



## MARSHALL ISLANDS MARINE RESOURCES AUTHORITY

### **FISH PROCESSING AND EXPORT REGULATIONS 2020**

These Regulations are hereby promulgated to enable the Authority to regulate the commercial processing of fish and fish products, and the commercial export of such fish and fish products, by prohibiting the commercial processing and export of such fish and fish products without authorization by the Authority; by providing for an application process for licenses to conduct such activities; by setting standards for the handling of fish processing establishments; the appointment of fish inspectors; creating offenses for the violation of these Regulations; and prescribing the penalties.

#### **PART I – PRELIMINARY**

##### **Section 1. Short Title**

1. These Regulations may be cited as the '*Fish Processing and Export Regulations 2020*'.

##### **Section 2. Scope**

1. This Regulation apply to all stages from capture, handling, processing and export of fish and fishery products for commercial fish business operators licensed by the Marshall Islands Marine Resource Authority.
2. This Regulation is intended to protect consumers of fish and fishery products from unsafe fish that is likely to cause significant health risks to consumers from fish that is harvested, handled processed, marketed and exported from licensed fish business operators under Title 51 of the Marshall Islands Revised Code.
3. Subject to Title 51 of the Marshall Islands Revised Code and the Fish Processing and Export Regulation enables MIMRA to set standards and make policy guidelines necessary to meet specific market requirements.
4. Importation of fish and fishery products intended for commercial fishery operators for further processing and trade, must adhere to the relevant national authorities import conditions and meet the requirements of this regulations, and schedules
5. This Regulation is not intended for fish business operators not covered under the Title 51 Marshall Islands Revised Code for fish intended for domestic use, sale. In such situation, requirements of the Food Sanitation Act and subsequent legislation under the Ministry of Health be complied with.

6. Noting that food and fish production is of paramount public health concern, all fish business operators may be subjected to the requirements of the national Food Safety Act where RMI public health is of concern.

### **Section 3. Interpretations.**

1. Unless the context otherwise requires, the following terms shall have the following meaning:
  - a. “the Act” refers to the appropriate Acts under Title 51 of Marshall Islands Revised Code.
  - b. “**Codex Alimentarius**” means the collection of internationally adopted food standards compiled by the Joint FAO/WHO Food Standards programme;
  - c. “**Competent Authority**” (CA) refers to the Marshall Islands Marine Resources Authority under Title 51 of the Marshall Islands Revised Code.
  - d. “CA Officer” means an authorized MIMRA officer appointed under these Regulations.
  - e. “General Principles of Food Hygiene” means the Recommended International Code of Practice or General principles of Food Hygiene in the Codex Alimentarius; “HACCP” means a Hazard Analysis Critical Control Point as provided for under the Codex Alimentarius;
  - f. “Schedule” refers to the Schedules incorporated hereunder as part of these Regulations
  - g. “Director” means the Executive Director of the Marshall Islands Marine Resources Authority.
  - h. “Minister” means the Minister of National Resources and Commerce
  - i. “Industry Standards” approved standards promulgated by the Authority to cover additional importing country production and export requirements.
  - j. “Regulation” means the Fish Processing and the Export Regulation 2020.
  - k. “Operator” means a natural or legal person/s responsible for ensuring that the requirements of 'Fish Processing and Export Regulations 2020' are met within the food business under their control”.
  - l. All other terms and phrases not defined herein shall have the same meaning as defined under 51 MIRC Chapter 1, Section 102.

## **PART II**

### **GENERAL MEASURES FOR FISH HANDLING, PROCESSING AND EXPORT FISH SAFETY STANDARDS.**

#### **Section 4. Handling, Processing and Export of Fish and Fish Products.**

1. In undertaking the handling, processing, and the export of fish, and fish products, operators of fishing vessels and fish processing establishments, shall comply with these Regulation and the “Industry Standards’ Plan in accordance of this Regulation.
2. Handling, and processing, of fish, referred to in subsection (1) above includes the following activities:
  - a. Handling, storage, transportation and unloading of fish on board fishing vessels;

- b. Handling, packaging, preparing, processing, freezing, defrosting and storing in fish processing establishments;
- c. placing identification marks on export products;
- d. storage and transportation of fish and fish products;
- e. and any other activities, that may, from time to time be included in this list by the Authority, through regulation.

