

**5 GCA GOVERNMENT OPERATIONS
CH. 63 FISH, GAME, FORESTRY & CONSERVATION**

**CHAPTER 63
FISH, GAME, FORESTRY & CONSERVATION**

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§ 63101. Definitions.

As used in this Article:

- (a) Altering – to change, damage, impact, break, remove, relocate, or to harm, resulting from activities to include, but not limited to, construction, drilling, trenching, mechanical equipment, and development;
- (b) Angling - taking of aquatic animal life with a hook;
- (c) Aquatic Life - includes all aquatic animals and aquatic plants;

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(d) Coral – any live or dead member or part thereof of the Phylum Cnidaria that form calcareous skeletons, spicules, or sclerites (including soft and hard corals both hermatypic and ahermatypic) or exist as sessile, solitary, or colonial polyps. Those members include, but are not limited to, all stony corals (*Scleractinia*), fire corals (*Milleporina*), hydrocorals (*Stylasterina*), soft corals (*Alcyonacea*), blue corals (*Coenothecalia*), organpipe corals and relatives (*Stononifera*) sea fans (*Gorgonacea*), black corals (*Antipatharia*), and sea anemones (Order *Actinaria*, *Ceriantharia*, and *Zoanthidea*);

(e) Firearm - any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannons, submachine guns, powerheads, and bangsticks. The specific mention of certain weapons does not exclude from this definition other weapons operated by explosives;

(f) Fish - any aquatic animal life, including, but not limited to, oysters, clams, mollusks, mussels, crustaceans, other shellfish, and coral;

(g) Fish Weir - an apparatus for catching fish, consisting of a pocket or trap, with one or more wings or leaders, or both. Any reference to a fish weir in this Article includes any part or component thereof, including any pole, support, net, brush, wire, mesh, rope, or other item or material. For the purpose of this Article, there are two (2) types of fish weirs:

(1) Main weir means the central pocket or trap of any fish weir and its leader (main entrance) and wings (side entrance); and

(2) Auxiliary weir means any supplementary trap or pocket and its leader and wings which are attached to the leader or wings of a main weir;

(h) Game - all native or introduced species of wild birds and wild or feral animals;

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(i) Juvenile Goatfish (*Ti'āo*)- is defined as fish within the family *Mullidae* (Goatfishes) that are four (4) inches (100 mm) or smaller when measured from the tip of the snout or jaw to the rear center edge or fork of the tail (fork length);

(j) Juvenile Jacks (*I'e'*)- is defined as fish within the family *Carangidae* (Jacks) that are four (4) inches (100 mm) or smaller when measured from the tip of the snout or jaw to the rear center edge or fork of the tail (fork length);

(k) Juvenile Rabbitfish (*Mañāhak*) - is defined as fish within the family *Siganidae* (Rabbitfishes) that are three (3) inches (76 mm) or smaller when measured from the tip of the snout or jaw to the rear center edge or fork of the tail (fork length);

(l) Mangroves - are defined as plants growing in soils with a high salt content and/or possess a well-developed system of conducting tissue to transport water, mineral salts, and sugars that occur in estuarine-tidal flat areas to include, but not limited to, species in the family *Rhizophoraceae*;

(m) Marine Preserve - is defined as a delineated area in which certain activities or uses are permanently restricted or prohibited;

(n) Resource - is defined as any non-living, or living entity;

(o) Rock - is defined as any hard material larger than sand size grains made from a mineral or petrified mass including, but not limited to, coral skeleton that has been weathered to form limestone;

(p) Sand - is defined as any loose grainy non-living material formed from the erosion of rocks, skeletal material and/or calcium carbonate formations;

(q) Seagrass - is defined as any species of marine angiosperms (flowering plants) to include, but not limited to, species in the families *Hydrocharitaceae* and *Potamogetonaceae*;

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(r) Snagging - is defined as fishing in a manner with jerking motions with hooks and line in an attempt to pierce the body of the fish externally;

(s) Take - is defined as hunt, pursue, catch, capture, angle, seize, kill, trap, harm, shoot in any way or by any agency or device; every attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts;

(t) Traditional Fishing Methods - is defined as subsistence-level cultural fishing practices in which the catch is not marketed, but rather is shared within the family or community for purposes of home consumption. Traditional methods most commonly include, but are not necessarily limited to:

- (1) cast net (*talåya*);
- (2) drag net/seine (*chenchulon ma hålla*);
- (3) surround net (*chenchulon ma sugon*);
- (4) trap net (*chenchulon ma mongle*); and
- (5) butterfly net (*chenchulon ababbang*).

(u) Vehicle - is defined as including every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, including boat trailers, but does not include aircraft;

(v) Vessel - is defined as including every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water; and

(w) Waters of Guam - is defined as that area of shore and waters seaward of the mean high water line (mark) to the outermost limits of Guam's exclusive economic zone as provided by 1 GCA § 402(a).

(x) Ray is defined as animals in the Order Myliobatiformes, including, but *not* limited to, Eagle Rays (*Aetobatus narinari*), Manta Rays (*Manta birostris*) and Blue-spotted Rays (*Taeniura lymma*).

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(y) Shark is defined as an animal commonly known as a shark and includes all animals in the Orders *Hexanchiformes*, *Pristiophoriformes*, *Squaliformes*, *Squatiniformes*, *Heterodontiformes*, *Orectolobiformes*, *Lamniformes* and *Carcharhiniformes*.

(z) Shark Fin is defined, for the purpose of this Act, as the fin or tail of a shark that has been removed from the body.

(aa) Ray Part is defined as any part of a ray.

(bb) Shark Finning is defined as the taking of a shark, removing the fin or fins (whether or not including the tail) of a shark, and returning the remainder of the shark to the sea.

(cc) Community-Based Fisheries Management - a system in which fishermen and their communities exercise primary responsibility for stewardship and fisheries management, to include taking part in the decision-making on all aspects of fisheries management, such as harvesting, access, compliance, research, and marketing.

SOURCE: All SOURCE references in this Article will be to P.L. 6-87 unless otherwise noted. GC § 12300. Added by P.L. 6-87. Repealed/reenacted by P.L. 16-39:1. Amended by P.L. 20-185:2; P.L. 25-186:9; P.L. 28-107:2 (April 14, 2006). Subsections (x), (y), (z), (aa), and (bb) added by P.L. 31-010:1 (Mar. 9, 2011). Subsection (y) amended by P.L. 31-200:1 (Apr. 2, 2012). Subsection (cc) added by P.L. 34-072:3 (Feb. 9, 2018).

2019 NOTE: Pursuant to the authority of 1 GCA § 1606 to address manifest and typographical errors, the Compiler corrected the spelling of *Myliobatiformes* and *Aetobatus narinari* in subsection (x).

§ 63102. Authority of Department.

The control and regulation of fish and game in and about Guam and the administration of this Article shall be vested in the Department [of Agriculture].

SOURCE: GC § 12301.

§ 63103. Chief Conservation Officer: Deputies.

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The provisions of this Article shall be enforced by the Director, who shall be ex officio Chief Conservation Officer, and suitable employees of the Department, whom the Director may appoint as Deputy Conservation Officers, as well as by peace officers, as defined in 8 GCA § 5.55. The Chief Conservation Officer and Deputy Conservation Officers acting hereunder shall have the powers of peace officers to carry arms, to make arrests and to issue citations for violations.

SOURCE: GC § 12302; amended by P.L. 26-25:3..

§ 63103.1. Civilian Volunteer Conservation Officer Reserve.

(a) Creation. There is hereby created within the Department of Agriculture of the government of Guam, the Civilian Volunteer Conservation Officer Reserve, which shall be headed by the Director of Agriculture, hereafter referred to as the Director. The Director, subject to the advice and control of *I Maga'lahi*, shall carry out the purposes of this Chapter and shall have such additional duties and responsibilities as are authorized herein.

(b) Functions and Duties. The general function and duties of the Civilian Volunteer Conservation Officer Reserve shall be to provide backup manpower for the suppression of fish and wildlife crimes, preservation of law and order, and to assist in civil emergencies. The Director shall formulate a program whereby the Civilian Volunteer Conservation Officer Reserve shall fulfill the functions and duties herein prescribed. From time to time, the Director shall review and revise the functions and duties of the Civilian Volunteer Conservation Officer Reserve to insure an amicable discharge of its responsibilities and duties knowing that its role is the extension of duties of regular Department of Agriculture personnel.

(c) Recruitment. The Director shall recruit, on an entirely volunteer basis, local residents who desire to provide their services to the Department of Agriculture in carrying out its law enforcement duties and emergency functions. The Director shall promulgate rules and regulations consistent with the requirements of hiring regular Conservation Officers.

(d) Training, Equipment and Maintenance of Records. The

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Director shall devise a program whereby the Law Enforcement Section in the Division of Aquatic and Wildlife Resources of the Department of Agriculture and the Civil Defense Office provides the members of the Civilian Volunteer Conservation Officer Reserve training in crime prevention and operational techniques and procedures for natural and man-made emergencies. Volunteer officers must have a certificate of completion of a training program approved by competent authority. The Civilian Volunteer Conservation Officer Reserve shall maintain a roster of volunteers who have received the training prescribed herein. In order to maintain membership in the Reserve, each member must complete his or her scheduled training and no volunteer may remain in the Reserve if he or she is unable to successfully complete the training. Additionally, basic supplies and equipment shall be provided to assure constant functioning of the Civilian Volunteer Conservation Officer Reserve, including a continuing program for replacement of officers.

(e) Volunteer: Authority. Whenever members of the Civilian Volunteer Conservation Reserve render assistance to Conservation Officers, the volunteers shall have the same powers, duties, rights, including coverage under the Worker's Compensation Act, privileges and immunities, as full-time employees of the Department of Agriculture, *except* that they shall earn recruitment credit for services performed as volunteers.

(f) Same: Allowance. Each member of the Civilian Volunteer Conservation Officer Reserve who successfully completes probationary requirements as established by the Director and who contributes a minimum of forty-two (42) hours or more per month, shall receive an allowance of Two Hundred Fifty Dollars (\$250.00) per month, to defray the cost of maintenance of his equipment and uniforms. The Department of Agriculture shall identify funds within department appropriations or other appropriate funding sources to satisfy the requirements of this Section.

(g) Same: Eligibility and Oath. No person shall be a volunteer member of the Civilian Volunteer Conservation Officer Reserve established under this Chapter who advocates a

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change by force or violence in the constitutional form of the Government of the United States or Guam or the overthrow of any Government in the United States by force, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Every volunteer shall, entering upon his or her duties, take an oath, in writing, before a person authorized to administer oaths in Guam, which oath shall be substantially as follows:

‘I _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the laws of Guam, against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter and I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of Guam by force or violence; and that during such time as I am a member of the Civilian Volunteer Conservation Reserve I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of Guam by force or violence.’

(h) Rules and Regulations: Recommendations. The Director shall create rules and regulations through the Administrative Adjudication process to implement and maintain the Civilian Volunteer Conservation Officer Reserve.

SOURCE: Added by P.L. 28-30:2.

CROSS-REFERENCES: 8 GCA § 5.55, defining who are Peace Officers.

§ 63104. Taking Fish with Explosives.

It shall be unlawful to take any fish using dynamite or any other explosives.

SOURCE: GC § 12303.

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§ 63105. Use of Explosives Unlawful.

It shall be unlawful for any person to throw, drop or explode any dynamite or other explosive, or cause to be thrown, dropped or exploded any dynamite or other explosive in any waters of the Territory of Guam whether done for the purpose of taking fish or not, except as may be authorized pursuant to regulations.

SOURCE: GC § 12304.

COURT DECISIONS: For the extent of the Territory's jurisdiction over the waters adjacent to Guam see *United States v. Borja*, 191 F. Supp. 563 (1961).

CROSS-REFERENCES: For definitions of the current jurisdiction of the Territory and the United States over areas controlled by the military, see 48 U.S.C.A. § 1704.

§ 63106. Taking Fish by means of Poisonous or Intoxicating Substances Unlawful.

It shall be unlawful for any person to take any fish by means of any substance which has a poisonous or intoxicating effect upon fish.

SOURCE: GC § 12305.

§ 63107. Use of Poison or Intoxicating Substance Unlawful.

It shall be unlawful for any person to deposit, throw, drop or discharge, or cause to be deposited, thrown, dropped or discharged in any manner in the waters of Guam any substance which has a poisonous or intoxicating effect upon fish whether done for the purpose of taking fish or not.

SOURCE: GC § 12306.

§ 63108. Use of Electrical Devices.

It shall be unlawful for any person to take fish by means of any device which operates by shocking with an electric current (either AC or DC).

SOURCE: GC § 12306.1 added by P.L. 16-39:2.

§ 63109. Possession of Dynamite, Explosives, Poisonous or Intoxicating Substance.

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It shall be unlawful for any fisherman, or person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause for possession of the same, any dynamite or other explosive, or any substance which has a poisonous or intoxicating effect upon fish.

SOURCE: GC § 12307.

§ 63110. Possession of Electric Shocking Devices.

It shall be unlawful for any fisherman, person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause, any device capable of emitting an electric discharge into the water.

SOURCE: GC § 12307.1 added by P.L. 16-39:3.

§ 63111. Fishing Equipment and Methods.

The use of nets, flails, hooks and other devices and methods which may result in the taking of, or damage to, fish in violation of regulations governing fishing shall be unlawful.

SOURCE: GC § 12308 repealed/reenacted by P.L. 16-39:4.

§ 63112. Fishing With Gill Nets (Tekin).

(a) It shall be unlawful to abandon or discard a gill net in the waters of Guam.

