “sign” in subsection (d)(10), and “gravel” in subsection (d)(12) pursuant to 1 CMC § 3806(g).

§ 85-30.1-335 Non-commercial Status of Wildlife

(a) All wildlife in the CNMI is held in public trust by the CNMI government. Game and non-game animals belong to the citizens of the CNMI.

(b) With the exception of feral goats and feral pigs, it is illegal to sell or barter wildlife which is alive or dead or parts thereof including meat, antlers, mounted specimens, skins, or hides.

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986);

Commission Comment: The 2002 regulations amended subsections (a) and (b).

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

§ 85-30.1-340 Captive/Domesticated Wildlife

(a) Possession of wildlife listed as threatened, endangered, or protected under part 100 and § 85-30.1-310(d) of this subchapter is prohibited except in cases where the

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wildlife was being kept prior to designation of the species as threatened, endangered, or protected, and where a permit for possession has been issued by the Director.

(b) The possession of captive local wildlife or domesticated wildlife without a specific permit issued by the Division is prohibited. The Division is prohibited from issuing permits for certain species of wildlife that are regulated under federal law and appear on the U.S. List of Threatened and Endangered Species or in the Migratory Bird Treaty Act.

(c) Within the CNMI, it is illegal to keep any of the species listed in table 300-2 without a permit issued by the Director.

(d) Permits to keep captive wildlife or domesticated wildlife and all progeny from captive wildlife must be applied for annually and will be issued only for species that can be easily and successfully kept in captivity. The Division is authorized to inspect all domesticated and captive wildlife and all progeny at any time in order to insure proper and humane treatment. Permits will be renewed upon evaluation of the captive animal enclosure, subject to reasonable and necessary permit conditions, including the right to inspect such enclosures by conservation officers at any reasonable time. The Division maintains the right to mark captive wildlife/ domesticated and all progeny with a numbered tag if deemed necessary. All tags must remain on the original animal. The sale of captive wildlife and domesticated wildlife is strictly prohibited except by permit and as allowed in subsection (f) below.

(e) Captive wildlife permit holders are required to submit a report to the DFW at the time of permit renewal. This report should include the following information:

- (1) Number of animals being kept, the DFW tag number for each animal (if applicable), and the sex of each animal
- (2) Name and address of the permit holder.

(f) Sambar Deer: All captive or domesticated deer and all progeny must be marked with a numbered tag issued by the Division. Captive or domesticated deer may be sold or may transfer ownership provided that the deer has been tagged with a numbered tag issued by the Division prior to sale or transfer, and that the following information on the sale or transfer is provided to the Division within ten days of sale or transfer:

- (1) Tag number
- (2) Sex
- (3) Name and address of the person to whom the deer was sold or transferred
- (4) Date of sale/transfer.

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

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective

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for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 2002 regulations added new subsections (a), (e) and (f), re-designated the remaining subsections accordingly and amended subsections (b), (c) and (d).

In subsections (e)(2) and (f)(4), the Commission inserted the final periods. The Commission substituted section numbers pursuant to 1 CMC § 3806(d).

PL 17-23 (effective October 19, 2010), codified at 2 CMC §§ 5801-5804, establishes procedures on and requirements of the domestication or the raising of Sambar Deer in captivity. The provisions of PL 17-23 supersede subsection (f) to the extent that they conflict.

§ 85-30.1-345 Destruction of Feral Animals

The Director, after consultation with the Secretary, shall have the authority to direct Division staff to destroy feral animals such as: cattle, pigs, goats, deer, dogs, and cats which are damaging threatened or endangered species or habitat essential for the survival of endangered and threatened species or of species of significant value for sport, recreational, subsistence, commercial, or cultural purposes. The Division will not reimburse anyone for destroying cattle, pigs, goats, deer, dogs, and cats that are causing damage to the environment.

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

Commission Comment: The Commission inserted commas after the words “dogs” and “commercial” pursuant to 1 CMC § 3806(g).

§ 85-30.1-350 Random Selection of Hunters

The Secretary, after consultation with the Director, shall have the authority to limit the number of hunters by selecting among eligible hunters through a random selection method. The selection procedure shall include the following criteria:

- (a) The abundance of game species and population estimates;
- (b) Equitable distribution of the harvest;
- (c) Public safety;
- (d) The requirements of private landowners who permit public hunting through agreement with the Department.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983);

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Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended the opening paragraph. The 2002 regulations amended the opening paragraph.

The 2002 regulations deleted former § 11, entitled “Locally Designated Threatened and Endangered Species.” See 8 Com. Reg. 4623 (Sept. 15, 1986); 12 Com. Reg. at 7373 (Sept. 15, 1990).

§ 85-30.1-355 Northern Islands

(a) All vessels, including CNMI government vessels, traveling from any port to the Northern Islands must:

- (1) Notify the Division prior to departure;
- (2) Allow the Division to inspect the vessel prior to departure if anyone on the vessel is traveling to the Northern Islands for purposes of hunting;
- (3) Return to CNMI for inspection by the Division at a CNMI port in Saipan, Tinian, or Rota;
- (4) Notify the Division of Fish and Wildlife upon docking or landing at a CNMI port, if during normal business hours; otherwise, all vessels must contact the Division by radio or other form of communication before arrival to ensure inspection of the vessel upon arrival; and,
- (5) Be inspected by the Division to determine whether the vessel is transporting any fish, game or wildlife.

(b) The captain and the owner of the vessel shall be responsible for compliance with this section.

(c) Failure to comply with any requirements of § 85-30.1-305 will be deemed a violation.

(d) Bag limits as promulgated in § 85-30.1-305 shall be in effect for the Northern Islands.

(e) Season limit as promulgated in § 85-30.1-305 shall be in effect for the Northern Islands.

(f) Taking or hunting of any animals or plants on Uracas, Guguan, Asuncion, Sarigan, and Maug is prohibited unless specifically authorized in a scientific research permit issued by the Director.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983);

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Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 regulations deleted and replaced this section in its entirety with numerous amendments. The 2000 amendments amended subsections (a), (b), (d), (e) and (f).

The Commission inserted commas after the words "Tinian" in subsection (a)(3) and "Sarigan" in subsection (f) pursuant to 1 CMC § 3806(g).

Part 400 - Fishing Regulations

§ 85-30.1-401 Use of Explosives, Chemicals, Poisons, Electric Shocking Devices, Scuba or Hookah, Certain Nets, and Disturbance of Habitat

(a) Prohibitions: The use of explosives, poisons, electric shocking devices, SCUBA or hookah and use of certain nets as identified in subsection (a)(2), is prohibited in the taking of any fish.

(1) No person shall use explosives, poisons, electronic shocking devices, SCUBA, or hookah while fishing.

(2) No person shall use drag nets/beach seines (Chenchulun and lagua), trap net (Chenchulun managam), surround net (Chenchulun Umesugon) or gill nets (Tekken) for taking of fish or other sea life.

(3) No person shall possess, sell, or purchase any fish, game, marine, or other aquatic life taken by means prohibited in this section.

(4) Use of any of these nets or devices will result in the net or devices being confiscated and the owners will be subject to penalties (fines and/or imprisonment) as stated in 2 CMC § 5109 (PL 2-51).

(b) The use of any fishing gear in a manner that is substantially destructive to benthic substrate is prohibited.

(c) Exceptions: The use of explosives, poisons, electronic shocking devices, SCUBA, or hookah is allowed where used by a Division employee where such use is authorized by the Director or where used pursuant to a scientific collection permit which specifically allows for such use.

(d) Disruption of Habitat: Disturbance of coral, dead or alive, is prohibited under any circumstances except under emergencies or by persons exempt under § 85-30.1-410.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Proposed 25 Com. Reg. 21505 (Dec. 15, 2003); Amdts Adopted 25 Com. Reg. 20069 (Feb. 28, 2003); Amdts Proposed 24 Com. Reg. 19593 (Oct. 30, 2002); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983);

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Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982);
Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended subsections (a) and (b). The 2002 regulations amended subsection (a), deleted former subsection (b) and added new subsections (b) through (d). The 2003 amendments added subsections (a)(2) and (a)(4), re-designated former (a)(2) as (a)(3) and amended the opening paragraph of subsection (a).

The 2002 regulations deleted former § 1, entitled “General Regulations.” See 8 Com. Reg. at 4625 (Sept. 15, 1986); 12 Com. Reg. at 7375 (Sept. 15, 1990).

The Commission inserted commas after the words “SCUBA” in subsections (a)(1) and (c) and “sell” in subsection (a)(3) pursuant to 1 CMC § 3806(g).

As of December 2004, a notice of adoption for the December 2003 proposed amendments had not been published.

PL 17-13 (effective August 24, 2010), amends Section 3 of PL 12-14, so that regulations do not restrict persons to engage in non-commercial net-fishing in Rota’s surrounding waters for personal or immediate family consumption. To the extent that these regulations conflict with PL 17-13, they are superseded.

§ 85-30.1-405 Use of Certain Nets for Fishing

(a) Nets Allowed: Casting nets (Talaya) are allowed. Scoop nets/landing nets (for landing fish) with a diameter of up to two feet or total square footage of up to four square feet are allowed.

(b) License Required: A license shall be required for fishing with the use of a casting net (Talaya) net. One fee must be paid for each casting net to be used in fishing.

(c) Registration of Nets: Upon licensing of nets, the nets shall be marked by the Division with a registration tag, which will reflect the license number. The license holder shall notify the Division immediately if the registration tag becomes detached from the net.

(d) Abandoned Nets: Abandonment of nets within the waters or coastal zone of the CNMI is prohibited. Nets that are found unattended in the water or within 150 feet of the high water mark on any public beach will be considered abandoned. Permit holders of nets found abandoned may be subject to penalties including fines, suspension or revocation of net fishing permit(s), and confiscation and forfeiture of abandoned nets.

