

THE OFFICIAL GAZETTE 19TH MARCH, 2022
LEGAL SUPPLEMENT — B

GUYANA

No. 7 of 2022

REGULATIONS

Made Under

**The FISHERIES ACT
(Cap. 71:08)**

**IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 79 OF THE
FISHERIES ACT, I MAKE THE FOLLOWING REGULATIONS:-**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement.
2. Interpretation.
3. Applications for commercial fisher's licences and special conditions.
4. Protection of marine mammals.
5. Behaviour around marine mammals.
6. Special conditions to reduce and eliminate incidental kill or serious injury of marine mammals.
7. Special conditions applicable to whales.
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12. Technical measures.
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19. Interference with marine mammal observers.
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SCHEDULE – FORMS

commencement 1. These Regulations may be cited as the Fisheries (Marine Mammal Protection) Regulations 2022, and shall be deemed to have come into operation on the 1st November, 2021.

Interpretation. 2. (1) In these Regulations -

“bycatch” means discarded catch of marine species, inclusive of all fish, marine mammals and marine turtles, unobserved mortality of marine species, or injured marine species due to a direct encounter with fishing vessels and gear whether intentionally or accidentally;:-

“commercial fishing operator” means a person, charterer, master or company conducting commercial fishing operations within Guyana pursuant to a commercial fisher’s licence issued under section 14 of the Act;

“commercial fishing operation” means the lawful harvesting of fish from the marine environment for profit as part of an ongoing business enterprise but does not include sport fishing activities whether or not carried out by charter boat or otherwise, and whether or not the fish so caught are subsequently sold;

“exclusive economic zone” means the exclusive economic zone as defined in the Maritime Zones Act;

“harass” includes an action which –

- (a) causes or is likely to cause injury or distress to any marine mammal; or
- (b) disrupts significantly or is likely to disrupt significantly the normal behavioural patterns of any marine mammal;

“incidental catch ” means the taking of a marine mammal –

- (a) because it is directly interfering with commercial fishing operations; or
- (b) as a consequence of the steps used to secure the fish in connection with commercial fishing operations:

Provided that a marine mammal so taken shall immediately be returned to the sea with a minimum of injury and the taking of a marine mammal which otherwise meets the requirements of this definition shall not be considered as incidental catch of that mammal if it is used subsequently to assist in commercial fishing operations;

“marine mammal” means any specimen, whether alive or dead, and any part thereof, including any raw, dressed, or dyed fur or skin -

- (a) *trichechus manatus* (West Indian Manatee);
- (b) *inia geoffrensis* (River Dolphin);
- (c) *sotalia guianensis* (Guiana Dolphin);

“observer” means a person authorised by the Minister to record information on marine mammal interactions, fishing operations, marine mammal life history information and other scientific data, and to collect biological specimens during commercial fishing activities;

“operator” with respect to any vessel, means the master, captain, or other individual in charge of that vessel;

“take” means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal and includes -

- (a) the collection of dead animals or parts thereof;
- (b) the restraint or detention of a marine mammal, no matter how temporary;
- (c) tagging a marine mammal; or
- (d) the negligent or intentional operation of a vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal;

“vessel” includes a fishing boat and trawler;

“wild occurring marine mammal” means any marine mammal that is free

roaming and is not confined by any man-made boundary.

Applications
for commercial
fisher's licences
and special
conditions.

3. (1) No person shall carry on any commercial fishing operation, except pursuant to a commercial fisher's license issued under section 14 of the Act.
 - (2) Every application for a commercial fisher's licence made to the Chief Fisheries Officer may, in addition to any other information required under the Act, set out details of the proposed operation, including -
 - (a) the type and number of vessels intended for use; and
 - (b) the proposed area of operation, including a map showing the geographical coordinates of the proposed area of operation and, where appropriate, the specific locations where contact with marine mammals is proposed; and
 - (c) the maximum number of vessels the operator proposes to operate at any one time.
 - (3) In addition to any other conditions that may be attached to a commercial fisher's licence under the Act, the Chief Fisheries Officer may, before issuing a licence, be satisfied that there is substantial compliance with the following conditions -
 - (a) that the commercial fishing operation is not contrary to the purposes and provisions of these Regulations, conservation management strategies or conservation management plans approved under these Regulations;
 - (b) that the commercial fishing operation will not have any significant adverse effect on the behavioural patterns of marine mammals, having regard to, among other things, the number and effect of existing commercial fishing operations;
 - (c) that the proposed operator and any of the operator's staff who may come into contact with marine mammals, shall subscribe to the guidelines outlined by the Fisheries Department of the Ministry responsible for agriculture, to reduce interactions with marine mammals.