(b) It shall be unlawful to leave a gill net, whether attended or unattended, in the waters of Guam for more than six (6) consecutive hours. For the purposes of this Section, the six (6) hour consecutive period continues to run if the gill net is not moved at least fifty (50) yards within a six (6) hour period from the time of its initial placement in the waters of Guam.

(c) It shall be unlawful to use a gill net with a length greater than one thousand (1,000) feet and no person shall intentionally set a net to drift in the waters of Guam.

(d) No person other than an individual engaged in traditional fishing methods as that term is defined by Section 63101(h) of this Chapter, or engaged in fishing for scientific

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purposes as permitted by the Division of Aquatic and Wildlife Resources of the Department of Agriculture shall take marine life with a gill net, including pelagic drift nets.

SOURCE: GC § 12308.1 added by P.L. 16-69:5. Subsection (c) amended by P.L. 20-185:3. Subsection (d) added by P.L. 20-185:4.

§ 63113. Destruction of Coral.

It shall be unlawful to willfully destroy coral growth for purposes of flushing fish from their habitat or for clearing an area for net fishing.

SOURCE: GC § 12308.2 added by P.L. 16-39.6.

§ 63114. Illegally Taken Fish.

It shall be unlawful for any person knowingly to take, buy, sell, transport or possess any fish, or any part thereof, contrary to the provisions of this Article or regulations made under § 63127.

SOURCE: GC § 12309.

§ 63114.1. Shark Fins.

(a) It *shall* be unlawful for any person to possess, sale, offer for sale, take, purchase, barter, transport, export, import, trade or distribute shark fins in Guam.

Restaurants in possession of shark fins which are prepared for consumption upon the enactment of this Act, may sell or offer for sale such shark fins for a period of ninety (90) days after the enactment of this Act.

(b) Notwithstanding Subsection (a), any person with a valid license or permit issued by the Director of the Department of Agriculture to conduct research and who possesses shark fins *shall not* be held in violation of this Act.

(c) Notwithstanding Subsection (a), a person in possession of a shark for subsistence and traditional and cultural sharing purposes *shall not* be held in violation of this Act.

SOURCE: Added by P.L. 31-010:2 (Mar. 9, 2011).

§ 63114.2. Ray Parts.

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(a) It *shall* be unlawful for any person to possess, sale, offer for sale, take, purchase, barter, transport, export, import, trade or distribute ray parts in Guam.

(b) Notwithstanding Subsection (a), any person with a valid license or pennit issued by the Director of the Department of Agriculture to conduct research and who possesses ray parts *shall not* be held in violation of this Act. Research data and findings made pursuant to a license or permit shall be reported to *I Maga'lahi* and *I Liheslatura* as a condition of the license or permit.

(c) Notwithstanding Subsection (a), a person in possession of ray parts for subsistence and traditional and cultural sharing purposes *shall not* be held in violation of this Act.

SOURCE: Added by P.L. 31-010:3 (Mar. 9, 2011).

§ 63114.3. Shark Feeding Prohibited.

(a) It *shall* be unlawful for any person to conduct any activity related to the feeding of sharks in Guam's territorial marine waters.

(b) Persons engaged in the taking of marine life that results in captured, injured, or dead fish being incidentally eaten by sharks *shall not* be considered in violation of this Section; provided, that the purpose of the taking of marine life is *not* the feeding of sharks.

(c) Chumming or feeding fish for the purpose of harvesting marine species is permitted.

(d) As used in this Section:

Commercial activity means to engage in any action or to attempt to engage in any action for compensation in any form. The action or actions may include, but are *not* limited to, providing, or attempting to provide, guide services, charters, tours, and transportation to and from the location or locations for which such services are provided.

Compensation means money, barter, trade, credit, and other instruments of value, goods, and other forms of payment.

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Feeding means the introduction of or an attempt to introduce any food or other substance into the water to attract marine life for any purpose other than to take the marine life.

SOURCE: Added by P.L. 31-010:4 (Mar. 9, 2011).

§ 63114.4. Rules and Regulations.

The Director of the Department of Agriculture *shall* develop rules and regulations, in accordance with the Administrative Adjudication Act (AAA), Title 5, Guam Code Annotated, Chapter 9, to carry out the provisions of this Act. Such rules and regulations may be revisited annually for revision through the AAA process.

SOURCE: Added by P.L. 31-010:5 (Mar. 9, 2011).

§ 63114.5. Consultation.

Every five (5) years this Act *shall* be reviewed by the Department of Agriculture to determine if changes are necessary. In so doing, the Department *shall* consult with the University of Guam Marine Laboratory, the National Oceanic and Atmospheric Administration, local fishermen, including the Guam Fishermen's Co-Operative Association, the Marianas Underwater Fishing Federation, and the Guam Organization of Salt Water Anglers, to have local input to balance scientific data presented.

The report *shall* be forwarded to *I Liheslaturan Guåhan* thirty (30) days after completion.

SOURCE: Added by P.L. 31-010:6 (Mar. 9, 2011).

§ 63115. Fish Weirs.

(a) It shall be unlawful for any person to place or maintain a fish weir in the waters of Guam unless he holds a valid license from the Director of Agriculture, hereinafter referred to as Director. The Director may, at his discretion, issue such a license imposing such conditions on the face thereof as are necessary so as not to unjustly restrict the fishing of others nor result in the violation of provisions of this Article and supporting regulations. Any applicant for a permit to place or maintain a fish weir shall

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not be required to obtain a land use permit to place a fish weir on submerged public lands.

(b) Limitations and Prohibitions.

(1) Main Weir: No wing exceed three hundred (300) feet in length. No leader shall exceed five hundred (500) feet in length.

(2) Auxiliary Weir: No wing shall exceed one hundred fifty (150) feet in length. No leader shall exceed two hundred fifty (250) feet in length.

(3) The mesh of the netting used in the construction of fish weirs, main or auxiliary, shall be such as to permit the passage of objects or organisms measuring less than one (1) inch in diameter or one (1) inch square.

(4) No permit shall be issued authorizing more than one (1) main weir and two (2) auxiliary weirs for the area covered by such permit.

(5) The area covered by a single permit shall be contiguous, but this shall not be construed to authorized installations of fish weirs anywhere within such area if otherwise prohibited.

(6) No person shall place, install, construct, maintain or operate any fish weir, including any part of component of a fish weir, except as authorized by a permit issued under this Article.

(c) Location of Fish Weirs. No fish weir or any or component thereof shall be located within one hundred (100) feet of the mean high water mark, one hundred fifty (150) feet of any boat channel, six hundred (600) feet of a sewage outlet opening, or two hundred (200) feet from the fish weir of another permittee, or outside the area covered by the permit. No permit will be issued for the location of a fish weir at any other site determined by the Director to be detrimental to the best interest of the public or responsible fisheries management.

(d) Application for Permit. Any applicant for a permit to place and operate one or more fish weirs in the waters of Guam

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shall submit complete and signed applications for the placement and operation thereof to the Director in a form prescribed by him. The application shall show

- (1) the name and address of the applicant;
- (2) the area requested to be covered by the permit; and
- (3) the number of fish weirs (pocket or traps) applied for.

(e) Investigation. Upon receipt of a complete and signed application, the Director shall promptly cause an investigation of all aspects of the application to be made.

(f) Issuance of Permit. When all the requirements set forth in this Section have been met, and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained in the Department of Agriculture.

A fee of Twenty-Five Dollars (\$25) shall be paid for each fish weir pocket or trap before the permit is issued. A permit shall be valid for one (1) year from the date of issuance unless otherwise revoked. No permit may be transferred except upon approval by the Director. Upon approval or transfer of a permit, the permittee shall write his signature, and the transferee shall write his signature and address in the appropriate space provided upon the permit. The Director shall then affix his signature of approval.

(g) Installation and Operation of Fish Weir. At least one (1) fish weir must be constructed and placed in operation within sixty (60) days from the date of issuance of the permit, and sixty (60) days after any subsequent removal or destruction during the term of the permit. No owner of a fish weir shall leave a fish weir in the water unattended for a period of fifteen (15) days or more.

(h) Submission of Monthly Catch Records Report. Each permittee shall be required to submit monthly catch records to the Department of Agriculture, Division of Aquatic and Wildlife Resources, commencing thirty (30) days after the weir is placed

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in operation and every subsequent thirty-day period until is removal.

(i) Removal of Fish Weirs. The owner of a fish weir must remove such fish weirs from the water within thirty (30) days after notice of expiration of his permit unless such permit is renewed.

(j) Revocation of Permit. The Director may revoke a permit for any violation of this regulation upon the completion of a hearing held for such purposes. Notice of the hearing shall be given to the permittee ten (10) days in advance and shall state the violations charged, and the date, time and place of the hearing. Any order of revocation entered pursuant to such hearing shall be effective thirty (30) days after notice of the order or revocation to the permittee by which time he shall surrender his permit to the Director and remove his fish weir from the water.

(k) Disturbance of Fish Weirs. It shall be unlawful for any person not authorized by the owner to remove fish from a fish weir. It shall be unlawful for any person other than the owner to remove, damage or otherwise willfully disrupt the operation of a fish weir operation under a lawful permit. It shall also be unlawful to use gill nets within one hundred (100) feet of a fish weir operating under a lawful permit.

SOURCE: GC § 12310 repealed/reenacted by P.L. 16-39:7. Subsection (a) R/R by P.L. 21-107:2.

NOTE: Section 1 of P.L. 21-107 states:

Legislative findings. The Legislature finds that fish weirs (gigau) have been used by the people of Guam for centuries and their utilization is a valued island tradition. The Legislature further finds that fish weirs are temporary in nature and that their use is duly regulated and licensed under the provisions of § 63115, Title 5, Guam Code Annotated. The Legislature further finds that the law regarding the use of submerged public land is being interpreted to require that fish weir licensees must also obtain submerged land use permits. It is the further finding of the Legislature that this is an unnecessary requirement given that the use of fish weirs including their location is already subject to regulation and control under the license process established by statute. The Legislature therefore finds that the law should be amended to

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remove the requirement for a submerged land use permit
imposed on duly authorized fish weir licensees.

§ 63116. Taking of Fish.

Fish may be taken by lawful means at any time except as prohibited by regulation made under § 63127; provided, however, that it shall be unlawful for any person to place or maintain a drag net (*Chenchulu* or *tekin*) within Agana Boat Basin proper; and further provided that angling and cast net (*talâya*) fishing are the only approved methods of fishing within the Agana Boat Basin proper and within fifty feet of the western edge of the Agana Boat Basin channel on conditions as follows:

(a) When angling, not more than three hooks shall be attached to the main line and no snagging methods shall be used.

(b) The use of the cast net (*talâya*) is prohibited from boat slips in the Agana Boat Basin. Within the channel and mooring area, the *talâya* may be used only between the hours of 4:00 a.m. and 8:00 a.m. Within the other areas of the Agana Boat Basin, the *talâya* may be used at any time.

(c) [Repealed.]

SOURCE: GC § 12311; amended by P.L. 14-85:1, adding the "proviso" and subsections (a) through (c). Subsection (b) amended by P.L. 16-112:1. Subsection (c) repealed by P.L. 15-66:VI:3.

NOTE: See § 63101 of this Article for definitions which were amended after the adoption of this Section. It may be that those definitions supersede those in this section.

§ 63116.1. Purpose of Marine Preserves.

The purpose of the marine preserve is to protect, preserve, manage, and conserve aquatic life, habitat, and marine communities and ecosystems, and to ensure the health, welfare and integrity of marine resources for current and future generations by managing, regulating, restricting, or prohibiting activities to include, but not limited to, fishing, development, human uses.

SOURCE: Added by P.L. 28-107:3 (April 14, 2006).

§ 63116.2. Activities within Marine Preserves.

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All forms of fishing, and the taking or altering of aquatic life, living or dead coral and any resources to include, but not limited to, mangroves, seagrass, sand, and rocks within a preserve, is unlawful except as specifically permitted by the Director of Agriculture through regulations.

SOURCE: Added by P.L. 28-107:4 (April 14, 2006).

§ 63117. Recovery of Fish & Game.

It shall be unlawful for any person to kill, maim or injure any fish or game without making a reasonable effort to retrieve the fish or game and to include it in his or her daily bag or creel limit.

SOURCE: GC § 12311.1 added by P.L. 12-163.

§ 63117.1. Purpose of Community-Based Fisheries Management.

(a) The purpose of a community-based fisheries management strategy is to empower coastal resource communities to protect, preserve, manage, and conserve aquatic life, habitat, and marine communities and ecosystems, and to ensure the health, welfare and integrity of marine resources for current and future generations through a more holistic ecosystem-based management approach, which *shall* be consistent with this Chapter and 9 GAR Chapter 12 (Fishing Regulations).

(b) The Director of the Department of Agriculture, Mayors, and Municipal Planning Councils *shall* have the authority to designate community-based fisheries managed areas and develop fisheries management plans, along with rules and regulations subject to the Administrative Adjudication Law, 5 GCA Chapter 9. Such rules and regulations may be revisited annually for any revisions to be made through the Administrative Adjudication Law process.

SOURCE: Added by P.L. 34-072:4 (Feb. 9, 2018).

2018 NOTE: P.L. 34-072 stated the following:

Section 2. This Act shall be known and may be cited as the “Marine Conservation Act of 2018.

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Section 7. Any fisheries management plan authorized by this Act shall acknowledge that the Department of Agriculture and the Guam Police Department shall have full authority to enforce the laws of Guam within community-based fisheries.

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Section 8. The fisheries management plans authorized by this Act shall specify who shall be granted access to monitor fish and coral stock, or assess the success of management goals in other ways, and shall provide that all data will be shared with the relevant Municipal Planning Council, the Department of Agriculture, the Bureau of Statistics and Plans, and the University of Guam Marine Lab.

Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 63117.2. *Humatak* Fisheries Managed Area and Plan.

(a) The Director of the Department of Agriculture and the Director of the Bureau of Statistics and Plans shall provide the necessary technical assistance to the Mayor and Municipal Planning Council (MPC) of *Humatak* to designate *Humatak* Bay, inclusive of adjacent reef areas as identified by the Mayor and the MPC of *Humatak*, as a community-based *Humatak* fisheries managed area, as well as for the development of a community-based *Humatak* fisheries management plan, consistent with the *Humatak* Revitalization Plan, the Southern Development Master Plan, and any other development plan approved by the community of *Humatak*.

(1) The plan shall be due within twelve (12) months upon enactment.

(2) The plan and any resulting rules and regulations shall be in accordance with the Administrative Adjudication Law (5 GCA Chapter 9) to carry out the provisions of this Section. Such rules and regulations may be revisited annually for any revisions that need to be made through the Administrative Adjudication Law process.

(b) In the event a final plan is not produced within twelve (12) months following the enactment of this Section, an interim report shall be produced at the end of said twelve (12) month period, and every six (6) month period thereafter. The interim

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report shall be transmitted to the Speaker of *I Liheslaturan Guåhan* (the Guam Legislature) and the Bureau of Statistics and Plans.

SOURCE: Added by P.L. 34-072:5 (Feb. 9, 2018).

2018 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 63117.3. No Effect to Existing Designated Marine Preserve Areas on Guam.

Nothing in §§ 63117.1 or 63117.2 shall allow for any changes to existing designated Marine Preserves on Guam, as provided in 9 GAR Chapter 12.

SOURCE: Added by P.L. 34-072:6 (Feb. 9, 2018).

§ 63118. Unprotected Wild Animals.

The following wild animals may be taken in the daytime:

- (a) Wild dogs.
- (b) Wild cats.
- (c) Reptiles.
- (d) Rats.

SOURCE: GC § 12312 amended by P.L. 8-43.

§ 63119. Unprotected Wild Birds.

The following wild birds may be taken in the daytime:

- (a) Black drongos;
- (b) Rock doves (domestic pigeons);
- (c) Black-headed mannikin;
- (d) European tree sparrow.

SOURCE: GC § 12313, amended by P.L. 7-29; repealed/ reenacted by P.L. 16-39:15.

§ 63120. Protection of Wild Birds.

It shall be unlawful for any person to take, buy, sell, transport or possess any wild bird, or any part thereof, or wild

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bird eggs, except as authorized in this Article or as authorized by regulations made under § 63127.

SOURCE: GC § 12314.

§ 63121. Protection of Wild Animals.

It shall be unlawful for any person to take, buy, sell, transport or possess any wild or feral animal, or any part thereof, *except* as authorized in this Article or as authorized by regulations made under 5 GCA §§ 62104 and 63127.

SOURCE: GC § 12315. Repealed/reenacted by P.L. 25-186:10.

§ 63122. License to Take Wild Birds and Wild and Feral Animals.

Any owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed by any protected wild bird or wild or feral animal, may apply to the Director for a license to take such wild bird, or wild or feral animal. The Director, upon satisfactory evidence of such damage or destruction, actual or threatened, may issue a revocable license for the taking of such bird or wild or feral animal. It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this Section.

SOURCE: GC § 12316. Repealed/reenacted by P.L. 25-186:11.

§ 63123. Special License.

The Director may issue, free of charge, to any qualified person, a license to take and transport fish or game, at any time, for scientific or educational purposes. Such a license shall be valid at the discretion of the Director and shall show upon its face the period of its validity.

SOURCE: GC § 12317.

§ 63124. Importation: Harboring.

(a) It shall be unlawful for any person to import any game without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game.

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(b) It shall be unlawful to harbor or maintain any protected game in captivity without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the fact thereof as are necessary for the control of such game.

(c) It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this Section.

SOURCE: GC § 12318.

NOTE: GC § 12319 was repealed by P.L. 11-217.

§ 63125. Use of Artificial Light Prohibited.

It shall be unlawful for any person to take any game with a spotlight or any other artificial light of any kind. To be found with any spotlight with any rifle, shotgun or other firearm, and with ammunition, after sunset, in any wooded section or other place where any game may reasonably be expected, shall be prima facie evidence of violation of this section. Provided, however, that this section shall not apply to the taking of game pursuant to a permit issued in accordance with regulations issued under § 63127 of this Article.

SOURCE: GC § 12320 amended by P.L. 10-81.

§ 63126. Keeping Guam Deer.

[Repealed.]

SOURCE: P.L. 19-4, sections 24 and 25. Section 26 of P.L. 29-4 directs the Compiler of Laws to place sections 24 and 25 in the appropriate place in the Guam Code Annotated. Subsections (a) and (b) amended by P.L. 19-5:114, 115. Subsection (a) amended by P.L. 25-30:5. Repealed by P.L. 25-186:8.

§ 63126.1. Domestication of Deer as Livestock.

[Repealed.]

SOURCE: Added by P.L. 25-30:6. Repealed by P.L. 25-186:8.

CROSS-REFERENCES: See 5 GCA Chapter 62, Article 1 for new law dealing with the same subject matter as contained in these two repealed sections. The former are replacements for these sections.

§ 63127. Regulations.

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Regulations implementing this Article shall be formulated, approved and issued in accordance with the procedures set forth in the Administrative Adjudication Act, which regulations may include but shall not be limited to the following:

(a) To fix, close, terminate, shorten or divide an open season or make open seasons conditional;

(b) To prescribe the time of day when taking is permitted;

(c) To regulate bag or creel limits and possession limits;

(d) To regulate buying, selling or transporting fish and game;

(e) To regulate the size and type of any device used for taking and regulate and method of taking;

(f) To regulate or restrict the places where taking is permitted;

(g) To provide for the issuance of annual hunting and fishing licenses under this Article;

(h) To regulate the trapping and capture of wild and feral animals for the purposes of domestication under § 62104.1;

(i) To set a fee for any licensed issued; however, in no event shall such fee exceed the sum of Five Hundred Dollars (\$500.00); and

(j) To provide a grace period for payment of fees due for renewal of hunting and fishing licenses for a member of the Guam National Guard or Reserves, or a dependent of a member of the Guam National Guard or Reserves, while that member is on active service outside Guam and for the next one hundred eighty (180) days after completion of such service. No interest or penalties shall be assessed for any period prior to expiration of the one hundred eighty (180) days; and

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(k) To otherwise implement or carry out the purposes of this Article.

SOURCE: GC § 12321 amended by P.L. 7-46; repealed/ reenacted by P.L. 16-39:8. Subsections (h) - (j) repealed/reenacted by P.L. 25-186:12-14. Subsection (j) renumbered as subsection (k) and new subsection (j) added by P.L. 29-148:3 (Jan. 30, 2009).

§ 63128. Illegal Use of Nets, Vessels Including Engines, Motors and All Vessel Accessories, Paraphernalia, Beasts of Burden, Traps, Firearms, Electrical Devices, or Vehicles; Seizure; Forfeiture Proceeding; Sale or Destruction.

Any net, vessel including engines, motors and all vessel accessories, paraphernalia, beast of burden, trap, firearm, electrical device or vehicle used for taking or transporting fish or game taken in violation of the provisions of this Article is a public nuisance. Every person authorized to make an arrest for such violation shall seize and keep such net, vessel including engines, motors and all vessel accessories, trap, firearm, electrical device or vehicle and report the seizure to the Department of Agriculture.

The Department of Agriculture shall commence proceedings in the Superior Court by petitioning the court for a judgment forfeiting the items seized. Upon the filing of such petition, the clerk of court shall fix a time for a hearing and cause notices to be posted for fourteen (14) days in at least two (2) public places in the place where the court is held and in the Mayor's Office of the village wherein the person from whom the items were seized resides, setting forth the substance of the petition and the time and place fixed for its hearing. Upon proof that the items seized were used in violation of this Article, the court shall order such items forfeited. Any article so forfeited shall be sold, used or destroyed by the Department of Agriculture. The proceeds from all such sales shall be paid into the Wildlife Conservation Fund.

SOURCE: GC § 12322 repealed/reenacted by P.L. 16-39:9. Amended by P.L. 20-185:5.

§ 63129. Penalty.

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(a) Any person violating § 63104, § 63105, § 63106, § 63107, § 63108, § 63114.1 or § 63114.2 of this Article is guilty of a felony punishable by imprisonment of *not more than five (5)* years, or by a fine of *not less than Five Hundred Dollars (\$500)*, *nor more than Five Thousand Dollars (\$5,000)*, or by both, per violation.

(b) Any person violating § 63114.3 of this Chapter or any rule adopted thereunder *shall* be subject to:

(1) seizure and forfeiture of a commercial marine license, vessel, or shark feeding equipment; and

(2) an administrative fine of at *least* Twenty-five Thousand Dollars (\$25,000) per violation; *provided*, that the violator may be assessed administrative fees and costs and attorneys fees and costs.

(c) Any person violating §§ 63606.1 or 63606.2 of this Chapter *shall* be guilty of a felony, and upon conviction thereof may be imprisoned for *not more than five (5)* years, or fined *not more than One Hundred Thousand Dollars (\$100,000)*, or both.

(d) A violation of any other provision of this Article or its supporting regulations *shall* be guilty of a misdemeanor, and upon conviction thereof, *shall* be punishable by a fine of *not less than Fifty Dollars (\$50)*, *nor more than Five Hundred Dollars (\$500)*, or by imprisonment of *not more than ninety (90)* days, or by both fine and imprisonment. In addition, all pelagic drift nets or their components, equipment for their manufacture, containers for such nets, fish or fish products gathered through the use of a pelagic drift net, and all conveyances including aircraft, vehicles and vessels used for their transport *shall* be subject to forfeiture, and may be seized by an authorized government of Guam official under process issued by the Superior Court, *except* that such seizure without such process may be made when the seizure is incidental to an arrest or a search pursuant to a search warrant, or as provided by § 63128 of this Article.

SOURCE: GC § 12323 amended by P.L. 13-187:108, P.L. 16-39:10. Amended by P.L. 20-185:8, P.L. 31-010:7 (Mar. 8, 2010).

§ 63130. Wildlife Conservation Fund.

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(a) There is hereby established a fund to be known as the 'Wildlife Conservation Fund,' which shall be maintained separate and apart from any other funds of the government of Guam, and independent records and accounts shall be maintained in connection therewith. All license fees collected under this Article shall be deposited into said Fund. Deposits into said Fund shall include, but are not limited to,

- (1) fine payments,
- (2) donations and
- (3) permit fees.

All funds collected under this Article or activities associated with the Division of Aquatic and Wildlife Resources shall be deposited into the Fund. The Chief of the Division of Aquatic and Wildlife Resources shall account for the license fees, permit fees, payment of fines and donation separately.

(b) The Wildlife Conservation Fund shall be used exclusively for the purposes of this Article, or other activities under the management of the Division of Aquatic and Wildlife Resources. Said Fund shall be examined and reported upon by the Director of the Department Administration as required by law, who shall submit a quarterly report to *I Liheslaturan Guåhan*. The certifying officer for said Fund shall be the Director.

The Chief of the Division of Aquatic and Wildlife Resources shall have programmatic oversight of said Fund, and no expenditure shall be made therefrom without both the Chief of the Division of Aquatic and Wildlife Resources and the Director of the Department of Agriculture's prior written consent.

SOURCE: GC § 12324 added by P.L. 7-46. Amended by P.L. 26-107:2.

2016 NOTE: Subitem designations in (a) were altered to adhere to the Compiler's alpha-numeric codification scheme pursuant to the authority granted by 1 GCA § 1606.

§ 63131. Nonpayment of Child Support.

The Director of Agriculture shall not issue or re-issue any annual hunting or fishing license provided under this Article or

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regulations adopted under this Article to any person upon receipt of a certification from the Department of Law that the person is in non-compliance with a court order of support, and shall suspend any such license in effect at the time of receipt of such certification, with such suspension to remain in effect until a confirmation of compliance is received from the Department of Law.

SOURCE: Added as § 63130 by P.L. 24-116:5. Renumbered by Compiler since § 63130 was already occupied.

NOTE: P.L. 25-161:6 enacted the same section:

“Section 63131. Nonpayment of Child Support. The Director of Agriculture shall *not* issue or re-issue any annual hunting or fishing license provided under this Article or regulations adopted under this Article to any person upon receipt of a certification from the Department of Law that the person is in non-compliance with a court order of support, and shall suspend any such license in effect at the time of receipt of such certification, with such suspension to remain in effect until a confirmation of compliance is received from the Department of Law.”

§ 63132. Chamorro Terms required.

All references in Guam statutes and regulations to terms defined by Title 5 GCA § 63101 are hereby modified to reflect the updated *Chamorro* spelling therein.

SOURCE: Added by P.L. 28-107:5 (April 14, 2006).

§ 63133. Indigenous Fishing Rights.

The policy of the government of Guam is that the *Chamorro* people *shall* have special rights to off-shore fishing and harvesting of resources in order to redress historical discriminatory policies. The *Chamorro* people, the *Native Inhabitants of Guam*, are defined in Title 1 GCA §2102 as “those persons who became U.S. Citizens by virtue of the authority and enactment of the 1950 Organic Act of Guam and descendants of those persons.”

The Department of Agriculture is hereby tasked to develop rules and regulations to put this policy into effect and submit the draft rules and regulations, in accordance with the Administrative Adjudication Act (AAA), Title 5, Guam Code

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Annotated, Chapter 9, to *I Liheslatura* for review and approval. Such rules and regulations may be revisited annually for revision through the AAA process.