(e) Exemptions: The Secretary, after consultation with the Director of the Division of Fish and Wildlife, may in certain cases make an exemption to the ban on the use of certain types of nets for net fishing for ceremonial purposes when cultural practices warrant an exemption, such as for a funeral or a fiesta. The Secretary must specify the extent and duration of the exemption in writing and this information must accompany the recipient of the exemption at the time the net fishing is undertaken.

Modified, 1 CMC § 3806(f).

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History: Amdts Proposed 25 Com. Reg. 21505 (Dec. 15, 2003); Amdts Adopted 25 Com. Reg. 20069 (Feb. 28, 2003); Amdts Proposed 24 Com. Reg. 19593 (Oct. 30, 2002); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 13 Com. Reg. 7553 (Jan. 15, 1991); Amdts Proposed 12 Com. Reg. 7159 (July 15, 1990); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended former subsections (a) through (d) and deleted former subsection (e). The 1991 amendments added former subsections (d)(6) and (d)(7). The 2002 regulations added subsections (b), (c), (f), (g) and (i) and readopted and republished this section in its entirety with numerous amendments. The 2003 amendments deleted former subsections (a), (b), (c), (d), (g) and (h), added new subsections (a) and (e), re-designated accordingly and amended subsections (b), (c) and (d).

The December 2003 amendments proposed to add a new subsection (c). As of December 2004, a notice of adoption had not been published.

PL 17-13 (effective August 24, 2010), amends Section 3 of PL 12-14, so that regulations do not restrict persons to engage in non-commercial net-fishing in Rota's surrounding waters for personal or immediate family consumption. To the extent that these regulations conflict with PL 17-13, they are superseded.

§ 85-30.1-410 **Collection of Hard Corals**

Prohibitions: The collection and/or removal from the waters of the CNMI of any and all species of hard Hermatypic reef building corals, soft corals or stony hydrozoans, is prohibited, except, as specifically allowed by this section. A license may be issued by the Director for the collection of dead coral from the beach above the LLW (lower low water) mark for the purpose of manufacturing "afuk" (calcium carbonate). A license may be issued by the Director for the collection of coral for scientific research purposes. All coral taken by the license may be inspected by the Division to insure that any coral was not taken in violation of the regulations in this subchapter.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 13 Com. Reg. 7553 (Jan. 15, 1991); Amdts Proposed 12 Com. Reg. 7159 (July 15, 1990); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

§ 85-30.1-415 **Harvest of *Trochus niloticus* (Aliling Tulompo, Trochus)**

(a) Harvesting: No trochus may be taken except during open season as declared by the Secretary, after consultation with the Director. Open season may be declared via

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public announcement and publication in the Commonwealth Register, and may be conditioned in any way, such as season dates and times, size and gear restrictions or seasonal take limits and license requirements. The taking of trochus measuring less than 3” across the base is prohibited.

(b) Sanctuaries: Two closed areas are hereby established. These areas are designated to ensure continuous high levels of productivity of trochus. Taking of trochus from these locations is prohibited, even during seasons declared by the Director. These closed areas are:

(1) An area encompassing the barrier reef from the Garapan channel marker (light-house) south for one mile. The inshore edge of the reef. The offshore boundary is the forty foot depth contour.

(2) The entire reef at Tank Beach, Kagman (Chacha), extending from the northern rocky headland to the southern rocky headland and bounded inshore by the mean high mark line and offshore by the forty foot depth contour.

Modified, 1 CMC § 3806(e).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended subsection (a) and former subsection (c). The 2000 regulations amended subsections (a) and (b) and deleted former subsection (c).

The Commission corrected the spelling of “ensure” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 85-30.1-420 Harvest of Sea Cucumbers

(a) Harvesting: No sea cucumber may be taken except as permitted by the Director. Any permit issued by the Director is subject to special conditions as determined by the Director.

(b) Sanctuaries: In addition to the sanctuaries specified in § 85-30.1-415(b), the following areas will also serve as sea cucumber sanctuaries:

(1) Laulau Bay from Puntan Hakmang to Puntan Dandan. Boundary is from the MHW (mean high water) mark line to offshore to the forty foot depth contour.

(2) Bird Island from Puntan I Maddock to Puntan Tangke. Boundary is from MHW (mean high water) mark line to offshore to the forty foot depth contour.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

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§ 85-30.1-425 Taking of Lobster

(a) Prohibitions: It shall be prohibited and deemed unlawful to take or to be in possession of any lobster:

- (1) Which measures less than three inches (76.2 mm) in length measured in a straight line along the carapace from the ridge between the two largest spines, above the eyes, back to the rear edge of the carapace; or
- (2) Which is carrying eggs; or
- (3) Which has been stripped of her eggs; or
- (4) Harvested by spear or any method other than by hand.

(b) Sanctuaries as specified in § 85-30.1-415(b) apply here.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 2000 regulations deleted former subsection (a), re-designated and amended former subsection (b) and added subsection (b).

§ 85-30.1-430 Harvest of Other Invertebrates

(a) Harvesting: No other invertebrates may be taken except as permitted by the Director. Any permit issued by the Director is subject to special conditions as determined by the Director.

(b) Sanctuaries: Sanctuaries specified in § 85-30.1-415(b) apply to other invertebrates.

(c) Prohibitions: The exportation of any species of the following groups of marine gastropods (snails), or any part or product thereof, taken from CNMI water is prohibited:

Common Name	Scientific Family Name
Cone shell	<i>Conidae</i>
Cowries	<i>Cypraeidae</i>
Egg Cowries	<i>Ovulidae</i>
Helmut shells	<i>Cassidae</i>
Murexes	<i>Muricidae</i>
Spiders and Conchs	<i>Strombidae</i>
Tritons	<i>Cymatidae</i>
Volutes	<i>Volutiadae</i>

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Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 13 Com. Reg. 7553 (Jan. 15, 1991); Amdts Proposed 12 Com. Reg. 7159 (July 15, 1990).

Commission Comment: The 2000 regulations readopted and republished this section in its entirety with numerous amendments.

The Commission corrected the spelling of “Murexes” pursuant to 1 CMC § 3806(g).

§ 85-30.1-435 Fish Weirs

The use of fish weirs is prohibited.

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 2000 regulations deleted and replaced former § 7, entitled “Fish Weirs,” in its entirety. See 8 Com. Reg. at 4630-31 (Sept. 15, 1986).

The 2002 regulations deleted former § 8, entitled “Dredging for Precious Corals.” See 8 Com. Reg. at 4631 (Sept. 15, 1986); 12 Com. Reg. 7378 (Sept. 15, 1990).

§ 85-30.1-440 Moratoria on Fishing

The purpose of this section is to provide for the conservation of fishery resources. The Director is authorized to declare a moratorium on any and all fishing activity to conserve CNMI resources, through publication of such a moratorium in the Commonwealth Register. A moratorium on issuance of fishing licenses may be imposed when necessary to protect fish, threatened or endangered species or to otherwise carry out the functions of the Division as established by the CNMI Legislature.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986).

Commission Comment: The 2000 regulations amended subsection (a) and deleted former subsections (b) through (d).

§ 85-30.1-445 Aquarium Fish Prohibitions

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- (a) The sale or export of marine aquarium fish is prohibited.
- (b) An aquarium fish license is required by any person who captures aquarium fish for personal use or enjoyment.
- (c) No poisons may be used to collect aquarium fish, except for purposes of scientific research when a scientific research permit expressly allows for such use.
- (d) All methods of collection of aquarium fish are prohibited except the following:
 - (1) Certain hand nets not previously registered by conservation officer.
 - (2) Barbless hook and line; and
 - (3) Other collection methods specifically allowed in a written condition to a permit.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 20069 (Feb. 28, 2003); Amdts Proposed 24 Com. Reg. 19593 (Oct. 30, 2002); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 13 Com. Reg. 7553 (Jan. 15, 1991); Amdts Proposed 12 Com. Reg. 7159 (July 15, 1990).

Commission Comment: The 2002 regulations readopted and republished this section in its entirety with numerous amendments. The 2003 amendments deleted former subsection (d)(2) and re-designated former subsections (d)(3) and (d)(4).

The 1991 amendments added new sections 42.1, entitled "Special Regulations" and 43, entitled "Enforcement, Remedies and Penalties." See 13 Com. Reg. at 7562-65 (Jan. 15, 1991). The 2000 amendments deleted these provisions.

§ 85-30.1-450 Marine Reserves

- (a) The Director may acquire and designate aquatic habitats or easements as marine reserves in accordance with 2 CMC § 5104(a)(5). Marine reserves are created to protect important fish and aquatic species populations and their habitats.
- (b) The following marine reserves have been established on Rota and Saipan under the management of the Department:
 - (1) Sasanhaya Fish Reserve: between and including Puña Point and the Coral Gardens.
 - (2) Managaha Conservation Area: consisting of the island of Managaha and its surrounding waters marked by boundaries at 15°15'5.30"N, 145°42'45.07"E and 15°14'19.34"N, 145°43'38.46"E and 15°13'40.63"N, 145°42'39.56"E and 15°14'4.99"N, 145°41'27.49"E.
- (c) Except as provided for in subsections (e) and (f) below, the following activities are prohibited within the boundaries of any marine reserve:
 - (1) Killing or removing, or attempting to remove, any marine animal or plant, including but not limited to any fishes, coral (live or dead), lobster, shellfish, clams or octopus;

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- (2) Using any type of food or other attractant for the purposes of attracting fish (e.g. fish feeding, baiting, etc.);
- (3) Anchoring of any vessel except in case of actual emergency, or for scientific purposes permitted by the Division;
- (4) Removing, defacing, damaging or destroying any artifact, natural object, buoy, sign or other structure;
- (5) Carrying on any commercial or industrial activity;
- (6) Disturbing or removing any substrate, sand, or other material; or
- (7) Dumping or depositing any rubbish, waste material or substance that would degrade or alter the quality of the environment.