(4) Any person who fishes in contravention of subregulation (1) or of any condition of a commercial fisher's licence commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

Protection of marine mammals.

4. (1) No commercial fishing operator may take any marine mammal, or any other species of marine mammal not listed specifically in these Regulations but found to be occurring within Guyana.

(2) No commercial fishing operator may retain, use, transport, sell, trade or offer for sale or consumption bycatch of any marine mammal, or any other species of marine mammal not listed specifically in these Regulations but found to be occurring within Guyana.

(3) A commercial fishing operator that contravenes the provisions of this regulation commits an offence and shall be liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding six months.

Behaviour around marine mammals.

5. (1) A person coming into contact with any class of marine mammal, shall comply with the following conditions, unless that person is rendering assistance to injured, trapped or stranded marine mammals-

(a) persons shall use their best endeavours to operate vessels so as not to disrupt the normal movement or behaviour of any marine mammal;

(b) contact with any marine mammal shall be abandoned at any stage if the marine mammal becomes or shows signs of becoming disturbed or alarmed;

(c) no person shall cause any marine mammal to be separated from a group of marine mammals or cause any members of the group to be scattered;

(d) where a vessel stops to enable the passengers to watch any marine mammal, the engines shall be either placed in neutral or be switched off within a minute of the vessel stopping;

(e) no person shall hunt, kill, skin, injure or harass any marine mammal;

and

(f) no vessel shall cut off the path of a marine mammal or prevent a marine mammal from leaving the vicinity of any person, vehicle, or vessel.

Special
conditions to
reduce and
eliminate
incidental kill
or serious
injury of marine
mammals.

6. (1) A commercial fishing operator coming into contact with any class of marine mammal shall –

- (a) report to the Chief Fisheries Officer an incidental kill or injury of a marine mammal during commercial fishing operations within forty eight hours of the end of the fishing trip or in the case of non-vessel fisheries, within forty eight hours of the death or injury; and
- (b) implement measures outlined in these Regulations to reduce incidental kill or serious injury of a marine mammal in the course of commercial fishing operations.

(2) A commercial fishing operator that contravenes the provisions of this regulation commits an offence and shall be liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding six months.

Special
conditions
applicable to
whales.

7. In addition to complying with the conditions set out in regulation 5, every person coming into contact with a whale shall also comply with the following conditions-

- (a) no person in the water shall be less than one hundred metres from a whale;
- (b) no vessel shall approach within fifty metres of a whale;
- (c) if a whale approaches a vessel, the master of the vessel shall, wherever practicable,-
 - (i) manoeuvre the vessel so as to keep out of the path of the whale; and
 - (ii) maintain a minimum distance of fifty metres from the whale;
- (d) no vessel shall approach within three hundred metres of any whale

for the purpose of enabling passengers to watch the whale, if the number of vessels already positioned to enable passengers to watch that whale is three or more;

- (e) no person or vessel shall approach within two hundred metres of any female baleen or sperm whale that is accompanied by a calf;
- (f) a vessel shall approach a whale from a direction that is parallel to the whale and slightly to the rear of the whale;
- (g) no person shall make any loud or disturbing noise near whales;
- (h) where a whale abruptly changes its orientation or starts to make short dives of between one and five minutes duration without showing its tail flukes, all persons and vessels shall immediately abandon contact with the whale.

Special conditions applicable to dolphins.

