

NOTICE

TO RED CLIFF COMMUNITY MEMBERS:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING CHANGES TO THE RED CLIFF CODE OF LAWS ARE BEING PROPOSED BY THE RED CLIFF TRIBAL COUNCIL:

PERTAINING TO **CHAPTER 24 – FISH MARKETING**

(If you would like a copy of the proposed Chapter 24, please stop by the Red Cliff Tribal Courthouse).

REPLACE CURRENT **CHAPTER 24-FISH MARKETING** WHICH SHALL NOW BECOME:

CHAPTER 24-FISH DEALING

24.1 SECTION 1-DEFINITIONS

24.2 SECTION 2-REQUIREMENTS

24.3 SECTION 3-REPORTING

24.4 SECTION 4-INSPECTIONS

24.5 SECTION 5-PENALTIES

24.1 SECTION 1: DEFINITIONS

24.1.1 "FISH DEALING" shall refer to the purchase or any other acquisition of any fish, fish product or fish roe which is not self-caught or self-produced for the purpose of resale.

- 24.1.2 "FISH DEALER" shall refer to any Tribal Member or Tribal entity engaged in "FISH DEALING" as defined in 24.1.1.
- 24.1.3 "RETAILER" shall include any person or business engaged in the sale of fish or fish products directly to a consumer which may include but are not limited to any restaurant, hotel, tavern, food stand, meat market or grocery store.
- 24.1.4 "STATE LICENSED WHOLESALE FISH DEALER" shall refer to anyone person or entity that acquires fish for purposes for wholesale distribution and is required to be licensed under applicable Wisconsin or Michigan State Laws.
- 24.1.5 "21 CFR 123" shall refer to the Code of Federal Regulations, Title 21-Food and Drugs, Chapter I-Food And Drug Administration Department Of Health And Human Services Subchapter B-Food For Human Consumption, Part 123-Fish and Fishery Products. 21 CFR 123 is hereby incorporated into this chapter by reference.

24.2 **SECTION 2: REQUIREMENTS**

- 24.2.1 Any "FISH DEALER" engaged in "FISH DEALING" within the exterior boundaries of the reservation shall have a Fish Dealing License issued by the Red Cliff Band. There shall be no charge for the license. The license shall expire on December 31 of each year unless renewed. The Tribal Chairperson shall be authorized to sign the Fish Dealer License upon certification by the Fisheries Department that the applicant is eligible for said license under the requirements of this section and certification from the Tribal Court that the applicant has no delinquent debts to the Red Cliff Tribal Court. Obtaining a license under this section does not exempt any person from the licensing and fee requirements outlined in RCCL Chapter 16.
- 24.2.2 Any Tribal member operating as a "FISH DEALER" or operating as a "STATE LICENSED WHOLESALE FISH DEALER" outside reservation boundaries shall obtain the appropriate State Wholesale Fish Dealer license from the state in which they are operating and shall be subject to applicable state laws governing said license including all applicable state regulatory and

sanitation laws. Tribal member owned State Licensed Wholesale Fish Dealers are otherwise exempt from the licensing requirements outlined in 24.2.3 of this section and the reporting requirements outlined in section 3 of this Chapter, however are still subject to the inspection conditions described in 24.4.2, 24.4.3 and 24.4.4 if they acquire any Tribally harvested or treaty-caught fish for the purpose of resale.

- 24.2.3** Any Tribal Fish Dealer shall complete Hazard Analysis and Critical Control Points (HACCP) training in order to apply for a fish dealing license. If a person/s already holds a fish dealing license, HACCP training must be completed prior to the renewal of the license. A HACCP certification must be posted and visible upon inspection. A fish dealing license shall not be issued as a new license or renewal license until the fish dealing facility and processing equipment within the facility has been inspected and approved by a certified health and safety inspector and found compliant within the regulations outlined in 21 CFR 123. Upon completion, a copy of the documentation of the inspection shall be provided to the Red Cliff Fisheries Department.
- 24.3.4** Fish Dealers shall comply with 21 CFR 123 and have HACCP plans that comply with 21 CFR 123 which address food safety hazards that may occur in fish processing. If a Fish Dealer produces smoked fish products or smoke-flavored fish products, the HACCP plan shall address potential botulism risks as provided in 21 CFR 123 part B.
- 24.2.5** All fish required to be tagged under any Tribal or State law shall bear proper tags while in possession of a Fish Dealer or State Licensed Wholesale Fish Dealer. All tags must be retained until said fish is sold or acquired by a consumer. If any state or tribally licensed Fish Dealer provides whole fish or fillets to any retailer for the purpose of resale, all required tags must follow said fish until the fish is acquired by or sold to a consumer.