At all stages of development of the rules, the Department *shall* seek the input of and consult with an Indigenous Native Resources Task Force, which *shall* be comprised of ten (10) voting members: four (4) men, four (4) women, and two (2) youths of adult age, all of *Chamorro* ancestry. The Task Force *shall* be comprised of one (1) representative each elected from *no more than* ten (10) *Chamorro* grassroots organizations. Each Task Force member *shall* be a resident of Guam for at least five (5) years. The Task Force *shall* participate together with the Department of Agriculture in the formulation of the rules and regulations required by this Section.

SOURCE: Added by P.L. 29-127:5 (Dec. 22, 2008).

ARTICLE 2
ENDANGERED SPECIES ACT OF GUAM

- § 63201. Title.
- § 63202. Purposes.
- § 63203. Definitions.
- § 63204. Policy.
- § 63205. Authority.
- § 63206. Prohibitions.
- § 63207. Permits.
- § 63208. Enforcement.
- § 63209. Penalties.
- § 63210. Severability.
- § 63211. Citizen Suits.

§ 63201. Title.

This Article shall be known as the *Endangered Species Act of Guam*.

SOURCE: GC § 12325 repealed/reenacted by P.L. 15-36:1.

§ 63202. Purposes.

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The purposes of this Article are to provide authorization whereby the ecosystem upon which resident endangered or threatened species depend may be protected and conserved; to develop and provide a program for the conservation and management of such endangered and/or threatened species; and, to take such steps and measures as may be appropriate to achieve the purposes of the Endangered Species Act of 1973, U.S.P.L. No. 93-205, U.S. Congress, 28 December 1973.

SOURCE: GC § 12325.1 added P.L. 15-36:1.

§ 63203. Definitions.

(a) *Agent, Employee or Officer* means any Department employee authorized by the Director to carry out any power granted by this Article.

(b) *Conserve, Conserving and Conservation* mean the use of any and all populations of plants and wildlife declared threatened or endangered and to bring them to the point at which the measures provided pursuant to this Article are no longer necessary. Such methods and procedures include, but are not limited to censuses, research, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking or confiscation.

(c) *Department* means the Department of Agriculture, or in the case of changing functions, that agency designated by the government of Guam to be charged with the husbandry of the natural resources of plants and wildlife.

(d) *Ecosystem* means all natural elements, physical and biological, of the habitat or site in which any plant or wildlife species is found and upon which it is dependent for its well-being.

(e) *Endangered Species* means any species which is in danger of extinction on Guam and has been so designated pursuant to the provisions of this Article or that has been determined to be an endangered species pursuant to the U.S. Endangered Species Act of 1973.

(f) *Resident Species* means any plant or wildlife species which spends any part of its life on Guam.

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(g) *Threatened Species* means any species of plant or wildlife which appears likely, within the foreseeable future, to become endangered and which has been so designated by the Department pursuant to this Article, or that has been determined to be a threatened species pursuant to the U.S. Endangered Species Act of 1973.

(h) *Import* means to land on, bring into or introduce into, or attempt to land on, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of Guam and the United States.

(i) *Person* means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department or instrumentality of the federal government, of any state, territory, commonwealth or political subdivision thereof, or of any foreign government.

(j) *Plants* means any member of the plant kingdom, including seeds, roots, or other parts thereof.

(k) *Secretary* means, except as otherwise herein provided, the U.S. Secretary of the Interior or the U.S. Secretary of Commerce as program responsibilities are vested pursuant to the provisions of the U.S. Reorganization Plan Number 4 of 1970; except that with respect to the enforcement of the provisions of the U.S. P.L. No. 93-205 and the Convention on the International Trade in Protected Species of Wild Fauna and Flora which pertain to the importation or exportation of terrestrial plants, the term means the U.S. Secretary of Agriculture.

(l) *Species* means any subspecies of plants or wildlife and any other group of plants or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed with mature.

(m) *Take* means to cut, collect, uproot, destroy, injure or possess, threatened or endangered species of plants, or attempt to engage in any such conduct or to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, snare or collect threatened or endangered species of wildlife.

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(n) *Wildlife* means any resident member of the animal kingdom including without limitation, reared in captivity or not, including any mammal, bird, amphibian, reptile, fish, crustacean, mollusk or other invertebrate, and includes any parts thereof, except those species of the Class Insects which have been declared as pests whose protection under the provisions of this Article would present an overwhelming and overriding risk to man, providing this is in conformance with federal law.

SOURCE: GC § 12325.2 added by P.L. 15-36:1.

NOTE: See § 63125 with regard to Guam deer.

§ 63204. Policy.

It is declared to be the policy of the government of Guam that all departments and agencies shall seek to conserve Guam's resident threatened and endangered species and that they shall utilize their authorities in furtherance of the purposes of this Article by taking such steps as are necessary to insure that action authorized, funded or carried out by them do not jeopardize the continuing existence of Guam's threatened or endangered species or those mandated by the United States Government.

SOURCE: GC § 12325.3 added by P.L. 15-36:1.

§ 63205. Authority.

(a) Regulatory power for the purposes of this Article shall be vested in the Department of Agriculture (hereinafter referred to as the *Department*) which is responsible for the management and the conservation of plant and wildlife resources of the territory of Guam.

(b) The Department shall conduct all research, investigation and listing of resident threatened or endangered species of plants and wildlife, and all programs for the conservation, management, enhancement or protection of such species, and, upon its own recommendation or upon the petition of three persons, shall conduct a review of any listed or unlisted resident species proposed to be on the list published pursuant to the authority herein.

(c) Annually, the Department shall promulgate a list of endangered species. The list of endangered species shall be

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submitted to each village commissioner for review and comment prior to the hearing on adoption of the list held in accordance with the Administrative Adjudication Act. The list shall be adopted in accordance with the Administrative Adjudication Act and then be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the list of endangered species within twenty (20) legislative days following receipt thereof, then the list of endangered species shall be deemed approved by the Legislature. No additions or deletions may be made to the list without conformance with the procedural requirements for adoption of the list. Each list shall be effective for not more than fourteen (14) months following approval by the Legislature. The Department shall promulgate such rules, regulations or orders in accordance with the Administrative Adjudication Act and any rules or regulations shall be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the rules or regulations within twenty (20) legislative days following receipt thereof, then the rules or regulations shall be deemed approved by the Legislature. The purpose of the rules, regulations or orders shall be to improve and enhance the welfare of endangered or threatened scientific and commercial data available and upon consultation with interested persons, the public and other appropriate agencies, as to whether or not any species is an endangered or threatened species because of, but not limited to, any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of habitat or range;
 - (2) Over-utilization for commercial, sporting, scientific or educational purposes;
 - (3) Disease or predation;
 - (4) The inadequacy of existing regulatory mechanisms;
- or
- (5) Other natural or man-made factors affecting its continued existence.

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(d) The Department shall establish priorities for the conservation and protection of resident threatened or endangered species of plants and wildlife and their associated ecosystems.

(e) The Department is authorized to enter into agreements with the federal or other public agencies, private agencies or any person for administration, research or the management of any area, including aquatic, established under this Section or utilized for the conservation, management, enhancement, or protection of threatened or endangered resident species of plants and wildlife as defined herein.

(f) The Department shall acquire by purchase, donation or otherwise, lands, aquatic habitats or interests therein for the conservation of resident endangered species or threatened species needed to carry out the programs relating to the intent of this Article, and, to submit to the Governor of Guam plans, programs, remedies or recommendations which will carry out the purposes of this Article.

(g) The Department shall be authorized to conduct investigations to determine the status and requirements for survival of resident species of plants and wildlife.

SOURCE: GC § 12325.4 added by P.L. 15-36:1.

§ 63206. Prohibitions.

With respect to any threatened or endangered species of plants or wildlife of Guam and the United States, it is unlawful, except as provided herein, for any person or organization, subject to the jurisdiction of Guam to:

(a) import or export any such species to or from Guam and its territory;

(b) take any such species within Guam and its territory;

(c) possess, process, sell or offer for sale, deliver, carry, transport or ship, by any means whatsoever, any such species; provided that any person who has in his possession such plants or wildlife at the time this provision is enacted into law, may retain, process, or otherwise dispose of those plants or wildlife already in his possession.

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(d) violate any regulation or rule pertaining to the conservation, protection, enhancement or management of any designated threatened or endangered species.

SOURCE: GC § 12325.5. Added by P.L. 15-36:1.

NOTE: See § 63125 relative to keeping Guam deer as pets.

§ 63207. Permits.

The Department may permit, through licenses, stamps, certificates or agreements, under such terms and conditions as it may prescribe, § 63206 notwithstanding, an act for the enhancement, perpetuation, conservation or survival of the affected species in question, provided that such permits are not contrary to the U.S. Endangered Species Act of 1973.

SOURCE: GC § 12325.6 added by P.L. 15-36:1.

§ 63208. Enforcement.

(a) Any authorized officer or agent empowered by the Department with police powers to serve and execute warrants, to arrest offenders, or to issue citations throughout Guam, or any officer or agent of Guam Customs and Quarantine, or any police officer of Guam shall have the authority to enforce any of the provisions of this Article or any regulation, rule or order promulgated pursuant thereto.

(b) Any officer or agent authorized pursuant to paragraph (a) shall have the authority to conduct searches, as provided by law, and to seize any equipment, business records, merchandise or any threatened or endangered species of plants and/or wildlife hereunder; and, of the foregoing so seized shall be held by the Department pending disposition by court proceedings, or the Department, prior to the forfeiture, may direct the transfer of plants or wildlife so seized to a qualified zoological, botanical, educational or scientific institution for safekeeping, costs thereof to be paid by the defendant. Upon conviction of the person or persons from whom the seizure was made, the court shall declare the items seized [to be] forfeited to the government of Guam. Such items shall be destroyed, or be transferred, or be released into its normal habitat, if possible, by the Department as outlined herein.

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(c) Upon proper oath or affirmation showing probable cause, the judges or magistrates of Guam courts shall issue such warrants or other process as may be required for enforcement of this Article and any regulation, rule or order issued thereunder.

SOURCE: GC § 12325.7 added by P.L. 15-36:1; subsection (a) amended by P.L. 15-97:1.

NOTE: For definition of *peace officers* see 8 GCA § 5.55.

§ 63209. Penalties.

(a) Any person or persons who non-commercially knowingly violates any of the provisions of this Article or the provisions of any regulation, rule or order promulgated hereunder, shall be fined not more than Two Hundred Fifty Dollars (\$250).

(b) Any person or persons who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates any provision of this Article, or any provision of any permit, certificate, stamp, agreement, rule, regulation, order or other, issued to implement this Article, may be assessed a civil penalty by the court of not more than Five Thousand Dollars (\$5,000) for each violation or be imprisoned for not more than three (3) years or both. Each violation shall be a separate offense. No penalty may be assessed unless such person is given notice and an opportunity for a court hearing with respect to such violation or violations.

(c) The Department shall suspend, for a period of one (1) year, any hunting licenses, fishing permits (including shells, corals, shellfish and other fish weirs) or other stamps, certificates, leases or agreements issued to any person or persons who are convicted of a violation of any provisions of this Article or any regulation, rule or order issued hereunder.

(d) The government of Guam shall not be held liable for the payment of any compensation, reimbursement or damages in connection with the modifications, suspension or revocation of any leases, licenses, permits, stamps, certificates, pursuant to the purposes of this Article.

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(e) All guns, traps, nets and other equipment, vessels, vehicles, aircraft and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting any plants or wildlife in violation of this Article, any regulation made pursuant thereto or any permit or certificate or agreement made or issued thereunder shall be subject to forfeiture to the government of Guam upon conviction of any criminal violation pursuant to § 63205, § 63206 and § 63208.

(f) The Department may sell forfeited items, the resultant monies to be deposited in the Wildlife Conservation Fund to promote the welfare of plants and wildlife.

SOURCE: GC § 12325.8 added by P.L. 15-36:1; subsections (c) and (e) amended by P.L. 16-97:1.

§ 63210. Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this Article or any regulation, rule or order promulgated pursuant thereto be held invalid for any reason by a competent court having jurisdiction, such decision shall not affect the validity of the remaining portions of this Article or regulation, rule or order promulgated pursuant thereto.

SOURCE: GC § 12325.9 added by P.L. 15-36:1.

§ 63211. Citizen Suits.

(a) Any person may commence a civil suit on his behalf:

(1) to enjoin any person, including the government of Guam, or any other governmental instrumentality or agency (to the limits permitted by the Eleventh Amendment to the Constitution of the United States), who is alleged to be in violation of any provision of this Article, or any regulation, rule or order issued under the authority thereof; or

(2) to compel the Department to apply the prohibitions set forth in or authorized pursuant to this Article with respect to the taking or causing deleterious effects which further jeopardize the continued existence of threatened or endangered species.

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(b) The Superior Court shall have jurisdiction to enforce any such provision, regulation, rule or order, whichever the case. In any civil suit commenced under subparagraph (2), the Court shall compel the Department to apply the prohibition sought if the Court finds that the allegation that an emergency exists is supported by substantial evidence.

(c) No action may be commenced under subsection (a) or (b) of this Section:

(1) prior to sixty (60) days after written notice of violation has been given to the Department, or to any alleged violator of any such regulation, rule or order;

(2) if the Department has commenced action to impose a penalty pursuant to § 63205, § 63206 or § 63208 of this Article.

(d) The court, in issuing any final order in any suit brought pursuant to this Section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) The injunctive relief provided herein shall not restrict any right which any person (or class or persons) may have under any statute or common law to seek enforcement of [any] standard or limitation or seek any other relief (including relief against the government of Guam or its agencies).

SOURCE: GC § 12325.10 added by P.L. 15-36:1.