**Section 5. Designation of Authorized Officers.**

1. The Director may designate any authorized officer appointed under section 511 of the *Fisheries Enforcement Act* (51 MIRC Chapter 5) as CA Officers for the purposes of section 502(1)(c) of the *Fisheries Enforcement Act* (51 MIRC Chapter 5);
2. Pursuant to the powers prescribed under the *Fisheries Enforcement Act* and these Regulations, (51 MIRC Chapter 5), authorized officers designated under these Regulations shall have the authority to inspect fish processing establishments, and to gain access to information, or records that are necessary to establish compliance by the operators of fish processing establishments, fishing vessels operation with the duties imposed under section 517A of Fisheries Enforcement Act (51 MIRC Ch. 5)
3. Pursuant to the duties imposed under Section 517A of the Fisheries Enforcement Act, (5 MIRC Chapter 5), operators of fish processing establishment and the fishing vessel operation are required herein, to cooperate with CA Officers, and amongst others, are required to provide officers' access to the relevant Information, and records, that will enable the officers to carry out their inspections effectively.
4. Where the information sought by the officers is not readily available, the operators shall take the necessary steps to provide such information or record, within the period of 48 hours from the date of the request.

**Section 6. Offenses.**

1. Any person who assaults, obstructs, fails to provide the information or record required by the CA officers in accordance with Section 4(d) above, or who fails to cooperate with the inspectors in the discharge of their duties under these Regulations, commits an offense.

**Section 7. Penalties.**

1. Persons convicted of an offense under Section 6 herein above, shall be liable to a fine, in an amount not exceeding US\$100,000.00

**PART III – FISH PROCESSING ESTABLISHMENTS**

**Section 8. Prohibition.**

1. The operation of fish processing establishments, and the processing of fish, and fish products, for commercial export purposes, without authorization by the Authority, is hereby prohibited. Any operator, who intends to operate a fish processing establishment for the purposes of processing fish and fish products for commercial purposes, shall first submit the relevant application to the Authority, for an *Operators Registration and Licensing*.

**Section 9. Applications for Fish Processing Establishment License.**

1. An application for a license to operate fish processing establishments, shall be submitted to the Director, in the form prescribed as “*Operators Registration and Licensing*,” and the

“National Control Plan” accompanied by the relevant documents, and the appropriate application fee.

2. The Director may only consider an application for a license to operate a fish processing establishment, where:
  - a. the documentation accompanying the application has been reviewed by a CA officer;
  - b. the fish processing establishment has been inspected by a CA officer
  - c. a report of the documentation referred to in paragraph (a) herein-above is before the Authority;
  - d. a report on the inspection of the premises is before the Authority; and the applicant(s) have complied with all requirements prescribed, or as deemed necessary by the Authority.

**Section 10. Issuance of License, Form and Period of Validity.**

1. Where the Director is satisfied upon consideration of an application, that the Applicant has satisfied all of the requirements of these Regulations and the Act, including the payment of the prescribed fees, the Director shall issue the applicant *a Fish Processing Establishment License* in the format the Director sees more convenient
2. All *Fish Processing Establishment Licenses* issued under this Section, shall, unless revoked earlier, be valid for a period of 12 months from the date of issue.
3. Fish Processing Establishment Licenses issued under this Regulation is not transferable.

**Section 11. Renewal of License.**

1. *Fish Processing Establishment Licenses* issued under these Regulations may be renewed upon application to the Authority, as long as the operator has maintained full compliance to this regulation.
2. All application for renewal shall be considered in the same manner as other applications, in accordance with Section 10 of these Regulations, and subject to the same fees.
3. An application for a *Fish Processing Establishment License* may be denied where historical records of a fish processing establishment show non-compliances and violations to this regulation.

**Section 12. Fish Processing Establishment License Conditions.**

1. *Fish Processing Establishment Licenses* issued under these Regulations shall be subject to the following general conditions, in addition to any other conditions as may be specified by Act, or by the Authority:
  - a. that the CA officer advice that the operator has maintained compliance with the requirements and standards under these Regulations and related market requirements and standards as set by the Authority.
  - b. that the operator monitors and documents, the implementation of these standards in accordance with the Act and these Regulations; and that any change in the information submitted in the application form shall be notified to the Director as soon as practical, and no later than 7 days.

**Section 13. Application Fees and Exemption**

1. The fees associated with the application for, and the issuance of, a *Fish Processing Establishment License* are prescribed in Schedule 1 of this Regulation.