8. In addition to complying with the conditions set out in regulation 5, any person coming into contact with a dolphin shall also comply with the following conditions -

- (a) no vessel shall proceed through a pod of dolphins;
- (b) a vessel shall approach a dolphin from a direction that is parallel to the dolphin and slightly to the rear of the dolphin.

Release of marine mammals.

9. A master, owner or charterer of a fishing vessel shall return to the water, immediately and with minimum harm, any live marine mammal caught accidentally while fishing and when necessary, use the resuscitation procedures listed by the Fisheries Department of the Ministry responsible for agriculture.

Marine mammal research.

10. (1) No person shall, except pursuant to permission granted by the Minister in accordance with section 24 of the Act, -

- (a) conduct, or attempt to conduct scientific research within Guyana on any marine mammal; or
- (b) operate a vessel for commercial purposes within Guyana to engage in or facilitate the observation or interaction with any wild occurring

marine mammal.

(2) The Fisheries Department of the Ministry responsible for agriculture may implement programmes and plans to undertake marine mammal research to ensure sustainability and protection of marine mammals.

Record keeping.

11. The Fisheries Department of the Ministry responsible for agriculture shall implement measures to keep record of-

- (a) mammals sighted, injured or engaged by fishers;
- (b) species of mammals sighted, injured or engaged by fishers;
- (c) incidental catch;
- (d) weather reports affecting mammals;
- (e) breeding periods of mammals; and
- (f) any other information relevant to supporting implementation of these Regulations.

Technical measures.

12. The Fisheries Department of the Ministry responsible for agriculture shall implement measures to prevent or minimise bycatch of marine mammals and those measures shall include -

- (a) spatial closures, including dynamic or real-time closures;
- (b) acoustic deterrents or alerting devices;
- (c) modifications to fishing gear;
- (d) changes in fishing operations; and
- (e) other mitigation strategies.

Spatial closures.

13. (1) The Fisheries Department of the Ministry responsible for agriculture shall collect data to implement spatial closures.

(2) Spatial closures may be implemented in areas where marine mammals aggregate, such as breeding grounds, areas with seasonal prey abundance, migration corridors, or other critical habitats.

(3) In areas where spatial closures are implemented, a schedule shall be presented and made available to fisher folks.

Acoustic alerting or deterrent devices.

14. (1) The Fisheries Department of the Ministry responsible for agriculture shall implement measures in the fishing sector to alert and deter marine mammals from being caught in fishing nets.

(2) Expert advice shall be sought to determine the appropriate acoustic alerting or deterrent devices, both visual and sound.

Modifications to fishing gear.

15. (1) Fishing gear shall be modified to reduce interactions with marine mammals or to facilitate mammals to self-release when mammals become hooked or entrapped.

(2) The following measures may be used to reduce interactions with marine mammals or to facilitate mammals to self-release when hooked or entrapped -

- (a) excluder devices;
- (b) weak ropes or links – pots and gillnets;
- (c) weak rope – longlines;
- (d) tie-downs or lowered net profile – gillnets;
- (e) ropeless fishing-pots;
- (f) sinking or neutrally buoyant gridline – pots;
- (g) entrance and baitwell barriers – pots;
- (h) camouflage of target catch in pelagic longlines;
- (i) increasing the vertical tension or stiffness of gillnets and buoy lines;
- (j) decreasing gillnet mesh size;
- (k) the deployment of decoy sets in pelagic longlines;
- (l) using a “dolphin gate or weighted cork line” in purse seines;
- (m) electric barriers in gillnets;
- (n) noxious bait;
- (o) devices attached to pot ropes that cause them to sever after a set time; and
- (p) dampening vessel noise to eliminate an acoustic cue that attracts

depredating cetaceans.

Changes to
fishing
operations.

16. The Fisheries Department of the Ministry responsible for agriculture shall implement measures to change the way fishing operations are conducted and these measures shall include -

- (a) back down and other net deployment procedures;
- (b) gear rigging;
- (c) gear switching; and
- (d) binding measures and codes of conduct or practice.

Marine
mammal
observers.