NOTE: The amendments made by P.L. 15-97:4 appear, on the surface, to repeal the entire Article. However, closer examination, including that of the Title of the Public Law, indicate that only certain sections and subsections were to be amended. References within the amendments themselves clearly refer to other sections of this Article, which the amendments assume are still in effect.

ARTICLE 3
FORESTRY

NOTE: The original Article 3, Forestry, was enacted by P.L. 3-103 and has never been formally repealed. The Legislature, however, in

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P.L. 16-62 (creating a new Territorial Park System), enacted a "new" Article VI of this Chapter in the Government Code, also dealing with forestry. Since the coverage of the new Article VI is identical to the coverage of old Article 3, but with inconsistent provisions, the Compiler views the new Article VI as repealing by implication the old Article 3. Both articles deal with and are titled "Forestry". Therefore, and to be consistent with the structure of this Chapter, the new Article VI, "Forestry", enacted by P.L. 16-62:4, will be the law found in this Article. See Sutherland, Statutory Construction, 4th Ed., §34.03.

- § 63301. Improving Resources; Responsibility.
- § 63302. Unlicensed Tree-Cutting on Public Lands; Prohibited.
- § 63303. Penalty.
- § 63304. Ifet, Ahgao, and Pahong; Forestry Program.

§ 63301. Improving Resources; Responsibility.

The Department of Agriculture shall be responsible to protect, develop and manage the Territory's public lands in a manner that will conserve the basic soil resources, and at the same time produce continuous yields of water, wood fiber, forage, recreation and wildlife for the use and benefit of the greatest number of people of Guam. The Department shall also endeavor to encourage and assist private land owners to do the same with their land, and establish an urban and community forestry program with village commissioners and civil groups. At the discretion of the Director, tree seeds and seedlings may be made available by the Department for planting on private and public lands, either on a free distribution basis or at a price determined by the Director.

SOURCE: GC § 12325 enacted by P.L. 3-103; repealed by adoption of GC § 12390 (same section heading), added by P.L. 16-62:4.

§ 63302. Unlicensed Tree-Cutting on Public Lands; Prohibited.

The cutting, removal or mutilation of live trees (except tangantangan) on all government of Guam lands without a license is prohibited. All applicants for such license shall make a written request to the Director, designating the kind, size and number of trees to be cut and removed, and the use to be made thereof. When the Director is of the opinion that such cutting or

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removal will not materially injure the forest resources of Guam, he shall issue a license stating the conditions for cutting and planting of trees, and provisions for inspection of the operation.

SOURCE: GC § 12326 added by P.L. 3-103; repealed/ reenacted by P.L. 16-62:4 (GC § 12390.1 -- same section heading).

§ 63303. Penalty.

Any person who violates § 63302 of this Article shall be subject to penalties as described in § 63708.

SOURCE: GC § 12327 added by P.L. 3-103; repealed by P.L. 16-62:4 (GC § 12390.2 -- same subject heading).

§ 63304. Ifet, Ahgao, and Pahong: Forestry Program.

Legislative Intent.

(a) It is the intent of the Legislature to preserve Guam's traditions and culture in the arts. In order to revitalize the traditional arts of wood carving and weaving, it is necessary to develop a forestry program (the "Program") to plant Ifet (also known as Ifil), Ahgao, and Pahong (also known as Akgag) trees (the "trees"), which trees provide materials for carving and for weaving and which are needed to teach these arts to the future generations of Guam. Because of the slow growth rate of the trees, it is necessary that the program be implemented immediately to meet the objectives of this Section.

(b) Establishment of Program. The Department of Agriculture (the "Department") shall establish the Program to plant the trees on that land chosen by the Department that is best suitable for the purposes of the Program. The land area designated shall consist of at least eighty (80) acres, with fifty (50) acres for Ifet, twenty (20) acres for Ahgao, and ten (10) acres for Pahong.

(c) Assignment and rezoning of land. The Department of Land Management shall assist the Department in locating government land that is best suitable for the Program, such assistance to include assignment of such land to the Department and its rezoning if necessary. Seventy (70) acres in northern Guam in a limestone area shall be set aside

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for Ifet (fifty (50) acres) and Ahgao (twenty (20) acres); and ten (10) acres shall be set aside in central or southern Guam for Pahong.

(d) Forestry maintenance and issuance of permits. The Department shall be responsible for the maintenance and upkeep of the trees in the Program and shall hire two (2) full time employees for the maintenance of these forestry preserves. The Department shall be responsible for the issuance of permits for the harvesting of wood therefrom; provided, that such permits must have the approval of the Guam Council on the Arts and Humanities Agency ("CAHA").

(e) Monitoring and approval of requests for harvest. The Department shall be the custodial agency for the Program. CAHA shall approve the priority of permit recipients and the quantity of materials to be given them, and shall monitor usage of such materials. Materials obtained from the Program shall be used exclusively for arts and other cultural programs. For every one (1) tree harvested fifty (50) young trees of the same species shall be planted by the recipient(s) in the same area. Seedlings of such species will be provided by the Department which will also supervise their planting.

(f) Appropriation authorized. The Department is authorized to submit the necessary appropriation to the Legislature to carry out the Program within ninety (90) days of the enactment of this Section.

SOURCE: Enacted by P.L. 21-54.

ARTICLE 4
CONSERVATION RESERVES

NOTE: See NOTE to Article 3. New Article VII found in P.L. 16-62:4 covers identical ground as old Article 4 which was added by P.L. 3-103. Therefore, the Compiler has treated the new Article VII as amendments to old Article 4, both dealing with conservation areas.

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- § 63401. Reserves.
- § 63402. Further Consultations.
- § 63403. Fires Unlawful.

§ 63401. Reserves.

The Department, in cooperation with the Department of Parks and Recreation and other agencies of the government of Guam, shall control and manage land and waters that have been set aside by the government of Guam as Conservation Reserves. Such control and management shall have as its objectives, the wise use of the soil, water, plants and animals of the reserves. Consistent with this objective, the Director, with the concurrence of the Director of the Department of Parks and Recreation, may establish and enforce rules for economic use.

SOURCE: GC § 12350 Reservations added by P.L. 3-103. GC § 12391 Reserves added by P.L. 16-62:4. Both sections are almost identical, except that the new section also refers to the Department of Parks and Recreation.

§ 63402. Further Consultations.

The Director shall consult with advise the Directors of Land Management, and Parks & Recreation with respect to the reservation of government land pursuant to § 26007 and § 26009 of the Government Code of Guam.

SOURCE: GC § 12391.1 added by P.L. 16-62:4. No earlier equivalent.

§ 63403. Fires Unlawful.

It shall be unlawful for any person to start, or allow a fire to extend, onto government land or the land of another causing damage or destruction to plant or animal life or to any property thereon. Any person violating this Section shall be guilty of a misdemeanor.

SOURCE: GC § 12351 added by P.L. 3-103. Not amended, repealed, duplicated or addressed by P.L. 16-62:4.

**ARTICLE 5
GUAM FORESTRY LEGACY ACT OF 2012**

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SOURCE: Entire article added by P.L. 31-173:1 (Feb. 3, 2012).

2012 NOTE: Pursuant to P.L.28-082:1 (Dec. 9, 2005), the administration of the Soil and Water Conservation Programs (formerly this article) was transferred from the Department of Agriculture to University of Guam and then Article 5 was moved to 17 GCA, Chapter 26 which was repealed by P.L. 31-125:1 (Sept. 30, 2011).

- § 63501. Title.
- § 63502. Statement of Purpose; Establishment of the Guam Forest System.
- § 63503. Definitions.
- § 63504. Development of the Guam Forest System Plan.
- § 63505. Promulgation of Rules and Regulations.
- § 63506. Identification of Land.
- § 63507. Leasing of Land Within the Guam Forest System.
- § 63508. Collaboration and Partnership.
- § 63509. Funding.
- § 63510. Protection of the Guam Forest System.

§ 63501. Title.

This Article *shall* be cited as the *Guam Forestry Legacy Act of 2012*.

§ 63502. Statement of Purpose; Establishment of the Guam Forest System.

The protection and conservation of natural resources and natural habitats or ecosystems, open spaces and historic artifacts, and land for outdoor recreation and education is of critical importance to the people of Guam, to whom the land belongs, and demands ever-increasing vigil and continual effort.

The government of Guam realizes its responsibility to further allow the Department of Agriculture to meet its mandated mission of developing and protecting the agriculture, natural resources, and aquatic and wildlife resources of Guam, and to further set into statute practices that allow for the conservation and protection of these resources.

The purpose of this Act *shall* be to hereby establish the Guam Forest System to augment the mandated responsibility of

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the Department of Agriculture to carry out this mission. The System *shall* be under the jurisdiction of the Department. The Director *shall* coordinate with the Guam Department of Land Management to identify land belonging to the government of Guam, and land reserved for use by the Department. Government properties determined to have compatible use for the Guam Forest System *shall* be included in an inventory.

§ 63503. Definitions. As used in this Article:

(a) *Department* means the Guam Department of Agriculture.

(b) *Director* means the Director of the Guam Department of Agriculture.

(c) *System* means the Guam Forest System.

(d) *Inventory* means a list of lands, identified by the Department of Agriculture with the assistance of the Guam Department of Land Management, that can be included on a list for potential Guam Forest System land use, which will be recorded and updated on an annual basis and filed with the Department of Land Management.

(e) *Recreational use* is the use of land by the public, with or without charge, that is *not* detrimental to the environment, for any of the following: hiking, picnicking, camping, boating, hunting, or other outdoor games or sports. Any fee charged for the recreational use of land *shall* be reasonable such that it *shall not* have the effect of unduly limiting its use by the public.

(f) *Open space use* is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, and to provide essential habitat for wildlife, as well as the conservation and protection of natural resources.

(g) *Compatible use* is any use determined by the Department, in partnership with the Department of Parks and Recreation, the Department of Land Management and the Guam Environmental Protection Agency, or by this Article to be compatible with the agricultural, recreational, or open space use of land within the Guam Forest System. Determinations for

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compatible use must account for scientific data available, which may be available through various sources, including, but *not* limited to, the Department of Agriculture's Division of Aquatic Fish and Wildlife Resources, the University of Guam's Water and Environmental Research Institute of the Western Pacific (WERI), the Bureau of Statistics and Plan's Coastal Management Program, and the U.S. Department of Interior's Fish and Wildlife Service.

§ 63504. Development of the Guam Forest System Plan.

The Department *shall* develop a "Guam Forest System Plan", which *shall* be submitted to *I Maga'lahaen Guåhan*, and transmitted to *I Liheslaturan Guåhan* for approval, in accordance with the Administrative Adjudication Act. This plan *shall* contain, but *not* be limited to:

- (a) an inventory of land, to include lot number, size and location for proposed potential use in the System;
- (b) a comprehensive and concise definition of the public interest in the System;
- (c) proposals for the maintenance and enhancement of the overall quality of the System environment;
- (d) stipulations for public access for recreational and educational use;
- (e) proposals for land use to include elements of, but *not* limited to:
 - (1) education for the purpose of conservation, preservation, environmental sciences, and other related curriculum;
 - (2) scientific research;
 - (3) training for agriculture-related personnel or those involved in natural resource fields and/or disciplines or relative activities;
 - (4) recreation; and
 - (5) conservation and preservation;

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(f) proposals for collaborations with entities within the government of Guam, or non-governmental organizations for the planning, enhancement and sustainability of the System;

(g) a list of allowable activities within the System and penalties for violations;

(h) recommendations for the sustainability of the System, including the extent to which development may be allowed;

(i) proposals for permits and fee schedules for the use of properties of the Guam Forest System; and the collection of such fees *shall* be dedicated to the operations and maintenance of the System;

(j) procedures and protocols for the discovery or presence of historic artifacts on government of Guam lands included in the Guam Forest System, pursuant Chapter 76, Article 1 of Title 21, Guam Code Annotated;

(k) procedures and protocols for identifying government or privately-owned land for inclusion in the System, in accordance with U.S. Department of Agriculture Forest Service programs criteria; and

(l) procedures and protocols, which *shall* include a component for public review, for leasing of land to be included in the System to entities for purposes in accordance with § 63507, *infra*.

§ 63505. Promulgation of Rules and Regulations.

Within ninety (90) days of the approval of the “Guam Forest System Plan,” the Department *shall* promulgate rules and regulations, in accordance with the Administrative Adjudication Act, to support the Plan and the operations of the Guam Forest System. Proposed rules and regulations *shall* be submitted to *I Maga’lahi* (the Governor), and transmitted to *I Liheslaturan Guåhan* (the Guam Legislature) for approval.

§ 63506. Identification of Land.

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(a) Inventory. The Department, in coordination with the Department of Land Management, *shall* inventory land that belongs to and has been reserved for the Department that is suitable for use for the Guam Forestry System.

The Department *shall* maintain a database of the inventoried land available for public reference at the Department. A copy of the inventory *shall* be provided to the Speaker of *I Liheslaturan Guåhan*, *I Maga'lahen Guåhan*, the Guam Department of Land Management, and the Guam Bureau of Statistics and Plans. The inventory *shall* also be published on the Department website.

(b) Compatible Use. Through the identification and inventory process, the Director, in consultation with the Department of Parks and Recreation, Department of Land Management, and the Guam Environmental Protection Agency, *shall* determine which government of Guam lands have compatible uses for the Guam Forest System pursuant to § 63503(g), *supra*. Government land classified as *Conservation Reserves* pursuant to Article 4 of this Chapter may be included in this inventory to carry out the objectives of the Guam Forest System. Government lands classified as part of the Territorial Seashore Protection Act of 1974 pursuant to Chapter 63, Title 21, Guam Code Annotated, may also be included in said inventory.