(d) Recreational and Cultural Use of Marine Reserves

Recreational and cultural use of marine reserves is allowed and encouraged to the extent that such activities are compatible with the marine conservation and management objectives of the conservation area. The Director may place limitations on recreational and cultural use of a marine reserve, or any portion thereof, if such use would have a detrimental impact on species, habitats, or environmental conditions within the marine reserve. Limitations shall be effective on the date on which notice of such limitation is published in the local newspaper and/or posted at the boundary of the marine reserve (in the case of Managaha Marine Reserve notice may be posted at the point of disembarkation on the island). Any limitation on any activity for which a permit has been issued by the Division, or which is conducted under contract or other agreement with any CNMI agency, shall be implemented in accordance with the requirements of the permit or contract.

(e) Exceptions

The Director may, upon request from the Secretary or Resident Director from the island on which the marine reserve is located, issue limited, temporary fishing permits. In determining whether such permits shall be allowed, and the extent of fishing to be allowed, the Director shall take into account any data or other information on the status of the fish stocks in the reserve.

(f) Special Exemption on Conducting Commercial Activities in the Managaha Conservation Area

The prohibition on conducting commercial activities in subsection (c)(5) above shall not apply to those activities that are categorized as concessions under the Agreement for Special Recreational Concession between Marianas Public Lands Corporation and Tasi Tours Transportation, Inc. (as amended on 29 April 1992). Concessions operated under the agreement must be conducted in accordance with the regulations in this subchapter. The Division may place limits on the type, location, and geographic extent of any concession activities in accordance with PL 12-12 [2 CMC §§ 1631-1638] if the Division determines that limitation of these activities is necessary to meet the management objectives for the Managaha Conservation Area.

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

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History: Amdts Adopted 23 Com. Reg. 18266 (Aug. 16, 2001); Amdts Emergency and Proposed 23 Com. Reg. 17846 (Apr. 23, 2001) (effective for 120 days from Apr. 16, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17498 (Sept. 20, 2000) (effective for 120 days from Sept. 1, 2000); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000).

Commission Comment: The 2001 amendments added new subsections (b)(2), (d) and (f), re-designated former subsection (d) as subsection (e) and amended subsections (b) and (c).

The Division promulgated the 2001 amendments to implement PL 12-12 (effective August 8, 2000), the "Managaha Marine Conservation Act of 2000," codified at 1 CMC § 2653(p) and 2 CMC §§ 1631-1638. PL 12-12 designates Managaha Island and its surrounding waters as a marine conservation area, creates a Marine Conservation Section within the Division of Fish and Wildlife to implement the act, and directs the Secretary of DLNR to promulgate rules and regulations necessary to carry out the intent of the act. See PL 12-12 §§ 4, 5 and 10 (codified at 2 CMC §§ 1632, 1633 and 1638).

In subsection (b)(1), the Commission inserted the final period. The Commission inserted semicolons at the ends of subsections (c)(1) and (c)(2), converted the period at the end of subsection (c)(3) to a semicolon, and converted the commas at the ends of subsections (c)(4) through (c)(6) to semicolons pursuant to 1 CMC § 3806(g).

Part 500 - Importation and Introductions

§ 85-30.1-501 Importation of Animals

(a) Authority

In accordance with PL 2-51 and PL 4-55, 2 CMC §§ 5323(c) and 4324, the Secretary promulgates the regulations in this part.

(b) Permit Procedure

Owners of animals sought to be imported into the CNMI shall obtain a permit for introduction from the Director prior to bringing the animal into the CNMI. The permit fee is ten dollars for each species/shipment imported.

(c) Owners must present to the Division all documents necessary to import the animal pursuant to the CITES. These documents may include: import or export permits, re-export certificates, introduction from the sea permits, certificate of origin and health certificate.

(d) The animals listed in this subsection may be imported in the CNMI alive, with proper permits pursuant, to this section:

(1) Amphibians: species, dead or alive;

(2) Reptiles: No species, dead or alive;

(3) Invertebrates: No species of harmful invertebrates. The Director will make a determination on a case by case basis of which invertebrates may be imported into the CNMI.

(4) Birds:

Domestic fowl (*Gallus*)

Domestic turkey (*Meleagris gallopavo*)

Ring-necked pheasant (*Phasianus colchicus*)

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Mallard, all domestic breeds including peking duck (*Arias platyrhynchos*)
Muscovy duck (*Cairina moschata*)
Domestic goose, greylag goose (*Anser*)
Domestic goose, swan goose (*Anser cygnoides*)
“Parakeet,” budgerigah (*Melopsittacus undulatus*)
Cockatiel (*Nymphicus hollandicus*)
Lovebirds, all species (*Agapornis* spp.)
Canary (*Serinus canarius*)
Zebra Finch (*Poephila gattata*)
Society Finch, Bengalese Finch (*Lonchura domesticus*)
Blue and Gold Macaw (*Ara ararauna*)
Scarlet Macaw (*Ara macao*)
Green Wing Macaw (*Ara chloroptera*)
Military Macaw (*Ara militaris*)
(5) Mammals:
Asiatic Water Buffalo
Carabao
Domestic dog (*Canis familiaris*)
Domestic cat (*Felis catus*)
Gerbil (*Gerbillus*)
Guinea pig (*Cavia porcellus*)
Domestic swine (*Sus scrofa*)
Domestic cattle (*Bos taurus*)
Domestic horse (*Equus caballus*)
Domestic donkey, including mule (*Equus asinus*)
Domestic goat (*Capra hircus*)

(e) Only the animals listed in subsection (d) of this section may be lawfully imported into the CNMI. It shall be unlawful to import any species of amphibian, reptile, bird, or mammal not on the list in subsection (d) of this section. All animals presented for importing into the CNMI that are not on this list shall be refused entry, except as provided for herein.

(f) Animals not on the list and already within the CNMI prior to the effective date of this part shall be documented by the Division.

(g) Licensed business establishments may apply to import animals not on the list in subsection (d) of this section for the purpose of public display at the business establishment. Each such application must be approved by the Director. The Director may prescribe conditions of entry. The animals may never be sold or resold but must be disposed of outside the CNMI. The animals must be available for inspection on the premises by conservation officers. Examples are:

(1) A hotel applies for and is granted a permit to import and hold captivity two Macaw parrots. The Director imposes special conditions including that the birds be males, as determined by laparotomy performed by a licensed veterinarian prior to import. Further, the manager must agree in writing that the birds will be kept in confinement at

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all times and that, should one or both birds escape, to report the escape to the Division within a day of escape. Further, the manager must agree that the escapee is recaptured within a week or be liable for destruction.

(2) A person setting up a small public zoo applies to import thirty-six animals of seventeen species. Twenty-one animals of nine species are permitted entry, the remainder are refused entry. All imported animals must be males.

(h) The Division will accept applications for additions to list of admissible animals in subsection (c) herein. Applicants must furnish the Division the following information:

(1) Common and scientific name and native ranges of species.

(2) Source of species.

(3) Findings of a comprehensive literature search documenting native range, habitat, and food habits of the species, history in captivity, and any known cases of feral populations, particularly in similar island ecosystems such as Hawaii.

(4) Evidence of possession of an escape-proof cage.

(i) The Director will consult with the Director of Animal Health and Industry in reviewing the application. The Director of Animal Health and Industry will inform the Director of his or her findings within sixty days after receipt of a complete application. Upon approval by the Director, the Director of Animal Health and Industry may then issue a permit to the applicant allowing for the importation of the approved species.

(j) The Division conservation officers are authorized to confiscate prohibited imports. Confiscated items may be used in Division education programs, returned to origin, or destroyed.

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

History: Amdts Proposed 25 Com. Reg. 21511 (Dec. 15, 2003); Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 9 Com. Reg. 4848 (Jan. 19, 1987); Amdts Proposed 8 Com. Reg. 4837 (Dec. 16, 1986); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986).

Commission Comment: The original paragraphs of subsection (d) were not designated. The Commission designated subsections (d)(1) through (d)(5).

The 1987 amendments deleted and replaced former subsection (f) and amended former subsection (b). The 1990 amendments amended former subsections (a), (c), (e), (f), (f)(1) and (f)(2). The 2000 regulations added new subsections (b), (c), (d)(3) and (j), moved subsection (i) from former subsection (f)(2) and readopted and republished this section in its entirety with numerous amendments.

The 2003 amendments proposed to repromulgate this section with numerous amendments. As of December 2003, a notice of adoption had not been published.

In subsection (a), the Commission changed the comma after "PL 4-55" to a period to correct a manifest error. The Commission inserted a comma after the word "bird" in subsection (e) pursuant to 1 CMC § 3806(g).

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In December 1995, the Division published emergency and proposed amendments that proposed a new § 2 to this part entitled “Compensation.” See 17 Com. Reg. 13839 (Dec. 15, 1995) (effective for 120 days from Dec. 6, 1995). A notice of adoption was never published.

§ 85-30.1-505 Introduction of Species

(a) It shall be unlawful to release any fish, game, or wildlife species not native (found historically) to the CNMI. The only exception is for species introduced in Division conservation programs.

(b) The Division shall document all instances of illegal or accidental introduction; further, the Division shall take all efforts necessary to extirpate the introduced species. Persons responsible for illegal or accidental introductions are liable for the cost of eradication, including but not limited to, personnel salaries, transportation, and equipment. The captain and or owner of the vessel are responsible for all animals carried in the vessel during eradication activity,

(c) The Division shall be exempt from the provisions of this part in the conduct of its programs.

(d) The importation of viable eggs is prohibited.

(e) All caged birds shall be birds produced in captivity (no live-caught, wild birds shall be imported). This requires all caged birds brought into the CNMI to be accompanied by documentation by a reputable aviary or aviculturalist documenting the bird’s pedigree.