24.3 **SECTION 3: REPORTING**

24.3.1 Tribal Fish Dealers shall create records that document all purchases and acquisition of fish. The records shall clearly explain: the species of fish, from whom the fish was purchased or how it was acquired, detail concerning any monetary exchange or other form of compensation and the amount of weight in pounds. The Fish Dealer shall create such a record of every purchase and acquisition including multiple purchases from the same person on the same date. If a licensed commercial fisherman also is a licensed fish dealer, they shall create an independent record and document sales or acquisition of any fish, self-caught to their own fish dealing business.

24.3.2 Fish Dealers shall create a list of all locations where fish is stored by physical address and notify the Red Cliff Conservation Department immediately of any changes or additional locations. This list shall be provided to the Red Cliff Conservation Department upon acquisition of a Fish Dealing License or annually upon renewal.

24.3.3 Tribal Fish Dealers shall complete a monthly Record of Purchase and Acquisition Report on forms provided by the Red Cliff Fisheries Department. The report shall include all records required in 24.3.1. The report may be completed by means of a paper document or in digital format and shall be submitted within ten (10) business days following the end of each month and delivered via mail or electronic submission to the Red Cliff Conservation Department (Wardens). Reports shall be filed regardless of whether there was any fish purchased or acquired in a given month.

24.3.4 A biannual inventory report shall be submitted to the Red Cliff Conservation Department (Wardens) no sooner than May 1 and no later than May 15 of each year and no sooner than December 1 and December 15 of each year. The report shall include inventory of all fish and their condition (e.g., smoked or fillets (fresh/frozen)). This inventory report shall include all fish currently on the premises of the place of business, fish dealer's residence(s) or any other location where fish is kept.

24.4 **SECTION 4-INSPECTIONS**

- 24.4.1** All Fish Dealers shall obtain an inspection report from a certified health and safety inspector a minimum of two times per year at their own expense. The inspection results and report shall indicate all fish dealing facilities are compliant with the health and safety regulations outlined in this chapter. The first inspection shall occur prior to the issuance or renewal of a license. The second inspection shall occur within seven (7) months, not less than six (6) months of the license issue or renewal date. Upon reasonable advance notice, at no expense to the Fish Dealer all fish dealing facilities are also subject to random inspections by a certified health and safety inspector authorized by the Red Cliff Fisheries Department. If an inspection is found to be unsatisfactory by a certified health and safety inspector, the inspector shall be authorized to immediately suspend the Fish Dealer's License and all fish dealing activities must cease until such inspection is conducted and found compliant with [21 CFR 123](#) or other applicable health and safety criteria.
- 24.4.2** Any tribally licensed Fish Dealer or Tribal member who is a State Licensed Wholesale Fish Dealer where any treaty-caught fish may be kept, acquired or sold, shall allow tribal law enforcement personnel to inspect the premises, storage facilities, and vehicles used in Fish Dealing at any reasonable time and place. Such inspections may be held for the purpose of detecting violations of this chapter or Commercial Fishing Regulations (RCCL Chapter 7).
- 24.4.3** Upon a request from Red Cliff Conservation Officers, a Fish Dealer shall produce all records related to fish dealing, including all invoices, bills of sale or similar type of documentation that describes: purchases, acquisition, sales, trade, barter, storage, or disposals of fish that are kept either at the place of business or at the fish dealer's residence(s) or any other location. The fish dealer shall retain originals of the said records for five (5) years from the date the record was created.

24.4.4 Upon notice by the Red Cliff Conservation Officers, the fish dealer shall provide the requested records within seventy two (72) hours. Records kept on digital devices and media are also subject to inspection under this section.

24.5 **SECTION 5-PENALTIES**

24.5.1 It shall be a violation of this chapter to refuse any inspection of any Fish Dealing facility.

24.5.2 Violations of this chapter are subject to Tribal Court forfeiture not to exceed \$5,000.00 per violation. In addition the Tribal Court may impose additional penalties including but not limited to the monetary value or restitution costs of any fish unlawfully harvested, acquired or improperly tagged.

24.5.3 Aggravated or repeated violations of this chapter shall be grounds for revocation of a Fish Dealing License for a period to be determined by the Tribal Court.

PUBLIC COMMENT ON THIS PROPOSAL IS ENCOURAGED. PLEASE DROP YOUR COMMENTS AT THE TRIBAL ADMINISTRATION BUILDING, OR FORWARD THEM DIRECTLY TO THE TRIBAL COUNCIL. THIS PROPOSAL WILL BE VOTED UPON ON **Tuesday April 16th, 2019** AT THE REGULAR MEETING OF THE RED CLIFF TRIBAL COUNCIL. IF THE COUNCIL ENACTS THIS CODE CHANGE, THE CODE CHANGE SHALL BECOME EFFECTIVE ON **upon enactment.**

DATED: March 8th, 2019