(1) Challenges. Challenges to any *Compatible Use* determination *shall* be made in writing, addressed to the Director of the Department, and *shall* list the specific reasons for the challenge. All challenges *shall* be reviewed in consultation with the partnership entities identified in § 63503(g), *supra*. Partnership entities *shall* review each challenge and submit to the Director their recommendations to reject or accept, in whole or in part, any *Compatible Use* challenges, including recommended remedies to each challenge. Findings to challenges *shall* be periodically incorporated into the Guam Forest System Plan, as appropriate.

(c) Memoranda of Agreement. The Department may also establish a *Memorandum of Agreement (MOA)* with the Department of Parks and Recreation for land that is part of the

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Department of Parks and Recreation inventory, including Guam Territorial Park System reserved properties classified as *Natural Preserves* and *Conservation Reserves* pursuant to § 77110 of Chapter 77, Title 21, Guam Code Annotated.

Additionally, the Guam Environmental Protection Agency and the Department of Land Management may also be included in said MOA, or in separate MOAs, for properties under the jurisdiction of the Territorial Seashore Protection Act of 1974.

While the Department of Agriculture has the scientific and technical resources necessary to establish natural resource conservation and protection practices, any such MOAs should include components for the planning and protocols of maintenance and operation of the System during the planning and implementation stages, given that identified land for the System may fall under the purview of the Department of Parks and Recreation, the Department of Land Management, or the Guam Environmental Protection Agency.

(d) Reservation of Land. The Department of Agriculture may also reserve land in accordance with § 60105 of Article 1, Division 2, Chapter 60 of Title 21, Guam Code Annotated, for future use as part of the System. The inventory of identified lands *shall* be published on the Department's website.

§ 63507. Leasing of Land Within the Guam Forest System.

Land that is part of the Guam Forest System *shall not* be sold. Such land, however, may be leased to other entities pursuant to § 63504(1) *supra*, provided that leased land *shall* be used *only* for the following purposes:

- (a) recreation, excluding activities that are detrimental to the environment, such as off-roading;
- (b) education;
- (c) training for the Department of Agriculture Forestry & Soil Resources Division or other related activities; or
- (d) protection and preservation of natural resources and historic artifacts.

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Any use inconsistent with this Act *shall* be considered a violation of law, and offenders will be subject to penalties, as prescribed by the Department.

§ 63508. Collaboration and Partnership.

The Department may establish *Memoranda of Agreement* with other agencies and organizations, including, but *not* limited to:

- (a) Department of Parks and Recreation;
- (b) Guam Environmental Protection Agency;
- (c) University of Guam (UOG) and relative departments or programs, including the Water and Environmental Research Institute of the Western Pacific, the UOG Sustainability Office, and the Soil and Water Conservation Programs;
- (d) Guam Community College;
- (e) Guam Energy Office;
- (f) Bureau of Statistics and Plans;
- (g) Guam Fire Department;
- (h) Department of Land Management; and
- (i) Non-profit organizations.

Any such agreements *shall* be established based on the need to define and enhance collaboration in order to reasonably carry out the creation and objectives of the Plan; and to identify potential funding sources for the sustainability and enhancement of the System.

2012 NOTE: Subsections (1) through (9) were changed to (a) through (i) to maintain the general codification scheme of the GCA.

§ 63509. Funding.

Funding for the planning and development of the Guam Forest System may come from, but is *not* limited to, the following sources:

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(a) Federal Assistance for Fire Control, Watershed Protection and Reforestation pursuant to §1421o and §1421p of the Organic Act of Guam; and

(b) USDA Forest Service Grants, including programs under the Cooperative Forestry Assistance Act: Community Forest and Open Space Conservation Program, Forest Legacy Program, Urban and Community Forestry Program, and other related programs.

§ 63510. Protection of the Guam Forest System.

Department of Agriculture Conservation Officers *shall* use the authority given to them as defined in § 63103 and § 63103.1 of Chapter 63, Title 5, Guam Code Annotated, to serve as peace officers, to carry arms, to make arrests, and to issue citations for violations, and *shall* be assisted by law enforcement entities responsible for enforcing the laws of Guam and federal mandates.

ARTICLE 6
LIVE CORAL & FISH NETS

- § 63601. Taking of Live Coral Unlawful.
- § 63602. Harvesting of Coral.
- § 63603. Commercial Permits.
- § 63604. Penalties.
- § 63605. Enforcement.
- § 63606. Fishing Nets; Net Size.
- § 63606.1. Pelagic Drift Nets. Pelagic Drift Nets or Components: Manufacture, Importation, Transshipment or Possession Prohibited.
- § 63606.2. Fish and Fish Products Harvested With a Pelagic Drift Net: Importation, Transshipment or Possession Prohibited.
- § 63607. Violation of Article.
- § 63608. Fishing Area Restrictions.
- § 63609. The Use of Poisons, Electrical Devices and Mesh Nets for Scientific Purposes.

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§ 63601. Taking of Live Coral Unlawful.

It shall be unlawful to remove live coral from that area surrounding the Island of Guam extending from the shore of the island outward to the ten fathom contour, except in accordance with this Article.

SOURCE: GC § 12380 added by P.L. 12-186.

§ 63602. Harvesting of Coral.

(a) The commercial harvesting of coral may be conducted by obtaining a license from the Director of Agriculture and the payment of a fee as established by the Director.

(b) For purposes other than the sale of coral, live coral may be taken only by obtaining a license from the Director of Agriculture, such license being limited in time to a maximum of five days at any given time and to a specific location from which the coral is to be taken, and for such license a fee may be charged. The Director may restrict the amount of coral to be taken under any license and may impose such other restrictions as may be necessary to insure the conservation of our coral fields.

SOURCE: GC § 12381 added by P.L. 12-186.

§ 63603. Commercial Permits.

(a) Permits for the commercial taking of coral may be issued by the Director of Agriculture upon the following conditions:

(1) The permit must state the individual or individuals who will be taking the coral;

(2) The permit must state the time, date and location from which the coral is to be taken;

(3) The Director may limit each permit to a specified amount of coral to be taken, taking into account the location from which the coral is to be taken, the amount of living coral remaining and the likelihood of damage caused to the reef area by the taking of the coral.

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(b) The Director of Agriculture may, by regulation, establish a fee schedule based upon the amount or value of the coral to be taken commercially, establish areas on Guam where no coral may be taken, limited coral may be taken, or unlimited coral may be taken, and impose any other restrictions necessary for the conservation of our coral reserves, all subject to the permits as required by this Article.

SOURCE: GC § 12382 added by P.L. 12-186.

§ 63604. Penalties.

[Repealed.]

SOURCE: GC § 12383 added by P.L. 12-186; amended by P.L. 13-187:109; repealed by P.L. 16-39:12 -- by implication. P.L. 16-39:12 added what is now § 60607, providing contrary penalties to those of this section.

§ 63605. Enforcement.

This Article shall be enforced primarily by the Director of Agriculture and the Conservation Officers as authorized by § 63103 of this Chapter and secondarily by Peace Officers defined in 8 GCA § 5.55.

SOURCE: GC § 12384 added by P.L. 12-186; amended by P.L. 13-187:110.

§ 63606. Fishing Nets: Net Size.

It shall be unlawful for any person to use net (other than small hand nets) with a stretched mesh of less than one and one-half inches (1½"), provided, however, that:

(a) Persons catching live fish for aquarium purposes may obtain permits from the Director of Agriculture for the use of small mesh nets to capture aquarium type of fish only. For purposes of this regulation, the *manahak* (rabbitfish), *ti'ao* (juvenile goatfish), *i'e'* (juvenile crangid) and *aguas* (juvenile mullet) are not considered aquarium type fishes. A small hand net is defined as a framed net, usually with a handle attached and the greatest frame opening not exceeding twelve inches.

(b) Persons engaging in tuna fishing may apply for permits from the Director of Agriculture to capture live bait

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fish such as minnow (*spratelloides*), ginyo (*atherinidae*), fadya (*engraulidae*) and other suitable bait fish, but will not include the *aguas*, *ti'ao*, *i'e'* and *manahak*.

(c) That the above provisions stipulated in items (a) and (b) are not applicable in any areas designated as conservation areas where the taking of all seasonal fishes are prohibited.

This restriction shall not apply to traditional methods when used for the taking of such seasonal juveniles as rabbitfish (*manahak*), skipjack (*i'e'*), goatfish (*ti'ao*), herring (*menis*) and mullet (*aguas*).

SOURCE: GC § 12385 added by P.L. 12-186; repealed/ reenacted by P.L. 16-39:11.

§ 63606.1. Pelagic Drift Nets.

Pelagic drift nets or components: manufacture, importation, transshipment or possession prohibited. The manufacture, assembly, importation, transshipment, transfer from one vessel or aircraft to another vessel or aircraft, or possession of pelagic drift nets, components, or materials destined for their manufacture, in the territory or waters of Guam is prohibited. Any peace officer may enforce the provisions of this Section.

SOURCE: Added by P.L. 20-185:6

§ 63606.2. Fish and Fish Products Harvested With a Pelagic Drift Net: Importation, Transshipment or Possession Prohibited.

The importation, transshipment, transfer from one vessel or aircraft to another vessel or aircraft, or possession of fish or fish products harvested with a pelagic drift net is prohibited in the territory, including the waters of Guam. Any peace officer may enforce the provisions of this Section.

SOURCE: Added by P.L. 20-187:7.

§ 63607. Violation of Article.

Any violation of this Article shall be punished as prescribed in § 63127 and § 63128 of this Chapter.

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SOURCE: GC § 12388 added by P.L. 12-215; repealed/ reenacted by P.L. 16-39:12.

§ 63608. Fishing Area Restrictions.

[Repealed.]

SOURCE: GC § 12386 added by P.L. 16-39:13; amended by P.L. 16-114:1.

NOTE: The amendment to this Section by P.L. 16-114, among other changes, stated:

"The prohibition imposed in this Section shall expire on October 1, 1983."

§ 63609. The Use of Poisons, Electrical Devices and Mesh Nets for Scientific Purposes.

(a) The Department of Agriculture shall have the authority to issue permits for the use of poison, electrical devices or small mesh nets for the purpose of bona fide scientific research.

(b) Limitations and Prohibitions.

(1) Each person employing a restricted device or compound shall be required to have a permit in his possession; and

(2) The permit shall specific

(A) the name of the permittee,

(B) the device or compound for which the permit was issued,

(C) the area in which the device or compound is to be used, and

(D) the duration of the permit, which will, in no case, exceed one (1) week, at which time it may be renewed.

(c) Application for Permits. Any applicant for a permit for the use of a restricted device or compound in the waters of Guam shall submit complete and signed applications for the use thereof to the Director of Agriculture (hereafter referred to as *Director*) in a form prescribed by him. The applications shall show:

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- (1) The name and address of the applicant;
- (2) The device or compound that is to be used;
- (3) The area requested to be covered by the permit;
- (4) The time span for which the permit is to be valid;
- (5) A brief description of the research project; and
- (6) The academic affiliation of the applicant.

(d) Investigation. Upon receipt of a complete and signed application, the Director shall promptly cause an investigation of all aspects of the application to be made, the duration of which shall not exceed three (3) days.

(e) Issuance of Permit. When all the requirements set forth in this Section have been met and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original shall be given to the permittee and a duplicate shall be retained by the Director. The permit shall be nontransferable.

(f) Power of Permit. A duly issued and valid permit shall exempt the holder thereof from violation of § 63108, § 63110 and, when traditional methods are used, from § 63606 of this Chapter.

SOURCE: GC § 12387 added by P.L. 16-39:14.

2016 NOTE: Subitem designations in subsection (b)(2) were altered to adhere to the Compiler's alpha-numeric codification scheme pursuant to authority granted by 1 GCA § 1606.

**ARTICLE 7
WILDLAND FIRE PROTECTION**

NOTE: This Article 7 was added by P.L. 16-62:4. There is no equivalent in prior law. All SOURCE references in this Article are to P.L. 16-62:4 unless otherwise stated.

Department of Public Safety has been changed to *Fire Department* pursuant to P.L. 17-78.

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- § 63701. Definitions.
- § 63702. Responsible Agency.
- § 63703. Powers and Duties.
- § 63704. Fire Danger Periods.
- § 63705. Burning Permit Officers.
- § 63706. Burning Permits.
- § 63707. Offenses.
- § 63708. Penalties.
- § 63709. Remedies.
- § 63710. Expunge Record.
- § 63711. Wildland Fire Enforcement Officers.

§ 63701. Definitions.

(a) *Wild areas* are those areas designated such by the Director and left undisturbed, except for occasional use or influence by man in their natural condition.

(b) *Wildland fires* are the intentional, accidental or natural burning of the vegetated wild areas.

SOURCE: GC § 12393.

2016 NOTE: Subsection designations were added to adhere to the Compiler's codification scheme pursuant to authority granted by 1 GCA § 1606.

§ 63702. Responsible Agency.

The Department shall take measures for the prevention, control and extinguishment of wildland fires on government of Guam and private lands. It shall also cooperate with the Fire Department, other government of Guam agencies, and the appropriate federal government agencies in developing plans and programs as well as mutual aid agreements for assistance in the prevention and control of wildland fires.

SOURCE: GC § 12393.1.

§ 63703. Powers and Duties.