(f) All imports of birds that require a permit, shall not be released to the importer until a Division biologist confirms the identification of the species.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17360 (Aug. 18, 2000) (superseding all previous rules and regulations); Proposed 22 Com. Reg. 17165 (Apr. 20, 2000); Amdts Adopted 12 Com. Reg. 7364 (Sept. 15, 1990); Amdts Proposed 10 Com. Reg. 5743 (Nov. 15, 1988); Amdts Adopted 8 Com. Reg. 4689 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4604 (Sept. 15, 1986); Adopted 5 Com. Reg. 2412 (Aug. 31, 1983); Proposed 5 Com. Reg. 2259 (July 29, 1983); Emergency and Proposed 5 Com. Reg. 1883 (Mar. 31, 1983) (effective for 120 days from Feb. 18, 1983); Emergency and Proposed 4 Com. Reg. 1706 (Dec. 10, 1982) (effective for 120 days from Oct. 8, 1982); Emergency and Proposed 4 Com. Reg. 1462 (June 30, 1982) (effective for 120 days from May 7, 1982).

Commission Comment: The 1990 amendments amended subsection (b). The 2000 regulations added subsections (d), (e) and (f) and amended subsections (a) and (b).

The 1990 amendments added a new part 60, entitled “Miscellaneous,” that included § 60.1, “Severability,” and § 60.2, “Saving.” See 12 Com. Reg. 7380 (Sept. 15, 1990). The 2000 regulations moved former § 60.1 to part 001 and deleted § 60.2.

The Commission inserted commas after the words “game” in subsection (a) and “transportation” in subsection (b) pursuant to 1 CMC § 3806(g).

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SUBCHAPTER 85-30.2

SMILING COVE MARINA RULES AND REGULATIONS

Part 001	General Provisions	§ 85-30.2-315	Emergency Moorings
§ 85-30.2-001	Authority and Purpose	§ 85-30.2-320	Unattended Vessels During Storm Conditions
§ 85-30.2-005	Application and Scope	§ 85-30.2-325	Marina Manager's Authority
Part 100	Selection of Leases and Permits for Berthing Slips	§ 85-30.2-330	Non-tenant Storm Condition Permit Procedures
§ 85-30.2-101	Lease or Permit Required for Tenancy in Smiling Cove Marina	§ 85-30.2-335	Non-Tenant Storm Condition Permit Fees
§ 85-30.2-105	Categories of Vessel Exclusions	Part 400	Convenience Dock
§ 85-30.2-110	Categories of Exclusion for Leases	§ 85-30.2-401	"Convenience Dock" Defined
§ 85-30.2-115	First Come-First Served Priority	§ 85-30.2-405	Commercial Vessels Prohibited
§ 85-30.2-120	Grant of Berthing Lease	§ 85-30.2-410	Use of Convenience Dock
§ 85-30.2-125	Security Deposit	Part 500	Visiting Vessels
§ 85-30.2-130	Moorings Permits	§ 85-30.2-501	"Visiting Vessel" Defined
§ 85-30.2-135	Location of Moorings	§ 85-30.2-505	Procedure Upon Entry
§ 85-30.2-140	Restriction on Moorings	§ 85-30.2-510	Fees for Visiting Vessels
Part 200	Berthing and Mooring Fees	§ 85-30.2-515	Maximum Stay Permitted
§ 85-30.2-201	Fees for Berthing Slips	Part 600	Special Events
§ 85-30.2-205	Fees for Moorings	§ 85-30.2-601	"Special Events" Defined
§ 85-30.2-210	Delinquency	§ 85-30.2-605	Permit Required
Part 300	Typhoons and Tropical Storms	Part 700	Leases and Permits
§ 85-30.2-301	"Storm Conditions" Defined	§ 85-30.2-701	Cancellation
§ 85-30.2-305	Typhoon Contingency Plan	§ 85-30.2-705	Impoundment of Vessel upon Cancellation of Lease or Permit
§ 85-30.2-310	Temporary Lifting of Exclusions During Storm Conditions	§ 85-30.2-710	Reconsideration of Evicted Lessees or Permittees

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§ 85-30.2-715	Reassignment of Slips	§ 85-30.2-836	Maintenance of Marina
§ 85-30.2-720	Non-Transferability of Lease	§ 85-30.2-838	Alteration of Docks
§ 85-30.2-725	Sale of Vessel	§ 85-30.2-840	Nuisance
§ 85-30.2-730	Partnerships and Corporations	§ 85-30.2-842	Guests Aboard at Night
§ 85-30.2-735	Absence from Slips	§ 85-30.2-844	Noise
§ 85-30.2-740	Temporary Slip Permit	§ 85-30.2-846	Articles and Equipment Left on Dock
§ 85-30.2-745	Waiver of Claims	Part 900	Parking Area
Part 800	General Regulations	§ 85-30.2-901	“Parking Lot” Defined
§ 85-30.2-801	Application	§ 85-30.2-905	Use Restrictions
§ 85-30.2-802	No Commercial Use of Slips	§ 85-30.2-910	Risk of Use
§ 85-30.2-804	Storage on Docks	Part 1000	Enforcement
§ 85-30.2-806	Fenders on Dock	§ 85-30.2-1001	Effect of Regulations on Lease and Permits
§ 85-30.2-808	Movement of Vessels in Marina	§ 85-30.2-1005	Enforcement of Regulations
§ 85-30.2-810	Speed Within the Marina	§ 85-30.2-1010	Discretion of the Marina Manager in Removing Applicants from Waiting List
§ 85-30.2-812	Toilet Usage	§ 85-30.2-1015	Nature of Lease and Permit
§ 85-30.2-814	Mooring of a Vessel	Part 1100	Fines
§ 85-30.2-816	Maintenance Work on Vessel	§ 85-30.2-1101	Fines
§ 85-30.2-818	Garbage and Littering	§ 85-30.2-1105	Opportunity to Contest Imposition of Costs
§ 85-30.2-820	Fire Safety	Part 1200	Miscellaneous Provisions
§ 85-30.2-822	Dumping of Hazardous Substances	§ 85-30.2-1201	Severability
§ 85-30.2-824	Swimming	§ 85-30.2-1205	Supersedure
§ 85-30.2-826	Fishing	Exhibit A-1	
§ 85-30.2-828	Visitors	Exhibit A-2	
§ 85-30.2-830	Small Children on Docks		
§ 85-30.2-832	Obstructions Placed in Water		
§ 85-30.2-834	Signs		

Subchapter Authority: 1 CMC § 2654; PL 6-13 § 3.

Subchapter 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 25 Com. Reg. 20399 (July 15, 2003); Amdts Adopted 17 Com. Reg. 13723 (Sept. 15, 1995); Amdts Proposed 17

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Com. Reg. 13515 (June 15, 1995); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (July 15, 1992) (effective for 120 days from July 13, 1992).

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.

PL 6-13 § 3 provides the Division of Fish and Wildlife with the authority to manage the improvements in the Smiling Cove Marina.

In 2006, the Department of Lands and Natural Resources, Division of Fish and Wildlife, promulgated amendments that repealed and replaced all prior rules and regulations relating to Smiling Cove Marina. See § 85-30.2-1205.

Part 001 - General Provisions

§ 85-30.2-001 Authority and Purpose

(a) Authority. Department of Lands and Natural Resources/Division of Fish and Wildlife. The regulations in this subchapter (“Marina Regulations”) 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, 1 CMC § 2661 provides the Division of Fish & Wildlife with the authority to manage marine resources and to administer Public Law 2-51, the Fish, Game, and Endangered Species Act, as amended (2 CMC §§ 5101 et seq.). Further, Public Law 2-51 (at 2 CMC § 5106) provides for the assent of the Commonwealth of the Northern Mariana Islands to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. §§ 777 et seq.), allowing for the Department of Lands and Natural Resources to receive federal grant funds. Federal aid grant funds were used to construct the improvements in Smiling Cove Marina, and are being used to maintain and manage the marina.

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

Modified, 1 CMC § 3806(d), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed the last sentence of subsection (a).

§ 85-30.2-005 Application and Scope

(a) Geographic Area. The Marina 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 Smiling Cove Marina as depicted in the charts attached hereto as Exhibits A-1 and A-2. The term “Smiling Cove Marina,” as used in this subchapter, shall apply to all that area circumscribed on Exhibit “A-1.” When the docks are referred to by slip number, reference shall be to Exhibit “A-2.”

(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 Smiling Cove Marina, such as the Boating Safety Regulations [NMIAC, title 150, chapter 20] and the Vehicle Code.

Modified, 1 CMC § 3806(d), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In subsection (a), the Commission moved the comma after “Marina” and the periods after “A-1” and “A-2” inside of the closing quotation marks. In 2006, this section was re-promulgated without change. Exhibits A-1 and A-2 were not attached to the 2006 regulation.

Part 100 - Selection of Leases and Permits for Berthing Slips

§ 85-30.2-101 Lease or Permit Required for Tenancy in Smiling Cove Marina

(a) Berths: No vessel shall be permitted to be berthed at a dock slip in Smiling Cove Marina without a lease approved by the Director of Fish & Wildlife after consulting with the marina manager. 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 authorized by the Director of Fish & Wildlife.

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(b) Moorings: No vessel shall be permitted to be moored in the waterways of Smiling 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) Other Permits: The marina manager, at his discretion and judgment, shall be allowed to issue temporary berthing permits at Smiling Cove Marina for visiting or transient vessels, not to exceed thirty days in duration, without the prior approval of the Director of Fish & Wildlife.

Modified, 1 CMC § 3806(c), (e), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-105 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 Smiling Cove:

(a) Vessels as a Place of Abode. Vessel is 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 72 consecutive hours in any seven day period unless the vessel is transient and has a holding tank for containment of waste by-products.

(b) Unseaworthy Vessels. Lessees, permittees, and applicants shall, upon request, demonstrate or allow inspection of vessels for seaworthiness by the marina manager or his 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 eight feet are “deep draft vessels.”

(e) Vessels Greater than 60 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.

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

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission made “craft” plural in subsection (c) and moved the period after “vessels” in subsection (d) inside of the closing quotation mark. The Commission inserted commas after the words “permittees” in subsection (b) and “barges” in subsection (c) pursuant to 1 CMC § 3806(g). In 2006, this section was re-promulgated without change.