2. Where there is a documentation review or regulatory verification under these Regulations, there shall be payable the fee specified in Schedule 1 of this Regulation.
3. (No fees shall be payable in respect of any license issued to a fish processing establishment, or for the services of a CA officer, where the fish processing establishment is owned, and operated by the Government of the Republic of the Marshall Islands.

#### **PART IV – EXPORT OF FISH**

**Section 14. Prohibition Against the Export of Fish and Fish Products for Commercial Purposes, Without a *Fish Export License*.**

1. The export of fish and fish products for commercial purposes, for fish and fishery products origination from establishments or vessels without a *Fish Processing Establishment License*, is hereby prohibited.

#### **PART V – CERTIFICATION OF EXPORTS**

**Section 15. Certification of Exports.**

1. All fish and fish products exported from the Republic of the Marshall Islands must be accompanied by:
  - a. a *Health Certificate*, certifying that the fish was handled, and processed in accordance with approved requirement and standards. The Health Certificate will be in the formats stipulated in the “National Control Plan”, according to the destinations market
  - b. a *Catch Certification*, certifying that the fish was legally harvested, issued by the Director.

**Section 16. Fees.**

1. The fees payable for the issuance of the Export Permit and the Certificates referred to in Section 15 (a) and (b) above, are prescribed in Schedule 1 of this Regulation.

**Section 17. Offenses and Penalty.**

1. Any operator who exports or attempts to export fish and fish products, accompanied by false certification or permits commits an offense, and upon conviction, shall be liable to a fine not exceeding \$20,000.00, and or, at the discretion of the Director, the suspension or revocation of license.

#### **PART VI – CA OFFICERS**

**Section 18. Duties of CA Officers.**

1. The duties of a CA officer shall include, but is not limited to the following:
  - a. carrying out regular inspection and regulatory verification of fish processing establishments as to establish compliance according to the requirements of the National Control Plan as to verify compliance to the Seafood Industry Standards in accordance with this Regulation.
  - b. carrying out regular sampling and testing of fish;
  - c. ensuring compliance with the standards of importing countries;

- d. maintaining a list of the licensed fish processing establishments and their market access;
- e. seizing, and impounding fish that is not safe for consumption;
- f. conducting inspections of the processor's premises and operations in accordance with the requirements of the Marshall Island Marine Resource Act and these regulations; and
- g. certifying products for export.

**Section 19. Offense and Penalty.**

1. Any person who assaults, obstructs, or attempts to assault and obstruct an CA Officer, and in any manner whatsoever, to prevent such inspectors from carrying their duties under the Act and these Regulations, commits an offense, and upon conviction, shall be liable to a fine in an amount not exceeding US\$50,000.00, and or, at the discretion of the Director, the suspension or revocation of license.

**PART VII – MISCELLANEOUS.**

**Section 20. Export for Personal Consumption Exempted.**

1. These Regulations do not apply to the export of fish and fish products, for personal consumption, in accordance with the provisions of Section 227 of the *Fisheries Act* (51 MIRC Chapter 2).

**Section 21. Consideration of Applications Within Reasonable Period of Time.**

1. Unless the delay in the consideration of an application is occasioned by the failure of an applicant to produce information requested by the Director, the Director shall take the necessary steps to ensure that an application is considered and the outcome of such consideration is communicated to an applicant within a reasonable period of time, which in no case shall exceed a period of 90 days.

**Section 22. Information to be True and Correct in Every Particular.**

1. All information required under these Regulations to be recorded, notified, communicated, or reported, to the Director shall be so recorded, notified, communicated or reported, in their true, complete and correct form.
2. Any changes in the circumstances which has the effect of rendering any such information false, incomplete or misleading, shall be communicated to the Authority promptly.

**Section 23 Written Notification in case of non-compliance**

1. The Competent Authority shall provide the fish business operator concerned with a written notice of its decision concerning the action to be taken in case of non-compliances to any part of these Regulation, Schedules and approved Standards, together with the reason for such undertaking.
2. Any expenses incurred in the process of the course of the actions taken shall be borne by the fish business operator.

**Section 24 Right of appeal**

1. Notwithstanding Section 23, the Authority shall make known to the Operator his or her right to appeal against such decisions by the Competent Authority and on the applicable

procedure and time limits as described in the National Control Plan and Seafood Industry Standards.

## **PART VIII -SETTING OF STANDARD**

### **Section 25 Right to set standards and operational procedures**

1. The Director may issue additional schedules, standards, operational requirements and documents he or she feels is necessary to adequately control the production and export of fish and fish products from the Republic of the Marshall Islands.