The Director shall be responsible for the development and implementation of organizational plans and consequential actions related to this Article. The Director shall designate

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qualified personnel as Fire Prevention Officers within the Department to:

(a) zone the territorial lands under the Department's jurisdiction into fire districts;

(b) take necessary measures for the prevention, control and extinguishment of wildland fires;

(c) establish procedures, guidelines and conditions for the issuance of burning permits;

(d) issue fire warning notices during dry periods or other seasons when fire hazards are great;

(e) close government of Guam lands to public access during dry periods when necessary to reduce fire risk, except it shall be lawful for an owner, a lessor, his agents or other persons regularly engaged in agricultural land preparation, planting of crops or forest seedlings or harvesting, processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes;

(f) summon, when deemed necessary, additional firefighting assistance, equipment or materials to assist in fire suppression;

(g) arrest, without warrant, any person committing in his presence any of the offenses prohibited by this Article;

(h) assume full responsibility for directing the control and extinguishment of any fire on, or threatening government of Guam natural preserves, conservation reserves or territorial parks; and

(i) conduct education work concerning the protection of forest and grasslands from fires.

SOURCE: GC § 12393.2.

§ 63704. Fire Danger Periods.

During periods of weather when the Director determines that the risk of fire is high, he shall establish a fire danger period by issuing a fire warning, which contains information setting

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forth the fact. This fire warning along with a designation of areas within which burning is prohibited shall be provided to the news media for presentation as a public service. Notices of the fact may also be posted in public buildings and on public lands. During such periods, no fires other than those within a closed, screened container shall be allowed.

SOURCE: GC § 12393.3

§ 63705. Burning Permit Officers.

The Director, in cooperation with the Fire Department, shall designate Burning Permit Officers to issue burning permits. The Burning Permit Officers shall be qualified fire prevention personnel from the Department of Agriculture or the ranking officer in charge at each Fire Department Fire Station. The Burning Permit Officer from the Department of Agriculture will be limited to issuing burning permits for wild areas only.

SOURCE: GC § 12393.4.

§ 63706. Burning Permits.

The Department of Agriculture and the Fire Department shall be responsible for the issuance of burning permits in wild areas. The issuance of permits shall be at the discretion of the issuing officer who shall take into account whether or not the issuance of such a permit is compatible with the safety. Permit holders shall not start fires during a heavy wind or without sufficient help present to control and extinguish the fires. Permit holders shall also maintain a constant watch over the fires until all fires have been extinguished.

SOURCE: GC § 12393.5.

§ 63707. Offenses.

(a) Any person who discards burning materials or who willfully, maliciously or negligently sets a fire that burns vegetation on land not owned, leased or controlled by him shall be guilty of incendiarism, which is subject to penalties as described in § 63708.

(b) Setting fires, causing them to be set, or allowing them to escape, shall be prima facie evidence of willfulness, malice or

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negligence under this Section; provided, that nothing herein contained shall apply to any person who, in good faith, sets a backfire to check an already burning fire or who with a burning permit sets afire for forest management or land clearing purposes.

SOURCE: GC § 123393.6.

2016 NOTE: Subsection designations were to adhere to the Compiler's codification scheme pursuant to authority granted by 1 GCA § 1606.

§ 63708. Penalties.

Any person who violates any provision of this Chapter shall be subject to any combination of the following:

(a) a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000); or

(b) a misdemeanor, punishable by imprisonment of not more than one (1) year; or

(c) a misdemeanor, punishable by service to the Alternative Community Service Program, but only with the consent of that person; or

(d) a civil fine of not more than Ten Thousand Dollars (\$10,000) and, in addition to any other penalties, a civil fine of not more than Five Hundred Dollars (\$500) per day for each day in which the violation persists; or

(e) in lieu of a civil fine, a person may be subject to service in the Alternative Community Service Program, but only with the consent of that person. Any person who successfully completes service in the Alternative Community Service Program for a violation of this Chapter may have his official record expunged.

SOURCE: GC § 12393.7.

COMMENT: This section provides penalties for "this Chapter." There are penalty sections contained in each of the other articles, where appropriate. They have not been repealed. However, the Compiler cannot presume that repeal by implication was intended, or that this reference to "this Chapter" is in error. Rather, the Compiler presumes that the Legislature intended to create an additional penalty scheme covering the entire Chapter, while leaving intact specific penalties in each article, to be used where appropriate.

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§ 63709. Remedies.

(a) Any person may maintain an action for declaratory and equitable relief to restrain violations of this Chapter. No bond shall be required for an action under this Subsection.

(b) Any person may maintain an action for the recovery of civil penalties provided in § 63708.

(c) The provisions of this Section shall be, in addition to other remedies, available at law.

(d) Any person prevails in a civil action brought to enjoin a violation of this Chapter or to recover civil penalties shall be awarded his costs, including reasonable attorneys fees.

SOURCE: GC § 12393.8.

COMMENT: Again, the scope of this section appears to the whole *Chapter*. However, see Article 2 for similar remedies applicable to that Article alone. 5 GCA § 63211 has not been repealed.

§ 63710. Expungement of Record.

Any person who successfully completes service in the Alternative Community Service Program for violations of this Chapter and is a first time offender may apply to the court for an order to expunge from all official records (other than the non-public records to be retained by the court solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this Section) all recordation relating to his arrest, indictment or information, trial, finding of guilty and sentencing pursuant to § 63302, § 63303, § 63707, and § 63708 of this Title. If the court determines after hearing, that such person successfully completed service in the Alternative Community Service Program and was a first time offender, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest or indictment or information, or trial in response to any inquiry made of him for any purpose.

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SOURCE: GC § 12393.9.

§ 63711. Wildland Fire Enforcement Officers.

The provisions of this Article shall be enforced by the Director, who shall be ex-officio, the Wildland Fire Enforcement Officer, and suitable employees of the Department whom he may appoint as Deputy Wildland Fire Enforcement Officers, as well as by peace officers defined in 8 GCA § 5.55. The Wildland Fire Enforcement Officer and the Deputy Wildland Fire Enforcement Officers acting hereunder shall have the powers of peace officers to carry arms and to make arrests for violations.

SOURCE: GC § 12393.10.

**ARTICLE 8
AGRICULTURAL BOARD OF COMMISSIONERS**

SOURCE: This Article was added as Govt. Code § 12000 et seq. by P.L. 20-176:1. These code sections have long been occupied by the basic law governing the Department of Agriculture. In any event, the subject matter fits best within this Chapter.

Section 3 of P.L. 20-176 states:

“The jurisdiction of this Board shall in no way interfere or overlap with the jurisdiction or authority of the Soil and Water Conservation Districts which operate pursuant to 63501 through 63512 of Title 5, Guam Code Annotated [Article 5 of this Chapter].”

- § 63800. Legislative Intent.
- § 63801. Definitions.
- § 63802. Establishment of Board.
- § 63803. Board Powers and Duties.
- § 63804. Terms and Qualifications of Board Members.
- § 63805. Vacancies.
- § 63806. Quorum.
- § 63807. Election of Officers.
- § 63808. Board Meetings.
- § 63809. Notice of Board Meeting.
- § 63810. Compensation.
- § 63811. Ex-officio, Non-Voting Board Members.

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- § 63812. Duties of Officers.
- § 63813. Voting.
- § 63814. Removal of Board Members or Officers.
- § 63815. Order of Business.

§ 63800. Legislative Intent.

The purpose of this Article is to promote the conservation, development and utilization of agricultural resources in Guam, to assist the farmers and others engaged in agriculture by authorizing research projects, disseminating information, operating a crop and livestock reporting service and a market news service, and by promoting any other means of improving the well-being of those engaged in agriculture, mariculture and aquaculture, and increasing the productivity of the lands.

§ 63801. Definitions.

The following definitions shall be used in interpreting this Article:

(a) *Board* means the Agricultural Board of Commissioners, as established in this Article;

(b) *Bona fide farmer* means a person who is registered with the Department of Agriculture and grows for commercial purposes fruits, vegetables, ornamental plants, livestock, aquacultural products, or similar products.

(c) *Northern Agricultural District* means the farming area consisting of Agaña Heights, Barrigada, Chalan Pago/Ordot, Dededo, Maina, Mangilao, Sinajaña, Tamuning/Tumon, Toto/Mongmong, and Yigo.

(d) *Southern Agricultural District* means the farming area consisting of Agat, Inarajan, Malojloj, Merizo, Piti, Santa Rita, Talofoto, Umatac, and Yoña.

SOURCE: Subsection (b) repealed and reenacted by P.L. 22-135:2. Subsections (c) and (d) added by P.L. 22-135:3.

§ 63802. Establishment of Board.

There is established an Agricultural Board of Commissioners composed of nine (9) members who shall be

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appointed by the Governor subject to the advice and consent of the Legislature. The Governor shall appoint six (6) bona fide farmers, as defined in § 63801 of this Article, consisting of three (3) bona fide farmers from the Northern Agricultural District and three (3) bona fide farmers from the Southern Agricultural District, and three (3) representatives from the private business community to serve as the members of the Board.

SOURCE: Amended by P.L. 22-135:4.

§ 63803. Board Powers and Duties.

The Board shall have the following powers and duties:

(a) The Board shall be responsible for the conservation, development, and utilization of agricultural resources in Guam, and shall assist farmers and others engaged in agriculture, mariculture and aquaculture by conducting research projects, disseminating information, operating a crop and livestock reporting service and a market news service, and by promoting any other means of improving the productivity of the lands.

(b) The Board shall have access to all files and information within the government of Guam relevant to performing its responsibilities pursuant to subsection (a) of this Section.

(c) The Board shall hold at least one (1) publicly announced meeting each month to hear complaints and suggestions, if any, from farmers, ranchers, consumers and other interested persons or groups with respect to matters within the duties of the Board.

(d) The Board shall be the governing and policy determining body of the Department.

(e) All official submissions of proposals from other departments and agencies to the Governor and Legislature related to the development of agriculture on Guam shall be accompanied by comments by the Board.

(f) The Board shall work with the Director of Agriculture toward the planning and implementation of all agricultural programs.

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(g) The Department of Agriculture shall provide all necessary services and funding required by the Board.

(h) The Director of Agriculture shall serve as the Executive Officer of the Board with the following authority and responsibilities:

(1) To attend all meetings of the Board and submit a general report of the affairs of the Department; and

(2) To keep the Board advised as to the needs of the Department;

(i) The Director of Agriculture shall be responsible for the day-to-day operation of the Department of Agriculture and other related duties which include:

(1) To administer the Department's programs and policies;

(2) To see that all rules and regulations of the Department are enforced; and

(3) To select and appoint the employees of the Department except as otherwise provided by law and to plan, organize, coordinate and control the services of such employees in the exercise of the power of the Department under the general direction of the Board; and

(j) The Board shall adopt and promulgate reasonable rules and regulations in accordance with the Administrative Adjudication Law,

(1) for its own government and

(2) for the purpose of carrying out all other duties, powers, and responsibilities herein conferred.

(k) All rules and regulations adopted by the Board pursuant to this section shall be published and distributed to all village mayor's offices, the Department of Agriculture, the Governor's Office and the Legislature.

SOURCE: Subsections (d), (f), and (h) amended by P.L. 22-135:5. Subsections (i), (j), and (k) added by P.L. 22-135:6.

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2016 NOTE: Subitem designations were altered in subsection (j) to adhere to the Compiler's alpha-numeric codification scheme pursuant to authority granted by 1 GCA § 1606.

§ 63804. Terms and Qualifications of Board Members.

All Board members shall serve staggered terms of six (6) years, except that the first three (3) members shall serve for terms of two (2) years, the next three (3) members shall serve for terms of four (4) years, and the remaining three (3) members shall serve for a term of six (6) years. Members of the Board shall be allowed to serve their full term and should there be a change in administration of the executive branch as a result of an election, such members shall not be requested or influenced to submit their resignations. The first regular appointments to the Board shall be made within ninety (90) calendar days after the date of enactment of this Article.

§ 63805. Vacancies.

When a vacancy occur other than by expiration of a member's term, the Governor shall fill the vacancy in accordance with § 63802 of this Article if the remaining term of the vacancy exceeds six (6) months.

§ 63806. Quorum.

A majority of the Board members shall constitute a quorum.

§ 63807. Election of Officers.

The Board shall elect a Chairman and Vice-Chairman. The first such election shall take place no later than ten (10) days after all the members of the Board have been confirmed by the Legislature.

§ 63808. Board Meetings.

Regular meetings of the Board shall be held monthly and special meetings may be called by the Chairman or a majority of the Board members. Each call for a special meeting, other than one called by the Board at a regular or special meeting, shall be in writing, signed by the person or persons making the same, addressed to and delivered to all Board members, stating the

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time, place and purpose of such meeting, at least twenty-four (24) hours prior to the time of the special meeting.

§ 63809. Notice of Board Meeting.

Notice of the next regular Board meeting shall be announced at every regular Board meeting. Such notice shall be immediately delivered to the Director of Agriculture who shall post such notice for information purposes.

§ 63810. Compensation.

Board members shall be compensated at the rate of Fifty Dollars (\$50) per meeting, not to exceed One Hundred Dollars (\$100) per month.

§ 63811. Ex-officio, non-voting Board Members.

Ex-officio, non-voting Board members shall consist of but are not limited to, representatives of the Department of Agriculture, College of Agriculture and Life Sciences, Department of Land Management, Guam Economic Development Authority, Public Utility Agency of Guam, and locally-based offices of the Federal Farmers Home Administration, Soil Conservation Service, Bureau of Reclamation, the Director of the Marine Laboratory at the University of Guam, and a member of the Fishermen's Cooperative.

§ 63812. Duties of Officers.

The Chairman shall perform all functions usually performed by an executive or presiding officer. The Vice-Chairman, in the absence of the Chairman, shall perform the duties of the Chairman.

§ 63813. Voting.

Each member shall be entitled to only one (1) vote. The vote of five (5) members shall be required for any action by the Board to be effective. Absentee voting is prohibited.

§ 63814. Removal of Board Members or Officers.