§ 85-30.2-110 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 § 85-30.2-105.

(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.

(e) Vessel has Alternate Government Berth. A vessel with any form of permit, license, or lease from the government or any agency or corporation of the Commonwealth, or any vessel which has been habitually berthed for a year or longer alongside any dock, pier, quay, or jetty shall be excluded from obtaining a lease unless the other permit, license, or lease is first canceled and rescinded and/or the use of the dock, pier, quay or jetty is abandoned.

(f) Applicant has Another Berth. An applicant must not currently possess a lease for the berthing of another vessel at Smiling Cove. For purposes of this exclusion, “applicant” shall include a natural person, corporation, partnership, joint venture or other legal entity.

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Modified, 1 CMC § 3806(e), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted “a” before the first occurrence of “berthing slip” in this section. In subsection (e), the Commission changed the “of” before “any agency” to “or” to correct a manifest error. The Commission inserted a comma after the word “license” in subsection (e) pursuant to 1 CMC § 3806(g). The 2006 amendments changed subsections (b) and (c).

§ 85-30.2-115 First Come-First Served Priority

Slips shall be assigned by the marina manager according to first come-first served priority, recognizing an absolute priority preference for non-commercial vessels, and vessels shall be matched to slips so as to maximize useable berthing space and not restrict maneuverability.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments added the priority preference for non-commercial vehicles to this section.

§ 85-30.2-120 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.

Modified, 1 CMC § 3806(e).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed “ten calendar days” to “ten days.”

§ 85-30.2-125 Security Deposit

A security deposit in the amount of three months’ berthing fees shall be required of a new applicant for a berthing lease. A security deposit in the amount of six months’ berthing fees shall be required of an evicted lessee or permittee whose application is being

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reconsidered pursuant to § 85-30.2-710. All security deposits shall be applied to expenses incurred by the Division of Fish and Wildlife for 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 § 85-30.2-701 and § 85-30.2-705. 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.

Modified, 1 CMC § 3806(c), (d).

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: In 2006, this section was re-promulgated without change.

§ 85-30.2-130 Mooring Permits

[Reserved.]

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

§ 85-30.2-135 Location of Moorings

[Reserved.]

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

§ 85-30.2-140 Restriction on Moorings

[Reserved.]

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Part 200 - Berthing and Mooring Fees

§ 85-30.2-201 Fees for Berthing Slips

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

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- (a) Non-Commercial Activity Vessels
 - (1) Vessels 29.0 feet or less in length: \$3.50 per foot.
 - (2) Vessels 29.1 feet to 44.0 feet in length: \$5.50 per foot.
 - (3) Vessels 44.1 feet or greater in length: \$8.00 per foot.
- (b) Vessels Involved in Commercial Activities
 - (1) Vessels 29.0 feet or less in length: \$5.00 per foot.
 - (2) Vessels 29.1 feet to 44.0 feet in length: \$8.00 per foot.
 - (3) Vessels 44.1 feet to 60 feet in length: \$10.00 per foot.
 - (4) Vessels 60.1 feet and greater in length: \$15.00 per foot.

Modified, 1 CMC § 3806(g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment The Commission changed “involve” to “involved” in subsection (b). The 2006 amendments repealed the former fee schedule, added subsection (b), and designated all subsections in this section.

§ 85-30.2-205 Fees for Moorings

[Reserved.]

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

§ 85-30.2-210 Delinquency

The due date for berthing slip lease payment shall be no later than the 10th day of each month (e.g., January lease payment is due by January 10). All delinquent payments, including those made after the 10th day of each month, shall be charged a 10% late fee for each month that payment is not made. 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 § 85-30.2-701.

Modified, 1 CMC § 3806(g).

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 2006 amendments added the first two sentences to this section.

Part 300 - Typhoons and Tropical Storms

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§ 85-30.2-301 “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.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-305 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 marina manager as needed to accurately reflect the assigned berthing and mooring locations of all vessels during storm conditions.

Modified, 1 CMC § 3806 (f).

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: In 2006, this section was re-promulgated without change.

§ 85-30.2-310 Temporary Lifting of Exclusions During Storm Conditions

In the event of storm conditions, vessels excluded from Smiling Cove Marina under § 85-30.2-105(a) and § 85-30.2-105(f) may enter and moor in Smiling Cove Marina provided that they have applied for and received an approved non-tenant storm condition permit from the marina office, in accordance with § 85-30.2-330 and § 85-30.2-335. 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 § 85-30.2-101 are required to leave within forty-eight hours after the return to condition 3 or the giving of the “all clear” signal.

Modified, 1 CMC § 3806(c), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

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Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-315 Emergency Moorings

In the event of storm conditions, any vessel permitted in Smiling 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 Director of the Division of Fish and Wildlife 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 Smiling Cove Marina specifically for storm protection, which are not registered according to the typhoon contingency plan, shall be placed in available locations on a first-come, first-served basis by the marina manager 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.

Modified, 1 CMC § 3806(e), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change. The Commission inserted a comma after “protection” in subsection (f) to correct a manifest error.

§ 85-30.2-320 Unattended Vessels During Storm Conditions

Any vessel with a berthing lease that is within Smiling 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

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every boat owner to adequately secure his vessel so that it does not present a hazard to other vessels in the marina.

Modified, 1 CMC § 3806(e), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-325 Marina Manager's Authority

The marina manager is empowered to regulate all vessel movement and placement within Smiling Cove Marina, its boundaries and shore areas prior to or during storm conditions as the designee of the Director of Fish & Wildlife. The marina manager 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. Non-tenant vessels are accorded refuge at Smiling Cove Marina pursuant to compliance with § 85-30.2-330 and § 85-30.2-335.
- (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.]

Modified, 1 CMC § 3806(c), (f).

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 2006 amendments changed subsection (e).

§ 85-30.2-330 Non-tenant Storm Condition Permit Procedures

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An owner of any vessel that is not a tenant at Smiling 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 § 85-30.2-330(a) through § 85-30.2-330(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 § 85-30.2-330(a) through § 85-30.2-330(d) above will be denied.
- (f) No non-tenant vessel has the right to infringe upon the safety and welfare of the tenants of Smiling Cove Marina.
- (g) All applications are subject to availability of berthing slips or mooring spaces at the marina.

Modified, 1 CMC § 3806(d), (f).

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: In 2006, this section was re-promulgated without change.

§ 85-30.2-335 Non-Tenant Storm Condition Permit Fees

The fees to be charged for the privilege to berth, moor, or anchor within Smiling 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 |

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(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 “51over feet” to “over 51 feet” in subsection (e) to correct a manifest error. The Commission inserted a comma after the word “moor” pursuant to 1 CMC § 3806(g). The 2006 amendments changed subsection (e).

Part 400 - Convenience Dock

§ 85-30.2-401 “Convenience Dock” Defined

The “convenience dock” is marked on exhibit “A-2” as the dock due north of the launching ramp.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change. Exhibit A-2 was not attached to the 2006 regulation.

§ 85-30.2-405 Commercial Vessels Prohibited

Commercial vessels engaged in carrying passengers for hire, whether for transportation or any activity (fishing, parasailing, sightseeing, etc.) are prohibited from using the convenience dock.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-410 Use of Convenience Dock

The convenience dock is for the use of recreational boaters and fishermen. They shall use the dock for no longer than one-half hour at a time and shall tie up to the dock in a manner so as to allow the maximum number of vessels to use the dock.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

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Commission Comment: In 2006, this section was re-promulgated without change.

Part 500 - Visiting Vessels

§ 85-30.2-501 “Visiting Vessel” Defined

A “visiting vessel” is a vessel registered outside of the Commonwealth or documented with a home port other than in the Commonwealth whose owner is not a resident of the Commonwealth and which will remain on Saipan for less than fourteen days.

Modified, 1 CMC § 3806(e).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed “thirty consecutive days” to “fourteen days.”

§ 85-30.2-505 Procedure Upon Entry

(a) Visiting vessels that visit from outside of the Commonwealth must clear various government inspections, such as customs, agricultural quarantine, and immigration. To receive such clearance, visiting vessels must call port control at the Commonwealth Port Authority on channel 16, announce their arrival, and present themselves for inspection at the area designated by port control near Charlie Dock.

(b) Visiting vessels that have been cleared may request permission from the marina manager to temporarily berth in Smiling Cove. This permission will be granted if there is sufficient room to accommodate the vessel and the vessel does not come within a category of exclusion under § 85-30.2-105. In particular, a visiting vessel cannot be used as a place of abode, as defined in § 85-30.2-105(a), while in Smiling Cove Marina, unless permitted by the Director of Fish & Wildlife or his designee.

Modified, 1 CMC § 3806(c), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original regulation was not found on consecutive pages of the October 2006 Commonwealth Register due to a misplaced page in the middle of this section. The Commission inserted part of this section from 28 Com. Reg. 26246 (Oct. 30, 2006) rather than from the consecutive page (28 Com. Reg. 26245 (Oct. 30, 2006)).

In 2006, this section was re-promulgated without change.

§ 85-30.2-510 Fees for Visiting Vessels

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The following fees shall be collected daily from visiting vessels for berthing in Smiling Cove Marina:

- (a) First three days in one month: free;
- (b) Every day, or a fraction of a day, thereafter:
 - (1) Vessels 29.0 feet or less in length: \$4.00 per day
 - (2) Vessels 29.1 feet to 44.0 feet in length: \$8.00 per day
 - (3) Vessels 44.1 feet or greater in length: \$12.00 per day.

Modified, 1 CMC § 3806(e), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted the final period in this section. In 2006, this section was re-promulgated without change.

§ 85-30.2-515 Maximum Stay Permitted

A visiting vessel may stay only as long as permitted by the marina manager and in no event longer than 13 days per month.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed “30 calendar days” to “13 days per month.”

Part 600 - Special Events

§ 85-30.2-601 “Special Events” Defined

“Special events” include use of the Smiling 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.

Modified, 1 CMC § 3806(f).

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).