### **Schedule**

#### **Schedule 1: Fees**

## Schedule 1 – Competent Authority Regulatory Fees

### Interpretation

- (1) The definition in this subsection apply in this Part

“Act” means the Title 51 Marshall Islands Marine Resource Code

“Regulation” means the Fish Processing and Export Regulation 2020

- (2) Unless otherwise provided in this Part, other words and expressions have the same meaning as in the Act and Regulations.

### Payment

- The fee set out in item 1 & 2 of Table 1 shall be paid at the time the application of a license or renewal of a license is submitted or for re-instatement.
- The fees set out in the items 3 to 5 of Table 1 shall be paid on receipt of an invoice from the Competent Authority.
- The fees for item 7 will be cost sharing depending on tests and will be subject for discussion with industry.
- The item 8 is fee payable to the CA officer with a receipt due to performing duties after regular working hours.

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**Table 1: Licenses/Registration, Inspections and Export Certificates**

Item	Description of Item	Fee (USD)	
1-Licenses and Registration	For License, registration and renewal of an establishment under section 410 of Title 51 MIRC and section 9-11 of the Regulation  (Submitted with Application Form)	\$250.00  Valid yearly	Fish Establishment License/Registration  (A full inspection and a follow-up are undertaken)



2- Inspection for Subsequent offences and suspension	For an inspection under section 529 of Title 51MIRC is carried out to determine whether adequate corrective action has been taken for the purpose of addressing contravention of the Regulations following suspension of a license or registration of an establishment	\$300.00	Inspection to re-instate
3. Inspection for compliance	For the inspection under section 511 and 517 of Title 51 MIRC and section 5 of the Regulation of an establishment identified in a license:		
	a) Full Inspection for a license / renewal and follow up assessment	Refer to 1-licensing and registration	On site assessment 1x year
	b) HACCP and Document Desk assessments including amendments and follow-up	\$50.00	1x year
	c) Partial and Targeted inspection and follow up  n. (including vessel boarding and inspection)	\$50.00	Per inspection
4.Export Certification	(1) The fee for approval of the export certificate and or other document refer to section 225to section 227A of Title 51 MIRC; a) Where an inspection	\$20.00	Per invoice and shipments

	<p>of the fish, container and verification of documents are carried out.</p> <p>b) Where only an export certificate document is verified and approved</p>	\$10.00	
5. Penalty Fees	Late submission of response from company on CA report and Corrective action requests after two (2) reminders without valid reasons.	\$10.00	Per day until submitted or communication established with the CA
	Fees for in-adequate corrective after 2 follow ups, with no valid reasons and communication with the CA (on critical and serious findings)	\$20.00	Per day until satisfactory action and communication established with the CA
	Minor export Certificates changes after 2nd free amendments, (document errors, product codes etc.).	\$10.00	Per changes per certificate
	Major export certificate alteration and changes, destinations, signatures, volumes, issuing of new etc. (after one (1) free change by the CA. Cancellation of HC and issuing of new one	\$20.00 \$20.00	Per changes per certificates
6. Testing Fees	Cost sharing for certain tests that are performed once a year		Will be determined by CA and industry

7.Overtime	CA regulatory functions undertaken outside of 6.00pm to 0600am. Weekday  Weekend (double time)  & double time and a half	\$15.00/hr  \$30.00/hr  \$45.00/hr	Total fee will not will not exceed USD \$100.00/day  Fees will not exceed USD \$150.00/day-Saturday  Fees will not exceed USD \$180.00/day-Sunday
6. Import product inspection and fee	For assessment of documents and products of fish imported for further processing for export.	\$25.00	Per shipment and products incoming

**Fees and charges**

You'll be charged for services provided by The Marshall Islands Marine Resource Authority, Competent Authority, fish inspection and certification when registering and verifying your business under the Fish Processing and Export Regulation 2020.

**Charges will vary**

Under the Regulation, businesses will be required to pay costs of:

- Registering for license and for renewal
- Registration and inspection for re-instatement after suspension
- Making changes to your registration details
- inspection, verification and assessment on facility
- HACCP desk audit
- Export certification and changes, amendment and cancellations
- Penalties for persistence non-compliance and in adequate action
- Laboratory Cost sharing
- Overtime fees for CA officers

These costs vary depending on the level of risk involved in your food business.

Not all the fees listed may apply and will depend on the volume of export and level of compliance. Other charges not listed here may apply according to the provision of Title 51 of the Marshall Islands Marine Resource Code.