17. (1) The Minister, in consultation with the Chief Fisheries Officer, shall in writing, appoint fisheries officers to act as marine mammal observers for the purposes of these Regulations and such officers shall have and may exercise the functions assigned to a marine mammal observer under these Regulations.

(2) A marine mammal observer in exercising any of the powers conferred on the observer by this regulation shall, on demand, produce such means of identification as may be necessary to show that the person is a marine mammal observer for the purposes of these Regulations.

(3) A marine mammal observer may go on board any fishing vessel within the exclusive economic zone and shoreside fish or fish product processing establishment within Guyana.

(4) A marine mammal observer along with an authorised officer may enter any premises where a marine mammal is or is suspected to be held captive.

(5) A marine mammal observer along with an authorised officer may participate in searches of any vehicle within Guyana where they have reasonable grounds to believe that a marine mammal is being held or transported.

(6) A marine mammal observer may take or cause to be taken any sample or specimen for the purpose of ensuring that there is no breach of the provisions of this regulation.

(7) A marine mammal observer shall, in the exercise of powers conferred by this regulation, use the forms set out in the Schedule in the matters to which

Schedule	the forms apply.
Immunity of marine mammal observers	18. No action shall be brought against any marine mammal observer in respect of anything done or omitted to be done by the observer in good faith in the execution of powers and duties under these Regulations.
Interference with marine mammal observers.	19. (1) No person shall resist, obstruct, assault, threaten with violence, bribe or attempt to bribe or otherwise interfere with a marine mammal observer in the exercise of any powers conferred on an observer under these Regulations. (2) A person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding six months.
Liability of operator, charterer, company.	20. Where an offence under these Regulations has been committed by any person on board or employed on a vessel, the operator, charterer or company in control, of that vessel shall be deemed also to have committed the offence.
Penalties.	21. (1) Where a penalty is not specifically provided for an offence under these Regulations, a person who commits an offence under these Regulations shall be liable, on summary conviction to a minimum fine of five hundred thousand dollars but not exceeding one million dollars or to imprisonment not exceeding eighteen months or to both such fine and imprisonment. (2) Where any person is convicted of an offence under these Regulations, the court, in addition to any other penalty, may, order that any marine mammal to which the offence has been committed be confiscated and disposed of as directed by the Minister.
Public awareness and capacity building.	22. The Fisheries Department of the Ministry responsible for agriculture shall implement public awareness and capacity building programmes in the following areas- (a) the development of regulatory frameworks and infrastructure for

marine mammal bycatch reduction;

- (b) the development of effective marine mammal bycatch management planning;
- (c) data collection and assessment of marine mammal bycatch;
- (d) marine mammal bycatch monitoring and reporting;
- (e) the development and implementation of low-cost, low-tech measures to prevent or reduce marine mammal bycatch;
- (f) the development of effective Monitoring, Control and Surveillance (MCS);
- (g) research and development;
- (h) socio-economic studies on the effects of marine mammal bycatch reduction measures; and
- (i) technology transfer and training.

SCHEDULE**FORMS****A - Observer Programme Data Collection Form****MINISTRY OF AGRICULTURE
FISHERIES DEPARTMENT**

Company's Name: Date of Departure:

Boat Name: Date of Arrival:

Type of Vessel: Base of Operation:

Observer team: Recorder:

Master of the Vessel: No.of Passengers:

Drag	1	2	3	4	5	6
# of days at sea						
Area fished						
Weather condition						
Depth fished (fathom)						
Length of Drag						
Time Drag started (hrs.):						
Time drag ended (hrs.)						
Total weight of haul:						
Seabob total weight:						
Retain bycatch weight:						
Trash weight:						
Contact with Marine Mammal						
Sample weight						

B - Last Haul Data Collection Form
MINISTRY OF AGRICULTURE
FISHERIES DEPARTMENT

Landing Site (company).....

Date

Recorder

Captain Interview

Vessel name	
Vessel I.D No.	
Captain name	
Time/date departed	
Time/ date returned	
Time drag started:	
Time drag ended:	
# of days at sea	
Area fished/ Coordinates	
Colour of water	
Weather condition	
Depth fished (fathom)	
ETP interaction (Turtle, Sea mammal, etc.)	