Any Board member may bring charges against an officer or other Board member by filing them in writing with the chairman of the Board. The Board may for good cause remove the officer

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or Board member if six (6) or more members vote for removal. The Board member or officer against whom such charges have been brought shall be informed in writing and shall have an opportunity at the meeting thereon to be heard. Any person bringing the charges shall have the same opportunity.

§ 63815. Order of Business.

The order of business of meetings of the Board shall be:

- (a) Roll call,
- (b) Approval of the minutes,
- (c) Reports from officers and committees,
- (d) Unfinished business,
- (e) New business,
- (f) Informal discussion or entertainment, and
- (g) Adjournment.

ARTICLE 9
GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015

SOURCE: Entire article added by P.L. 33-144 (Apr. 15, 2016).

- § 63901. Title.
- § 63902. Establishment of the Guam Ocean and Fisheries Management Council.
- § 63903. Council Duties.
- § 63904. Qualifications and Terms of Council Members.
- § 63905. Vacancies.
- § 63906. Election of Officers; Sub-committees.
- § 63907. Council Meetings.
- § 63908. Advisory, Non-Voting Members.
- § 63909. Rules and Regulations; Schedule of Fees.
- § 63910. Guam Ocean and Fisheries Conservation and Development Fund Established.

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§ 63901. Title.

This Article may be cited as the *Guam Ocean and Fisheries Conservation Act of 2015*.

§ 63902. Establishment of the Guam Ocean and Fisheries Management Council.

There is hereby established within the government of Guam the Guam Ocean and Fisheries Management Council composed of nine (9) voting members who shall be appointed by *I Maga'låhen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*.

§ 63903. Council Duties.

Notwithstanding any other provision of law, the duties of the Council shall include the following:

- (a) to prepare and coordinate the implementation of the indigenous fishing rights pursuant to Public Law 29-127;
- (b) to coordinate and promote activities in connection with the conservation and development of Guam's ocean, fisheries, and marine resources;
- (c) to develop and establish permit requirements and a schedule of fees in connection therewith, relative to the conduct of fishing vessel operations and the harvesting of fish and other marine life in the waters of Guam;
- (d) to oversee the expenditure and management of funds in the Guam Ocean and Fisheries Conservation and Development Fund established pursuant to § 63911 of this Article;
- (e) to provide advice and information to *I Maga'låhen Guåhan* and to *I Liheslaturan Guåhan*, including the legislative committee on natural resources, on matters pertaining, but not limited to, the use and harvesting of freshwater and marine resources and their management;

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(f) to review and provide advice on the impact of laws affecting the sustainable use of the marine and freshwater resources;

(g) to develop programs to enhance and promote the sustainable use of Guam's marine and freshwater resources;

(h) to provide guidance and assist the Department of Agriculture in the expenditure of funds derived from marine activities, or federal grants, and other ocean, fisheries, and marine-related funding;

(i) to provide guidance to and assist the Department of Agriculture in the administration of Article 1 (Game & Fish) of this Chapter, and rules and regulations adopted pursuant thereto, with the exception of provisions, rules and regulations relative to non-aquatic animal life. The Council is authorized to provide guidance to and assist the Department of Agriculture under Article 1 of this Chapter, as may be provided for through cooperative agreements or other arrangements memorialized in writing and agreed to by the Council and the Director of Agriculture;

(j) to coordinate and promote the sustainable use of Guam's oceans, fisheries, marine and freshwater resources within various communities on Guam; and

(k) to provide a report to *I Maga'låhen Guåhan* and to *I Liheslaturan Guåhan* within ninety (90) days after the end of each fiscal year summarizing the activities and accomplishments of the Council over the past fiscal year.

§ 63904. Qualifications and Terms of Council Members.

(a) Qualifications. With the advice and consent of *I Liheslaturan Guåhan*, *I Maga'låhen Guåhan* shall appoint eight (8) voting members to the Council in the following categories:

(1) Four (4) Council members shall be appointed from the community-at-large, two (2) individuals of which shall be appointed to represent Chamorro grassroots organizations;

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(2) One (1) Council member shall be an active member in good standing of the Marianas Underwater Fishing Federation;

(3) One (1) Council member shall be an active member in good standing of the Guam Organization of Saltwater Anglers;

(4) One (1) Council member shall be an active member in good standing of the Guam Fishermen's Cooperative Association; and

(5) One (1) Council member shall be a faculty member of the University of Guam.

(6) The Director of the Department of Agriculture shall serve as a full voting member, and shall participate fully in Council meetings and activities of the Council.

(7) The President of the Department of Chamorro Affairs shall serve as an ex-officio member, without voting rights in the meetings of the Council, although he or she may otherwise participate fully in Council meetings and activities of the Council.

(8) All eight (8) voting members of the Council appointed by *I Maga'låhen Guåhan* shall be residents of Guam for a period of at least five (5) consecutive years immediately preceding their appointment, and shall continue to maintain their residency during their terms on the Council.

(9) In making appointments to the Council, if no qualified person is available from the specific organization or entity identified in items (2) through (5) of this Subsection (a), supra, to serve as a Council member, *I Maga'låhen Guåhan* may substitute a suitable appointee from the community-at-large.

(10) If a Council member is appointed pursuant to the categories in items (2) through (5) of this Subsection (a), supra, and ceases to be affiliated or employed in the designated capacity, then that member shall be considered to have vacated his or her seat effective on the date that

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such employment or affiliation was terminated. The Chairperson of the Council shall forthwith notify *I Maga'låhen Guåhan* that the vacancy exists.

(b) Terms. *I Maga'låhen Guåhan*, when making initial appointments, shall designate four (4) members to serve initial four (4)-year terms, and three (3) members to serve initial two (2)-year terms. All subsequent appointments shall be for terms of four (4) years, except appointments to fill a vacancy. When a vacancy occurs, it shall be filled by appointment of *I Maga'låhen Guåhan* with the advice and consent of *I Liheslaturan Guåhan* for the remainder of the vacating member's term. Initial appointments to the Council shall be made by *I Maga'låhen Guåhan* within ninety (90) days after the effective date of this Act.

§ 63905. Vacancies.

When a vacancy occurs other than by expiration of a member's term, *I Maga'låhen Guåhan* shall fill the vacancy in accordance with §§ 63902 and 63904 of this Article if the remaining term of the vacancy exceeds six (6) months. Appointments to fill a vacancy shall be for the remainder of the vacating member's term and in the same category in items (1) through (5) of § 63904(a) pursuant to which the vacating member was appointed.

§ 63906. Election of Officers; Sub-committees.

(a) The Council shall elect a Chairperson and a Vice Chairperson from among its members, both to serve in those capacities no longer than for their terms of office as Council members. The Chairperson shall preside at all meetings of the Council, shall act as the spokesperson of the Council, and shall perform such other duties as the Council shall direct. The Vice Chairperson shall succeed to the duties of the Chairperson in the absence or inability of the Chairperson. From among its members, the Council shall select a Secretary of the Council and any other officers which the Council may deem necessary.

(b) The Council may form sub-committees from among its membership as it deems necessary in order to carry out projects, research, and other activities outside of the Council's meetings.

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2016 NOTE: Subsection designations were added by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 63907. Council Meetings.

(a) The Council shall meet regularly at least every other month, and at such times and in such places in Guam as the Council establishes (or by the Chairperson when the Council does not act), to transact such business as the Council determines.

(b) The Director of the Department of Agriculture shall assist the Council with the conduct and transaction of its business and the holding of Council meetings, and shall make available within the Department of Agriculture a venue for meetings of the Council. The Director of Agriculture shall also assist the Council by providing technical and staff support as needed.

(d) A quorum of the Council shall consist of a majority of the members duly appointed and qualified. The Chairperson shall be counted for a quorum, but shall vote only in case of a tie. Any action taken by the Council shall be by a majority of the voting members.

(c) Special meetings of the Council may be called by the Chairperson or by a majority of the Council members in office.

(d) All notices and meetings of the Council shall comply with the Open Government Law, Chapter 8, Title 5 Guam Code Annotated.

2016 NOTE: Subsection designations were added by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 63908. Advisory, Non-Voting Members.

The Council by majority vote of its members may invite additional public and private sector members to serve on a voluntary basis without compensation as advisers in the Council's sub-committees, and may prescribe special procedures for their participation; provided, that no such advisory members may vote at any meetings of the Council.

§ 63909. Rules and Regulations; Schedule of Fees.

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(a) Rules and Regulations. The Council, which shall be assisted by the Department of Agriculture and the Attorney General's Office, shall from time to time promulgate rules and regulations, in accordance with the Administrative Adjudication Act, Title 5, Guam Code Annotated, Chapter 9, Article 3, to carry out the provisions of this Act.

(b) Permits and Fee Schedules.

(1) In order to preserve Guam's marine and freshwater resources, the Council, which shall be assisted by the Department of Agriculture and the Attorney General's Office, shall propose a schedule of various permits, and recommended fees to be charged for such permits, which shall be required for the conduct of fishing vessels and the harvesting of fish and other marine life in the waters of Guam. Such schedules, if approved by Council, shall be established in accordance with the procedures set forth in Article 3, Chapter 9, Title 5 Guam Code Annotated, the Administrative Adjudication Act, and shall include criteria and guidelines governing the application, issuance, exemptions, and enforcement of such permits and fees.

(2) The initial schedule of permits and fees recommended under this Section shall be submitted to *I Liheslaturan Guåhan* pursuant to the Administrative Adjudication Act no later than one hundred eighty (180) days after the effective date of this Act. The Council shall review the schedule at least once every five (5) years thereafter to determine if any fee increases, decreases, the establishment of new fees, or any other modifications, are warranted; and such recommendation shall be adopted pursuant to the Administration Adjudication Act.

(c) Maintenance of Required Permits. Unless otherwise expressly authorized by this Act or by any other provision of law, a person or entity shall not engage in activities requiring a permit by virtue of the rules and regulations promulgated under

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Subsections (a) and (b) of this Section, without having in his or its immediate possession such permit or a copy thereof.

(d) Penalty. Any person or entity that violates the provisions of Subsection (c) of this Section is guilty of or liable for a civil violation punishable by a fine not to exceed Five Hundred Dollars (\$500.00) for each violation. Any fines recovered by the government of Guam for such civil violations shall be paid into the Wildlife Conservation Fund established pursuant to § 63130 of Article 1 of this Chapter.

(e) Enforcement. Except as otherwise provided by law, the provisions of this § 63910 and all rules and regulations, permit and fee schedules promulgated thereunder, shall be enforced by the Director of Agriculture, as ex officio Chief Conservation Officer, and suitable employees of the Department of Agriculture whom the Director may appoint as Deputy Conservation Officers, as well as by peace officers, as defined in § 5.55 of Title 8 GCA, all with the same powers set forth under § 63103 Of Article 1 of this Chapter. The Civilian Volunteer Conservation Officer Reserve established by § 63103.1 of Article 1 of this Chapter may also assist with enforcement hereunder under the same conditions specified under § 63103.1.

(f) Collection of Fees. All proceeds from fees collected pursuant to the permit and fee schedule promulgated under § 63910 (a) and (b), supra, fines imposed under § 63910(d), and other amounts as may be authorized by law, shall be deposited in the Wildlife Conservation Fund established pursuant to § 63103 of Article 1 of this Chapter.

§ 63910. Guam Ocean and Fisheries Conservation and Development Fund Established.

(a) Establishment. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Guam Ocean and Fisheries Conservation and Development Fund (hereinafter GOF Conservation and Development Fund). The GOF Conservation and Development Fund shall not be commingled with the General Fund and shall be kept in a separate bank account. Monies from donations, grants, and other amounts as may be authorized by law shall be

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deposited in the GOF Conservation and Development Fund and shall be expended by *I Liheslaturan Guåhan* exclusively for purposes authorized in Subsection (b) of this Section.

(b) Uses. The GOF Conservation and Development Fund shall be used to fund the following:

(1) the development and construction of boat ramps in northern and southern Guam. The Council shall formulate plans for the development, construction, maintenance, and operation of a boat ramp in northern Guam in the village of Yigo, and a boat ramp in southern Guam in the village of Talofoto, for use by first responders and emergency personnel and the general public. Such plans shall include, but not be limited to, site identification, costs, engineering, and design. No later than April 1, 2017, the Council shall submit its preliminary plans and recommendations for the development and construction of the northern and southern boat ramps to *I Maga'låhen Guåhan* and *I Liheslaturan Guåhan*;

(2) research and development related to the conservation of ocean resources, coral reefs, freshwater rivers, lakes, and ponds in Guam;

(3) research and development related to the regulation and conservation of fish and other wildlife in Guam's marine and fresh waters;

(4) marina improvement, moorings, maintenance, and related projects;

(5) the creation, improvement or beautification of access paths to shore-side resources;

(6) funding for mitigation of surface and storm water runoff and erosion in compliance with applicable laws;

(7) funding of public activities in support of marine activities;

(8) funding assistance for community-related marine facilities;

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(9) funding assistance for activities related to the preservation and perpetuation of Guam's indigenous Chamorro culture and heritage as it relates to ocean, fisheries, and other marine-related aspects;

(10) funding for staffing, office expenses, and other activities in support of the mission of the Council; and

(11) other similar funding priorities as identified by *I Liheslaturan Guåhan*.

(c) Expenditures. All expenditures of the GOF Conservation and Development Fund shall be made exclusively by appropriation of *I Liheslaturan Guåhan*. The GOF Conservation and Development Fund shall not be used for any purposes other than those enumerated or reasonably inferred hereunder, or for purposes other than those relating to ocean, fisheries, and other marine and freshwater related matters. The GOF Conservation and Development Fund shall not be used as a pledge of security or as collateral for government loans without prior authorization by *I Liheslaturan Guåhan*.
