

NATIONAL OCEANIC RESOURCE MANAGEMENT AUTHORITY (N.O.R.M.A.)

ADMINISTRATIVE PENALTIES REGULATIONS

PART 1. GENERAL PROVISIONS

1.1 **Statement of Purpose.** These Regulations establish the Administrative Penalties and Citation System, which is essential for the delivery of law enforcement services to protect and conserve our fisheries resources and to facilitate the opportunity to maximize economical benefits from sustainable use of fishery resources.

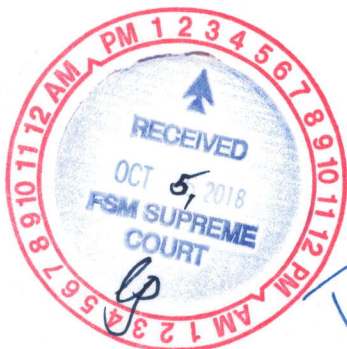
1.2 **Authority.** These Regulations are adopted or promulgated by Board of Directors, National Oceanic Resource Management Authority, pursuant to Section 204 of Title 24 of the Code of the Federated States of Micronesia.

1.3 **Force and Effect.** These Regulations have the force and effect of law and shall be in effect from the date of adoption until and unless amended or repealed.

1.4 **Severability.** If any parts of these Regulations are held ineffective, void or otherwise inactive, the remaining regulations shall continue unaffected.

1.5 **Definitions.**

- a. "Access agreement" means a treaty, agreement or arrangement entered into by the Authority pursuant to Title 24 in relation to access to the exclusive economic zone for fishing by foreign fishing vessels, and includes bilateral and multilateral instruments applicable at the national, sub regional or international level.
- b. "Agent" means a person appointed or designated by the foreign fishing company to act as the legal representative of that company within the Federated States of Micronesia.
- c. "Authority" means the National Oceanic Resource Management Authority.
- d. "Executive Director" means the individual appointed by the Authority to be in charge of the daily activities and operation of the Authority and to perform such other function as required by Title 24 of the FSM Code.
- e. "Secretary" means the Secretary of the Department of Justice.



Federated States of Micronesia
Office of the Registrar of Corporations

Department of Justice

Filed on this 27th day of September 20 18

Bethel Edmond
Registrar

PART 2. ESTABLISHMENT OF ADMINISTRATIVE PENALTIES

2.1 Establishment. Administrative penalties may be assessed for any violation of Title 24 or regulations promulgated under Title 24, or violations of an access agreement, for which no penalty is specified in Title 24.

2.2 Deposit of Proceeds. The proceeds of administrative penalties shall be deposited into the General Fund of the Federated States of Micronesia.

2.3 Liability. The issuance and satisfaction of an administrative penalty shall not relieve the violator of liability for other violations arising out of the same acts, violations arising out of other acts, or loss or damage caused by the violation for which the administrative penalty is issued.

2.4 Other Penalties Remain Valid. The establishment of administrative penalties does not create any obligation on the part of the Authority or the Secretary to issue a citation instead of pursuing other legal remedies or to issue a citation prior to pursuing other legal remedies.

PART 3. ISSUANCE OF CITATIONS

3.1 Authority. Citations will be issued by authorized officers.

3.2 Grounds. An officer may issue a citation if the officer has reasonable grounds to believe that a violation has been committed. The grounds on which the citation is issued should be noted on the citation.

3.3 Procedure. Citations issued by Maritime Surveillance Officers in the course of their enforcement activities shall be issued to the operator of the vessel charged with the violation. All other citations shall be issued to the agent for the vessel.

3.4 Department Notifications. The issuing officer shall record the issuance of the citation as directed by his or her Department or Agency and notify his or her supervisor of the issuance of the citation. Citations issued by the Department of Justice shall be copied to the Authority and citations issued by the Authority shall be copied to the Department of Justice.

3.5 Notification to Agent. Where citations are issued under 3.3, the Department or Agency issuing the citation shall provide a copy of the citation to the designated agent for the cited vessel.

3.6 Notification of Payment. Upon receipt of payment of a citation, the Executive Director shall promptly notify the Secretary that the citation has been paid.

PART 4. CITATION

4.1 Form.

- a) Citation shall contain the following information:
 - i. A description of the act or acts constituting the violation.
 - ii. Citation to the provisions of the law, regulations or access agreement violated.
 - iii. The administrative penalty assessed for violation.
 - iv. Information regarding the date, time and location of the violation.
 - v. Information regarding the identity of the violator.
 - vi. A statement as to what process must be complied with in order to satisfy or contest the citation.
 - vii. A statement as to what consequences may arise if the violator does not comply with the terms of the citation.
 - viii. A statement as to what prohibitions apply to the violator until the citation is satisfied or contested.
- b) The citation will be in a format that allows for copies to be made simultaneously upon one writing, such as a carbon, or if computer printed, shall be printed in multiple copies.
- c) The citation form shall be approved and printed by the Authority.

4.2 Satisfaction. Administrative penalties shall be satisfied upon payment of the penalty assessed to the Authority, the return of a signed copy of the citation to the Executive Director, and a signed transmittal from the Executive Director to the Secretary, noting such payment and providing a copy of the signed citation.

4.3 Challenge.

- a) Any person issued a citation may challenge the citation within 10 days of receipt.
- b) All citation challenges shall be in writing, shall be filed with the Executive Director or his designee, and shall provide facts and arguments supporting the party's contention that the citation was wrongly issued.