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Commission Comment: In 2006, this section was re-promulgated without change. The Commission inserted a comma after the word “facilities” pursuant to 1 CMC § 3806(g).

§ 85-30.2-605 Permit Required

Sponsors of special events are required to apply for a permit from the marina manager for the special event. Application will be made in writing, on a form supplied by the marina manager. A non-refundable fee of \$50.00 will be charged for the use of the marina facilities for the special event. No special event will be allowed to occur in Smiling Cove Marina without a permit approved by the marina manager and full payment of the special event fee.

Modified, 1 CMC § 3806(f).

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 2006 amendments added the comma in the second sentence between “writing” and “on.”

Part 700 - Leases and Permits

§ 85-30.2-701 Cancellation

(a) The Director of Fish & Wildlife 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 Smiling 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 § 85-30.2-105 or § 85-30.2-110, the lease or permit may be canceled.

(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 lessee’s 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 accruing prior to the date of cancellation.

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

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission designated subsections (a), (b), (c), (d), and (e). The 2006 amendments added subsection (a)(3) and modified subsections (a), (c), and (d). The Commission changed “effected” to “effective” in subsection (c) to correct a manifest error.

§ 85-30.2-705 Impoundment of Vessel upon Cancellation of Lease or Permit

(a) If the lessee or permittee shall fail or refuse to remove his or her vessel from a slip on or before the date of cancellation of the lease or permit, the Director or his designee shall impound the vessel at the lessee’s 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 Director or his designee may also impound a vessel by removing it from the slip.

(d) Neither the Division 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 Division for costs incurred in moving and storing the vessel. Fines may be assessed as well.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designation subsections (a)-(e). The 2006 amendments added subsection (d) and changed subsections (c) and (e).

§ 85-30.2-710 Reconsideration of Evicted Lessees or Permittees

Any lessee or permittee evicted from the marina under part 700 of this subchapter who wishes to berth again at Smiling Cove Marina must make a new application and must wait for a space on the waiting list, if any. Any such new application made by an evicted lessee or permittee will be considered only after all delinquent berthing fees are paid, and any other violations or lease or permit provisions are cured. The marina manager is authorized to require an advance deposit of six months’ rental fees for any such new application.

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Modified, 1 CMC § 3806(d), (f).

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: In 2006, this section was re-promulgated without change.

§ 85-30.2-715 Reassignment of Slips

(a) The marina manager 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 Smiling 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 marina manager if, after notice to move the vessel is given by the marina manager, the lessee or permittee fails to comply with any such notice. The lessee or permittee shall reimburse the Division for costs incurred in moving the vessel.

(c) Neither the Division 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.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed subsection (b) and added subsection (c).

In the original, part of this section appears out of order due to a misplaced page, which caused the last part of this section not to appear on the consecutive page. The Commission inserted the appropriate part of this section found at 28 Com. Reg. 26245 (Oct. 30, 2006).

§ 85-30.2-720 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 therefor, 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:

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- (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.

Modified, 1 CMC § 3806(g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted a comma after the word “assign” pursuant to 1 CMC § 3806(g). The 2006 amendments modified subsection (d) by removing the reference to § 85-30.2-701.

§ 85-30.2-725 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 marina manager 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 marina manager 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 marina manager 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

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held corporation owning the vessel. If a lessee or permittee fails or refuses to notify the marina manager within five days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

Modified, 1 CMC § 3806(e), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed “calendar” before “days” in subsections (a), (a)(1), and (d) and before “day” in subsection (c). The 2006 amendments also removed references to § 85-30.2-701 in subsections (c) and (d).

§ 85-30.2-730 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 sole natural person whose name appears on the Smiling 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 Director of the Division of Fish and Wildlife a fully executed marine bureau statement of ownership.

(d) If a lessee or permittee fails or refuses to notify the Director 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.

Modified, 1 CMC § 3806(e), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original paragraphs of this section were not designated. The Commission designated subsections (a)-(d). The Commission inserted commas after the words “venture” in subsections (a) and (c) and “member” in subsection (b) pursuant to 1 CMC § 3806(g). The 2006 amendments removed “calendar” before “days” and removed the reference to § 85-30.2-701 in the last sentence of this section.

§ 85-30.2-735 Absence from Slips

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(a) In the event of an absence from a slip of more than seven days, the marina manager 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 marina manager. The manager 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.

Modified, 1 CMC § 3806(e), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed “calendar” before “days” in subsections (a) and (b) and removed the reference to § 85-30.2-701 in the last sentence of subsection (b).

§ 85-30.2-740 Temporary Slip Permit

The marina manager may issue temporary permits to occupy and use vacant or unassigned slips upon such terms and conditions as may be required for the efficient operation of Smiling Cove Marina.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-745 Waiver of Claims

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 Smiling Cove Marina.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed the exception regarding the Government Liability Act of 1983 and added “and their guests” to this section.

Part 800 - General Regulations

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§ 85-30.2-801 Application

The regulations in this part shall control the conduct of all lessees and permittees of Smiling 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.

Modified, 1 CMC § 3806(d).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-802 No Commercial Use of Slips

No slip or dock structure within the Smiling Cove Marina shall be used for commercial purposes.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-804 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; and at such times shall place the items in such a manner so as to not obstruct free passage along the dock.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-806 Fenders on Dock

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

Modified, 1 CMC § 3806(f).

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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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-808 Movement of Vessels in Marina

Movement of vessels within Smiling Cove Marina shall be for the purpose of entering or leaving a slip only.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed “by marina tenants” after “Smiling Cove Marina.”

§ 85-30.2-810 Speed Within the Marina

(a) **Basic Speed Law:** No vessel shall be operated at such a speed in the Smiling 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.

(b) **Heavy Displacement Vessels:** Heavy displacement vessels, 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 3 mph while traveling within Smiling Cove Marina.

(c) **All Other Vessels:** All vessels not specified in § 85-30.2-810(b) shall observe a 5 mph speed limit within Smiling Cove Marina for the full length of the channel, subject at all times to the basic speed law.

(d) **Complaints:** Lessees and permittees are encouraged to report incidents of vessels traveling in excess of any of the above subsections.

(e) If the marina manager finds a violation of this section, a lessee or permittee shall have its right to berth or moor in the marina canceled.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

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Commission Comment: The 2006 amendments added subsection (e).

§ 85-30.2-812 Toilet Usage

Toilets or marine heads shall not be used aboard a vessel in Smiling Cove Marina unless waste removal from vessel toilets or marine heads are conducted pursuant to a process approved in writing by the Director of Fish & Wildlife or his designee.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-814 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: 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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-816 Maintenance Work on Vessel

- (a) Major repair or reconstruction work shall not be performed in or at any slip.
- (b) No repair or other work on a vessel shall be performed before 8:00 a.m. nor after sunset, except in the case of emergency repairs to keep a vessel afloat. The marina manager 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 Smiling 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 Smiling Cove Marina.
- (e) Spray painting, welding, burning, and other hazardous activities are strictly prohibited in the marina.

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Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments added “in a manner that will obstruct free passage along the dock” to subsection (c). The Commission inserted a comma after the word “clean” in subsection (c) pursuant to 1 CMC § 3806(g).

§ 85-30.2-818 Garbage and Littering

(a) No lessee or permittee shall have or keep on a vessel or on the adjacent dock any garbage or decaying matter. Trash bins are provided at the Smiling Cove Marina parking area for proper disposal of trash and other disposable materials.

(b) No lessee or permittee shall throw, place, leave, deposit or abandon, or cause to be thrown, placed, deposited or abandoned, any litter within the Smiling Cove Marina and the adjacent areas of American Memorial Park except in receptacles designated by the Division of Fish & Wildlife 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 vessel’s voyage.

(c) No lessee or permittee shall place, throw, deposit or discharge or cause to be placed, thrown, deposited, or discharged into the waters of Smiling Cove Marina any litter, sewage, garbage, gaseous liquid or solid materials which render the water unsightly, noxious, or unclean so as to be detrimental to the public health and welfare.

Modified, 1 CMC § 3806(g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission changed the “&” to “and” in subsection (a). In 2006, this section was re-promulgated without change.

§ 85-30.2-820 Fire Safety

(a) Basic Rule: No lessee or permittee shall use or permit his or her vessel to be used or maintained in a manner as to create or constitute a potential fire hazard.

(b) Fire Extinguishing Equipment: Any vessel berthed in the Smiling Cove Marina shall have at least two operable hand portable fire extinguishers containing ten pounds of dry chemicals. This requirement is waived if the vessel has a current safety inspection by the local boating safety office, Coast Guard or a vessel safety check that has passed the Coast Guard Auxiliary inspection criteria.

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(c) Fueling: No fueling of vessels, whatsoever, shall be permitted within Smiling Cove Marina.

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

Modified, 1 CMC § 3806(e), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted “or” before “permittee” in subsection (a). In 2006, this section was re-promulgated without change.

§ 85-30.2-822 Dumping of Hazardous Substances

No lessee or permittee shall 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 Smiling Cove Marina, upon any of the docks, or on any land adjacent to the marina. Combustible materials shall not be placed in trash receptacles, but only 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: 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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-824 Swimming

No person shall swim in the Smiling 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 aground.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-826 Fishing

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No person shall fish from any docks of the marina and adjacent locations. No shoreline or fishing from the banks within Smiling Cove Marina is permitted beginning westward from the convenience dock to the south end of the marina ending at the last slip at dock G. Fishing in Smiling Cove Marina is strictly prohibited.

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-828 **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: 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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-830 **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: 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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-832 **Obstructions Placed in Water**

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

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

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§ 85-30.2-834 Signs

- (a) No lessee or permittee shall place, erect, or maintain any sign, display, or notice on any property, structure, or improvement within the Smiling Cove Marina, without the prior written authorization of the marina manager.
- (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 marina manager.
- (d) The marina manager may direct 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.

