

Executive Order No. 296

Declaring an Open Season for Harvesting Trochus in 2011

WHEREAS, pursuant to 24 PNC § 1243(b), the Olbiil Era Kelulau has adopted House Joint Resolution No. 8-50-15S, HD1 (the “Resolution”) authorizing the declaration of an open season for harvesting trochus throughout Palau; and

WHEREAS, after passage of the Resolution, 24 PNC § 1243(b) directs the President of the Republic to declare such open season, together with any applicable area restrictions, by Executive Order; and

WHEREAS, according to the Resolution, a limited 2011 trochus season will provide income to Palauan families without depleting the resources; and

WHEREAS, the Resolution does not itself identify any geographical areas of the Republic’s waters to which the open season does not extend; and

WHEREAS, existing law prohibits all taking of trochus from the Ngerukewid Islands Wildlife Preserve under 24 PNC § 3001; and

WHEREAS, the states retain broad powers to prohibit or limit the taking of trochus within state waters; and

WHEREAS, existing law imposes various restrictions on the methods of capture which apply to the taking of trochus;

NOW, THEREFORE, by virtue of the authority vested in the President by Article VIII of the Constitution of the Republic of Palau and 24 PNC § 1243(b), the President orders as follows:

1. Proclamation of Open Season Dates. The period beginning at 7:00 a.m. on June 15, 2011, and concluding at 11:59 p.m. on June 30, 2011, is hereby declared to be an open season for citizens of the Republic of Palau to harvest trochus in the waters of the Republic of Palau.
2. Restrictions on Harvesting. The following restrictions apply to the harvesting of trochus during the open season:

- a. No trochus that is less than three (3) inches in diameter at the base may be harvested or purchased (24 PNC § 1243(d)).
- b. No person may harvest trochus by means of any kind of underwater breathing apparatus other than a snorkel (27 PNC § 1204(f)).
- c. No trochus may be harvested from the area known as the Ngerukewid Islands Wildlife Preserve (24 PNC Section 3001 et seq.).
- d. No trochus may be harvested from any area within any state that has been declared or designated by the state government to be a marine conservation, sanctuary or protected area, or from any other area within a state that the state government otherwise declares to be off-limits for the harvesting of trochus.
- e. No person may harvest trochus outside of the area or areas where the person has the right to fish under established local custom.
- f. Notwithstanding the declaration of the open season as set forth above, any state government may shorten the open season as it applies to that state.

3. Restrictions on Selling, Purchasing, Storage and Processing Trochus.

- a. No person shall commercially process or store trochus within 200 feet of any occupied residential structure.
- b. No person shall commercially store trochus except in a closed container sufficient to shelter the trochus from insect and rodent infestation, provided further, that no person shall maintain trochus outside of such a container unless such trochus is actively undergoing processing or transport.
- c. No person shall commercially process or store trochus except in accordance with a permit issued by the Division of Environmental Health of the Ministry of Health.
- d. No trochus may be sold or purchased in areas other than an area designated by a state government for such purchase. Each purchaser of trochus must provide a measuring table at the designated area

4. Responsibilities of National Government Agencies.

- a. Pursuant to 24 PNC §1245(d), the Division of Environmental Health within the Ministry of Health shall inspect premises that are proposed for use for trochus storage or processing, and if such facilities comply with 24 PNC §§1245(a), (b) and (c), shall issue permits conditioned as the Division reasonably believes to be necessary to protect the health, safety and welfare of the public, and thereafter throughout the open season the Division shall monitor and inspect all premises that are being used for trochus storage or processing.
- b. To ensure compliance with size and other restrictions on the harvesting, storage and processing of trochus, the Bureau of Marine Resources shall, throughout the open season, monitor and inspect on a daily basis persons harvesting trochus.
- c. To the extent personnel resources are available, the Division of Marine Law Enforcement and the Division of Fish & Wildlife shall assist state governments as requested.
- d. The Ministry of Justice, Bureau of Public Safety, Marine Law Enforcement Division, the Division of Fish and Wildlife and the Bureau of Marine Resources shall consult to organize an enforcement plan involving random spot checks during the entire trochus season. All violations of any applicable law or regulation shall be promptly reported to the Attorney General's Office for prosecution.

5. Record Keeping Requirements.

- a. All persons purchasing trochus shall submit copies of records of purchases to the Bureau of Marine Resources. The Bureau shall record the total volume of trochus stored and shall compile statistics from commercial processors and the Bureau of the National Treasury to show the total tonnage stored, total tonnage exported, and gross receipts from the 2011 trochus open season.
- b. At least ten (10) days before any scheduled exportation of trochus, for statistical purposes the Bureau of Marine Resources shall randomly measure 10% of the total trochus shells bought by each purchaser.

6. Miscellaneous Provisions.

- a. Each state is encouraged to place markers delineating the areas within the state designated as marine conservation, sanctuaries or protected areas, and any other area

that the state government has otherwise declared to be off-limits for the harvesting of trochus.

- b. Each state government shall be responsible for patrolling the areas within the state designated as marine conservation, sanctuaries or protected areas, and any other areas declared to be off-limits for the harvesting of trochus, but may request assistance in doing so from the Division of Marine Law Enforcement and the Division of Fish & Wildlife.
- c. Each state that permits the harvesting of trochus is encouraged to assist the National Government in enforcing the restrictions on harvesting, storing, processing and selling trochus that are contained in this Executive Order and are imposed by law.
- d. Each state that permits harvesting of trochus shall designate an area for the sale and purchase of trochus. So as to avoid inconvenience to the general public, each state that permits harvesting of trochus is encouraged to also designate the areas where trochus may be stored and processed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 25th day of May, 2011.

/s/

Johnson Toribiong
President
Republic of Palau