- c) The Executive Director shall issue a final decision on behalf of the Authority in writing within fifteen (15) days of receipt of a citation challenge. Such decision shall be copied to the Department of Justice.
- d) Any citation that is not challenged within ten (10) days after receipt shall be deemed final.
- e) Any citation that is not paid within thirty (30) days of becoming final shall be subject to enforcement under Part 5.

4.4 Prohibited Activities. The cited vessel shall not engage in fishing or any related or other activity in the fishery waters until the full amount of any final administrative penalty has been paid; or a bond for the full amount of the administrative penalty assessed has been deposited with the Executive Director, pending the conclusion of legal proceedings under this Part. Any bond posted shall be returned only upon a successful citation penalty challenge under this Part or a finding of no violation by the FSM Supreme Court, pursuant to a proceeding instituted under Part 5. Any person who violates this prohibition shall be subject to penalties for fishing without a valid permit.

PART 5 LIABILITY FOR NON PAYMENT OF PENALTIES

5.1 Referral of Violation To Secretary. If any citation remains unpaid thirty (30) days after becoming final, the Executive Director shall refer the violation to the Secretary for further action.

5.2 Action Taken By Secretary. The Secretary may either

- a) enforce the original citation as issued, or;
- b) initiate legal proceedings for the recovery of penalties under section 920 of Title 24, which may exceed those issued by the citation, in the name of Executive Director as plaintiff.

5.3 Authority of Secretary. The Secretary shall have the authority to enforce and recover all financial penalties and all forfeitures, damages, expenses and other liabilities incurred or imposed pursuant to Title 24, and to enforce the liability to forfeiture of any article seized under the authority thereof and all rents, charges, expenses and duties and all other sums of money payable under this subtitle may be sued for, determined, enforced and recovered in the name of the Executive Director as plaintiff, and all such proceedings shall be deemed to be civil proceedings.

CITATION

Citation Number _____ Date/ Time of Citation _____
Location of Vessel _____
Name of Captain _____ Vessel Permit _____
Name of Vessel _____ Registration _____
Nature of Illegal Activities _____

Type of Violation and Penalty _____

Signature, Issuing Officer _____ Print Name of Issuing Officer _____

TERMS AND CONDITIONS

To satisfy this citation, remit full payment by wire transfer or by check to FSM Treasury. Send payment or proof of payment and a signed copy of this citation by secure and expeditious means to the Executive Director, NORMA, Palikir, Pohnpei, 96941.

This citation may be challenged within 10 days of receipt. All citation challenges shall be in writing, shall be filed with the Executive Director of NORMA, or his designee, and shall provide facts and arguments supporting the party's contention that the citation was wrongly issued. The Executive Director shall issue a final decision on behalf of the Authority in writing within fifteen (15) days of receipt of a citation challenge.

Any citation that is not challenged within ten (10) days after receipt shall be deemed final. Any citation that is not paid within thirty (30) days of becoming final shall be subject to enforcement of the citation amount or initiation of civil proceedings in court for recovery of penalties which may exceed the citation amount.

PROHIBITED ACTIVITIES. Pending payment of penalties, no person shall engage in fishing or any related or other activity in the fishery waters until the full amount of any final administrative penalty has been paid; or a bond for the full amount of the administrative penalty assessed has been deposited with the Executive Director, pending the conclusion of legal proceedings. Any person who violates this prohibition shall be subject to penalties for fishing without a valid permit.

I hereby remit payment in satisfaction of this citation.

(Signature) _____ (Printed Name)

(Title) _____ (Date)

VIOLATION

PENALTY

2nd Violation

1st Violation

(A) Violation of a condition of an access agreement

- (1) Failure to display permit or permit number in the wheelhouse
- (2) Appropriate position fixing and identification equipment not installed or not in working condition
- (3) Failure to mark vessel in accordance with FAO Standard Specs
- (4) Failure to monitor international distress and call frequencies
- (5) INTERCO not on board

\$2000
\$10,000
\$2000
\$2000
\$2000

(B) Violation of permit conditions

- (1) Material false statement in an application for a permit
- (2) Failure to notify of changes to vessel particulars
- (3) Failure to meet additional or special conditions of permit
- (4) Out of good standing with VMS or Regional Register

\$5000
\$1000
\$5000
\$1000 (per day)

(C) Failure to release turtles or other mammals (fine per animal)

- (1) Failure to release live turtles
- (2) Failure to release live mammals other than turtles

\$5000
\$10,000

The second violation penalty applies in a second incident of live animals on board; in a first incident where multiple animals are on board, the first violation penalty applies to each animal.

ADOPTION

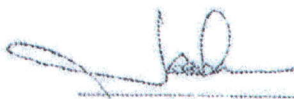
Pursuant to the Authority vested in the Board of Directors of FSM National Oceanic Resource Management Authority (NORMA) by 24 FSMC §204 and having complied with the Administrative Act, 17 FSMC §102, I hereby adopt these regulations.

Date: Sept. 20, 2018


Roger Arnold
Chairman, NORMA Board

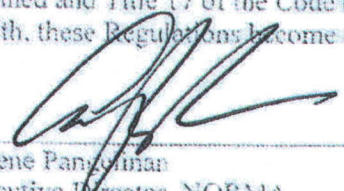
These regulations have been reviewed by the Department of Justice and are in proper legal form


Date: 09/20, 2018


Johnson Asher
Assistant Attorney General

EFFECTIVE DATE

The approval of the Board of Directors having been obtained and Title 17 of the Code of the Federated States of Micronesia having been complied with, these Regulations become effective September 20, 2018.


Eugene Panagiman
Executive Director, NORMA


CADALINA K. DONRE, NOTARY PUBLIC
Federated States of Micronesia
Dohnpei State
MY COMMISSION EXPIRES ON
5 DAY OF July, 2019