Modified, 1 CMC § 3806(e), (f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a)-(d). In 2006, this section was re-promulgated without change. The Commission inserted commas after the words “erect” and “display” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 85-30.2-836 Maintenance of Marina

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

Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-838 Alteration of Docks

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

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Modified, 1 CMC § 3806(f).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments did not make any changes to this section.

§ 85-30.2-840 Nuisance

No lessee or permittee shall 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.

Modified, 1 CMC § 3806(g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission changed “their” to “his or her” in the first sentence of this section. In 2006, this section was re-promulgated without change.

§ 85-30.2-842 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.

Modified, 1 CMC § 3806(e).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed “one” before “exception” in the second sentence of this section.

§ 85-30.2-844 Noise

A lessee or permittee shall 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.

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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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-846 Articles and Equipment Left on Dock

[Repealed.]

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 2006 amendments did not include this section, but did not expressly repeal it. The final section of the 2006 amendments noted its intent to supersede all previous Smiling Cove Marina regulations. Therefore, this section is superseded.

Part 900 - Parking Area

§ 85-30.2-901 “Parking Lot” Defined

The paved parking area adjacent to and immediately south of the docks at Smiling Cove Marina is referred to herein as the “parking lot.”

Modified, 1 CMC § 3806(g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission moved the final period inside of the quotation mark. In 2006, this section was re-promulgated without change.

§ 85-30.2-905 Use Restrictions

- (a) A lessee or permittee is entitled to leave one vehicle in the parking lot while aboard his or her vessel. Two additional vehicles of guests of a lessee or permittee may be left in the parking lot while the guests are aboard the lessee’s or permittee’s vessel.
- (b) Buses and mini-buses shall be permitted to load and unload passengers in the parking lot, and park at the designated bus parking location.
- (c) No person shall sleep or cook in a vehicle while it is in the parking lot.
- (d) Trailers shall be permitted in the parking lot in the area that is marked and designated for “trailers.”

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(e) No vehicle or trailer may be left in the parking lot for more than seventy-two hours without the written authorization of the marina manager. Any vehicle that does not belong to a tenant of the marina or his/her guest, and that remains in the parking lot after 8:30 p.m., shall be towed away at the owner's expense. A parking fine will also be assessed.

(f) No person shall remain, stay, or loiter in the parking lot between the hours of 8:30 p.m. and 5:00 a.m.

Modified, 1 CMC § 3806(e), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In subsection (d), the Commission moved the final period inside of the closing quotation mark. The 2006 amendments modified subsection (e).

§ 85-30.2-910 Risk of Use

The parking lot is maintained by the government for the gratuitous use of boat owners. Any person who parks a vehicle in the parking lot does so at his or her own risk.

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

Part 1000 - Enforcement

§ 85-30.2-1001 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 by the Director of Fish & Wildlife.

Modified, 1 CMC § 3806(d).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed the reference to § 85-30.2-701 in subsection (b).

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§ 85-30.2-1005 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) No action for legal or equitable relief may be filed for enforcement except by the government. However, any lessee may file an action in his or her own name against any person who places or maintains a vessel at the lessee's berthing slip without the consent of the lessee.
- (c) The Secretary of Lands & Natural Resources is hereby empowered to deputize marina enforcement personnel for the issuance of citations in violation of the regulations in this subchapter.
- (d) The marina manager is directed to instruct and train the marina enforcement personnel in the proper procedures for the issuance of citations and/or notices pursuant to the regulations in this subchapter.
- (e) Marina enforcement personnel must be attired in identifiable uniforms and must carry identification cards in the performance of their duty.

Modified, 1 CMC § 3806(d), (f), (g).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission deleted "or" located before "without the consent of the lessee" in subsection (b) to correct a manifest error.

The 2006 amendments inserted a new subsection (c) and re-designated the remaining sections. The 2006 amendments modified subsection (d) (formerly subsection (c)) by inserting "citations and/or" before "notices."

§ 85-30.2-1010 Discretion of the Marina Manager in Removing Applicants from Waiting List

The marina manager 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 Director of Fish & Wildlife. No application will be accepted if that person has an unpaid debt to Smiling Cove Marina for prior usage of the facility. Upon complete payment of all debts in arrears, the marina manager may consider including the applicant on the waiting list.

Modified, 1 CMC § 3806(d), (f).

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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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

§ 85-30.2-1015 Nature of Lease and Permit

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

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was re-promulgated without change.

Part 1100 - Fines

§ 85-30.2-1101 Fines

Assessment of fines for violation of the Smiling 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; and
 - (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.

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- (h) Articles and equipment on dock: \$50.00 per occurrence after warning to remove it.
- (i) Dumping of hazardous substances: \$500.00 per occurrence.

Modified, 1 CMC § 3806(d), (g).

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 “are” to “is” in the first sentence of this section to correct a manifest error. The Commission designated subsections (b)(1)-(3) and (d)(1)-(3). The 2006 amendments made several changes throughout this section, including replacing the title of Part 1100 and § 85-30.2-1101 (“Cost Reimbursement” replaced with “Fines”).

§ 85-30.2-1105 Opportunity to Contest Imposition of Costs

[Repealed.]

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 2006 amendments did not include this section, but did not expressly repeal it. The final section of the 2006 amendments noted its intent to supersede all previous Smiling Cove Marina regulations. Therefore, this section is superseded.

Part 1200 - Miscellaneous Provisions

§ 85-30.2-1201 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.

Modified, 1 CMC § 3806(d).

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); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments replaced this section in its entirety.

§ 85-30.2-1205 Supersedure

The Smiling Cove Marina Rules and Regulations contained in this subchapter supersede all other rules and regulations regarding Smiling Cove Marina previously promulgated, including but not limited to those published in the Commonwealth Register:

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- (a) On July 15, 1992 at pages 9327 through 9334;
- (b) On July 15, 1992 at pages 9338 through 9380;
- (c) On September 15, 1992 at pages 9633 through 9636;
- (d) On June 15, 1995 at pages 13515 through 13517; and
- (e) On September 15, 1995 at page 13723.

Modified, 1 CMC § 3806(d).

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 corrected the spelling of “supersede” and “supersedure” pursuant to 1 CMC § 3806(g). In 2006, this section was re-promulgated without change. However, Exhibits A-1 and A-2, although referenced in this subchapter and formerly located at the end of the subchapter, were not published with the 2006 amendments. Therefore, Exhibits A-1 and A-2 were repealed pursuant to this section (§ 85-30.2-1205).

Exhibit A-1

[Repealed].

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006) (repealed); 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 2006 amendments did not include this exhibit, but did not expressly repeal it. The final section of the 2006 amendments noted its intent to supersede all previous Smiling Cove Marina regulations. Therefore, this exhibit is superseded. See 25 Com. Reg. 20423 (July 15, 2003) for the original Exhibit A-1.

Exhibit A-2

[Repealed].

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006) (repealed); 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 2006 amendments did not include this section, but did not expressly repeal it. The final section of the 2006 amendments noted its intent to supersede all previous Smiling Cove Marina regulations. Therefore, this section is superseded. See 25 Com. Reg. 20424 (July 15, 2003) for the original Exhibit A-2.

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SUBCHAPTER 30.3 OUTER COVE MARINA RULES AND REGULATIONS

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- § 85-30.3-701 Cancellation
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- § 85-30.3-730 Partnerships and Corporations
- § 85-30.3-735 Absence from Slips or Moorings
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- § 85-30.3-801 Application
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- § 85-30.3-804 Storage on Docks
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§ 85-30.3-814 Mooring of a Vessel	Part 900	[Reserved]
§ 85-30.3-816 Maintenance Work on Vessel	Part 1000	Enforcement
§ 85-30.3-818 Garbage and Littering	§ 85-30.3-1001	Effect of Regulations on Lease and Permits
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§ 85-30.3-824 Swimming	§ 85-30.3-1015	Nature of Lease and Permit
§ 85-30.3-826 Fishing	Part 1100	Fines
§ 85-30.3-828 Visitors	§ 85-30.3-1101	Fines
§ 85-30.3-830 Small Children on Docks	Part 1200	Miscellaneous
§ 85-30.3-832 Obstructions Placed in Water	Provisions	
§ 85-30.3-834 Signs	§ 85-30.3-1201	Severability
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§ 85-30.3-844 Noise		

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

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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).

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§ 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).

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§ 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

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(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

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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.

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(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,

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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

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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.

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(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

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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.

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(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

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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

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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

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§ 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).

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SUBCHAPTER 30.4 MARIANA CROW CONSERVATION AREA

Part 001	General Provisions	§ 85-30.4-210 License; Tag; Certificate of Origin; Report Card	
§ 85-30.4-001	Authority and Purpose	§ 85-30.4-215 Inspection	
§ 85-30.4-005	Application and Scope	§ 85-30.4-220 Prohibited Activities	
§ 85-30.4-010	Definitions		
Part 100	Prohibitions	Part 300	Penalties
§ 85-30.4-101	Prohibited Conduct	§ 85-30.4-301	Penalties
Part 200	Special Hunting Season	Part 400	Miscellaneous Provisions
§ 85-30.4-201	Special Hunting Season	§ 85-30.1-401	Severability
§ 85-30.4-205	Hours		

Subchapter Authority: 1 CMC §§ 2653, 2654; 5 CMC §§ 5104, 5108.

Subchapter History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

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.

5 CMC § 5104 gives the Department of Lands and Natural Resources the authority to protect fish, game, and endangered species. 5 CMC § 5108 allows the Department to adopt regulations to protect endangered species.

Part 001 - General Provisions

§ 85-30.3-001 Authority and Purpose

(a) Authority. The regulations in this subchapter are promulgated under the authority

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of 1 CMC §§ 2653(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, including the duty to protect fish, game, and endangered species. Pursuant to 5 CMC §§ 5104 and 5108, the Department has the exclusive authority and duty to protect fish, game, and endangered and threatened species, and may promulgate regulations to ensure the survival of endangered and threatened species.