Summary Data

Total Last haul weight	
Seabob total weight	
Sample weight	
Total trash	
Sorted Seabob	
Sorted White belly	
Unsorted	
Unsorted Seabob and White belly	
Total Retained species	

C-Last Haul Data Collection Form

**MINISTRY OF AGRICULTURE
FISHERIES DEPARTMENT
LENGTH-WEIGHT DATA FORM**

Haul #		Date.....			
#	FISH SPECIES				
	1				
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					
Total Sorted weight (lbs.)					

D-Last Haul Data Collection form

**MINISTRY OF AGRICULTURE
FISHERIES DEPARTMENT
LENGTH-WEIGHT DATA FORM**

Haul #

Date.....

Fish Species	Weight (g)	Length (cm)

E- ETP/VULNERABLE SPECIES SHEET

SPECIES												
#	SEX	WEIGHT (LBS.)	DISC LENGTH	DISC WIDTH	SEX	WEIGHT	DISC LENGTH	DISC WIDTH	SEX	WEIGHT	DISC LENGTH	DISC WIDTH
1												
2												
3												
4												
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F – CATCH CERTIFICATE

	The Cooperative Republic of Guyana Ministry of Agriculture ATCH CERTIFICATION FORM								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Document Number*:</td> <td colspan="4"> <input checked="" type="radio"/> Wild Harvest <input type="radio"/> Farm Raised </td> </tr> </table>					Document Number*:	<input checked="" type="radio"/> Wild Harvest <input type="radio"/> Farm Raised			
Document Number*:	<input checked="" type="radio"/> Wild Harvest <input type="radio"/> Farm Raised								
SECTION 2									
Validating Authority Name: Tel:		Address:							
Exporter Name: Tel:		Address:							
Fishing Permit: Yes <input checked="" type="radio"/> No <input type="radio"/>		Country of Exportation:	Flag State of Vessel:						
Vessel Registration Number:		Name of Harvesting Vessel:	Fishing Gear:						
Fishing/Catch Area:		Processing authorized on board:							
State of jurisdiction:		Facility License or Authorization**:	Name and Location of Aquaculture Facility**:						
Name of Recipient, Processor or Buyer: Email:		Telephone:	Business Address:						
Container Number:		Date of Landing/Transshipment:	Landing Port or Delivery Location:						
Species (scientific names): 1. 2.		Weight (kg):	Product Form:	FAO Catch Area:					

3.			
4.			
5.			

SECTION 6

Marine Mammals Declaration

1. Are you familiar with the Marine Mammal Protection Regulations (2022) and the provisions therein?

Yes No

2. Did you catch, buy, sell or had in your possession any of the following marine mammals: *Trichechus manatus* (West Indian Manatee), *Inia geoffrensis* (River Dolphin); *Sotalia guianensis* (Guiana Dolphin) and or any other species of marine mammals?

Yes No

3. If your answer to question 2 included others, please provide name (s) below:

4. Have you in the last 3 months engage in any prohibited or illegal fishing practice (s) which have resulted in the threat to, harm or death of any of the aforesaid marine mammals?

Yes No

5. Have you breached any of the other provisions under the Marine Mammal Protection Regulations (2022)?

Yes No

6. If yes, please state which provision (s) and the reason for the breach.

<p><i>I hereby declare that the information given in this application are genuine to the best of my knowledge and belief. In case any information given in this application proves to be false or incorrect, I shall be responsible for the consequences.</i></p>		
Signature of Exporter:	Date:	Seal (Stamp):

I certify that to the best of my knowledge that the items in the shipment listed herein were caught in compliance with Guyana's Fisheries Act (2002), the Marine Mammal Protection Regulations (2022) and other applicable national conservation and management laws, regulations and agreements.

Signature of Validating Authority:	Date:	Seal (Stamp):
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Made this day of February, 2022.


Hon. Zulfikar Mustapha, M.P.
Minister of Agriculture