(b) Purpose. The purpose of this subchapter is to establish regulations for the Mariana Crow Conservation Area (MCCA). The Mariana Crow (*Corvus kubaryi*) is designated as an endangered species under NMIAC § 85-30.1-101, and the MCCA was established as part of federal mitigation requirement. The regulations serve to insure appropriate use of the MCCA for the enjoyment and general welfare of the public while protecting the area in its natural state to serve as a refuge for native wildlife, with emphasis on the Mariana Crow.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

Commission Comment: The Commission corrected the capitalization of the word “federal” in subsection (b) pursuant to 1 CMC § 3806(f). The Commission added a period at the end of subsection (b) pursuant to 1 CMC § 3806(g).

§ 85-30.4-005 Application and Scope

(a) Geographic Area. The regulations codified in this subchapter shall apply to MCCA located in As Motmos to Papyapai, Rota. The specific area is Lot No. 682 R 01, containing an area of 4,440,000 square meters as depicted in Exhibit A.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

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

§ 85-30.4-010 Definitions

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

- (1) “Department” means the Department of Lands and Natural Resources.
- (2) “Director” means the Director of Fish and Wildlife.
- (3) “Division” means the Division of Fish and Wildlife.
- (4) “MCCA” means the Mariana Crow Conservation Area.
- (5) “Secretary” means the Secretary of Lands and Natural Resources or his or her designee.
- (6) “Special hunting season” means the time period designated for hunting sambar deer within the MCCA as announced by the Secretary.
- (7) “Take” or “taking” means to capture, attempt to capture, harvest, kill, attempt to kill, hunt, trap, spear, collect, fish, pursue, harm, harass, remove, or in any manner disturb, or attempt to do the above activities.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

Commission Comment: The Commission inserted a period at the end of subsection (a)(2) pursuant to 1 CMC § 3806(g).

Part 100 - Prohibitions

§ 85-30.4-101 Prohibited Conduct

(a) A person may not take any variety of terrestrial wildlife, unless otherwise excepted through a permit issued under Part 200 of Subchapter 85-30.1.

(b) A person may not take any variety of plant-life, unless otherwise excepted through a permit issued under Part 200 of Subchapter 85-30.1 or for use in traditional healing practices.

(c) A person may not collect, remove, deface, or destroy any archaeological artifact or natural object.

(d) A person may not create new trails within the MCCA.

(1) This prohibition shall not apply to the staff of the Department, the Division, and the United States Fish and Wildlife Service, who may create trails for law enforcement and monitoring of wildlife and their habitat.

(2) Existing trails in the MCCA shall remain open during the day (one-half hour before sunrise to one-half hour after sunset), but shall be closed at night.

(e) A person may not create new roads within the MCCA.

(f) A person may not operate motorized vehicles within the MCCA.

(1) This prohibition shall not apply to the existing unpaved road to the Pictograph Cave.

(g) A person may not remove or disturb soil, sand, or rock.

(h) A person may not dump rubbish, waste material, or any other substance that would degrade or alter the quality of the environment.

(i) A person may not ignite or maintain an open fire.

(j) No dogs, cats, goats, pigs, cattle, or domestic animals of any kind are permitted within the boundary of the MCCA.

(k) Agricultural activities, including grazing of livestock and cultivation and/or harvest of any natural or cultivated crop, are prohibited.

(l) Camping and overnight use are prohibited.

(m) Alcoholic beverages and illegal drugs are prohibited.

(n) A person may not collect, remove, deface, or destroy any fence, poster, sign, or other structure.

(o) A person may not engage in any form of nighttime activity in the MCCA.

(p) A person shall not remove or disturb any artifacts and/or ancient sites within the MCCA.

(1) The discovery of artifacts and/or ancient sites shall be immediately reported to the Commonwealth Historic Preservation Office.

(2) Violations of this subsection may be subject to additional penalties as provided in federal and Commonwealth law.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

Commission Comment: The Commission inserted a comma after the word “cattle,” inserted the word “are,” and inserted a period at the end of subsection (j) pursuant to 1 CMC § 3806(g).

Part 200 - Special Hunting Season

§ 85-30.4-201 Special Hunting Season

(a) Hunting within the MCCA is not allowed unless otherwise opened by a Special Hunting Season established by the Secretary of DLNR.

(b) To control the population of deer in the MCCA, the Secretary may announce a Special Hunting Season. The period of the Special Hunting Season shall be at a time when the Mariana Crows are not nesting.

(1) The Secretary shall issue a press release announcing the dates of the Special Hunting Season and publicize the Special Hunting Season through other means as he or she determines is necessary.

(2) A person may hunt sambar deer during the announced Special Hunting Season. A person may not hunt any other wildlife species during this Special Hunting Season.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

§ 85-30.4-205 Hours

(a) Hunting hours. Legal hunting hours for deer shall be from one-half hour before sunrise to one-half hour after sunset, and only during the Special Hunting Season. Hunting at night is strictly prohibited.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

§ 85-30.4-210 License; Tag; Certificate of Origin; Report Card

(a) Hunting license. A person must carry a valid CNMI hunting license while

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hunting. A person may take deer only if that person has been issued a hunting license authorizing the taking of deer. Hunting licenses may be obtained from the local office of the Division of Fish and Wildlife, or from an authorized agent.

(1) Legal Hunting Age. The legal hunting age is sixteen years of age or older. Only persons who may legally possess firearms, bows, or crossbows may hunt game with firearms, bows, or crossbows. A valid gun registration number is required on the license of all hunters who intend to use firearms to take wildlife. Hunting licenses for persons under the age of eighteen years may be conditioned on successful completion of Department sponsored or sanctioned rifle or bow training programs.

(2) License Limits. The Secretary may set a limit on the number of licenses that may be issued in any given Special Hunting Season and shall include such limit in the announcement for the Special Hunting Season.

(b) Deer tag. Possession of an untagged or unregistered deer is prohibited. Every person issued a hunting license for the special season within the MCCA will also be issued a deer tag. If the hunter kills a deer, he or she must immediately (after gutting the deer) attach the tag to the carcass and bring it to the DFW designated check station and allow station staff to examine and take measurements of the deer.

(c) Certificate of Origin. A person in possession of a deer or any part of a deer must have a valid CNMI hunting license or a certificate of origin. A certificate of origin is a letter or statement signed by the valid CNMI license holder who killed the animal and which is certified by the Director, Resident Director, or Enforcement Section Supervisor.

(1) The certificate of origin must state:

(i) Species and sex of animal;

(ii) Date killed;

(iii) Hunting license number and date issued;

(iv) Person to whom given;

(v) Animal part and amount given, and be attached to the animal or animal part where it can be readily seen by a conservation officer, the Secretary, the Director, or the Resident Director.

(2) A hunter who takes a deer or any part of a deer to another CNMI island must obtain a certificate of origin from the check station staff, the Director, or the Resident Director, or the Enforcement Section Supervisor. The hunter must present the certificate of origin to custom or quarantine officials upon entering another CNMI island.

(d) Hunter Report Cards. A person issued a hunting license will also be issued a hunter report card. Hunters must provide all information required on the report card. Completed hunter report cards must be turned in to the Division within ten days after the close of the special hunting season.

(e) Bag Limit. The Secretary will set the bag limit at the time of announcement of a special hunting season. Failure to abide by the bag limit shall be subject to penalty.

(f) Maximum number of hunters. The Secretary, in consultation with the DLNR Resident Director for Rota, may limit the number of hunters in the MCCA at any given

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time. The Secretary shall include the maximum number, if any, in the announcement for a special hunting season.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

Commission Comment: The Commission inserted commas after the words “bows” in subsection (a)(1) and “Director” in subsection (c) pursuant to 1 CMC § 3806(g). The Commission struck the word “for” from subsection (a)(1) pursuant to 1 CMC § 3806(g).

§ 85-30.4-215 Inspection

(a) Upon request, a person engaged in hunting shall allow a DFW Conservation Officer or Conservation Trainee to inspect any wildlife taken by or under control of the person.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

§ 85-30.4-220 Prohibited Activities

- (a) The following conduct is prohibited:
- (1) Hunting while under the influence of alcohol or a narcotic or other disabling drug.
 - (2) Taking wildlife while riding or on any motorized vehicle including automobiles, motorized bikes, motor powered boats, helicopters, or airplanes.
 - (3) Taking or pursuing wildlife while riding on an animal.
 - (4) Using fire or artificial light as an aid in taking wildlife, except that artificial light may be used to hunt coconut and land crabs during the specified season.
 - (5) Discharging a gun, bow and arrow, or cross bow in an attempt, to take a game animal within a village or within two hundred meters of a human dwelling. It is likewise illegal to discharge such weapons across a public road, within twenty-five meters of a road.
 - (6) Using dogs to hunt.
 - (7) Selling or bartering deer or deer products.
 - (8) Possess any game animal, mounted specimen, antlers, skin, meat, or any part thereof without having a hunting license valid at the time of kill or a “certificate of origin” letter, as required under subsection (e).*
 - (9) Hunting, killing, or possessing any threatened, endangered, or protected species, or any part thereof, without a valid scientific permit.
 - (10) Hunting while on official CNMI government travel, unless specifically authorized in writing by the Secretary prior to travel.
 - (12) Discharging any weapon within five hundred meters of a known, occupied bat roost. This will be enforced even in the event of a bat season being opened.
 - (13) Hunting in closed areas.

* So in original.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

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Commission Comment: The Commission inserted commas after the words “helicopters” in subsection (a)(2) and “meat” in subsection (a)(8) pursuant to 1 CMC § 3806(g).

Part 300 - Penalties

§ 85-30.4-301 Penalties

A person who violates a provision set forth in this subchapter or a condition of a license or permit issued under this subchapter shall be subject to the applicable penalties set forth in 2 CMC § 5109.

History: Adopted 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).

Part 400 - Miscellaneous Provisions

§ 85-30.4-401 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 36 Com. Reg. 34845 (Mar. 28, 2014); Proposed 36 Com. Reg. 34650 (Jan. 28, 2014).