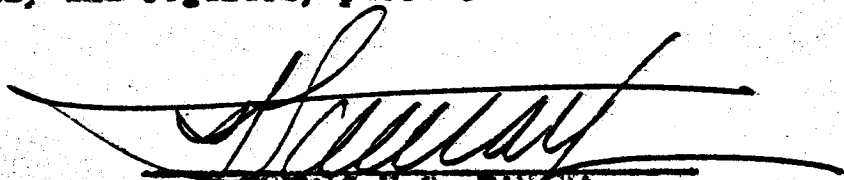


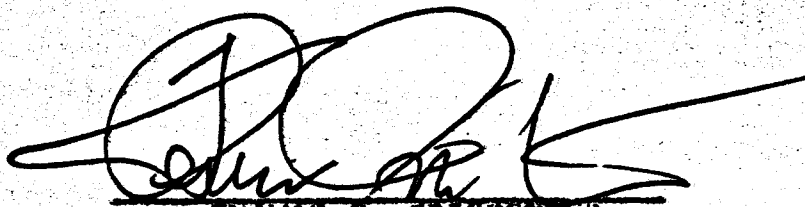
SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

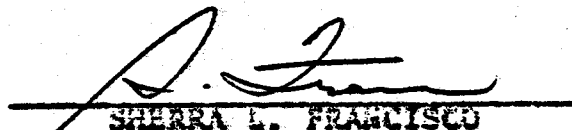
This is to certify that Substitute Bill No. 239, "An Act to amend Sections 26003(g), 26007, 26009(b), to add Articles VI, VII, VIII, and IX of Chapter IV, Title XIII all of the Government Code, relative to Forestry and Conservation Programs of the Department of Agriculture", was on the 18th day of January 1982, duly and regularly passed.


THOMAS V.C. TANAKA
Speaker


ATTESTED:


THOMAS C. CRISTOSTONO
Legislative Secretary

This Act was received by the Governor this 27th day of January, 1981, at 10:30 o'clock P.M.


SIERRA L. FRANCISCO
Assistant Staff Officer
Governor's Office

APPROVED:


PAUL M. CALVO
Governor of Guam

DATED: 2/8/82 3:00 p.m.
PL 16-62

SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

Bill No. 289
(As Substituted by the
Committee on Economic Development,
at the request of the Governor)

Introduced by: F. R. Santos, J. H. Underwood

AN ACT TO AMEND SECTIONS 26003(g), 26007,
26009(b), TO ADD ARTICLES VI, VII, VIII,
AND IX OF CHAPTER IV, TITLE XIII ALL OF
THE GOVERNMENT CODE, RELATIVE TO FORESTRY
AND CONSERVATION PROGRAMS OF THE DEPARTMENT
OF AGRICULTURE.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Section 26003(g) of the Government Code of
3 Guam is hereby amended to read:

4 "Section 26003(g). To be State Liaison Officer for
5 the Bureau of Outdoor Recreation, and State Liaison Officer
6 for Historic Preservation."

7 Section 2. Section 26007 of the Government Code of Guam,
8 as amended, is hereby amended to read:

9 "Section 26007. Guam Territorial Park System. There
10 is hereby created the Guam Territorial Park System. The
11 Director of the Department of Parks and Recreation shall
12 inventory all lands belonging to the government of Guam
13 and determine which lands shall be included therein. A
14 detailed list shall be forwarded to the Speaker of the
15 Legislature, the Bureau of Planning, the Department of
16 Agriculture, and the Department of Land Management. The
17 Legislature shall, after public hearing and report by
18 the appropriate standing committee, approve or disapprove
19 these lands to be included within the Territorial Park
20 System, as designated under Section 26009.1 within thirty
21 (30) legislative days following receipt of such a list.
22 Failure to so act shall be deemed consent by the
23 Legislature. The list shall be added to or deleted from
24 by the aforementioned process as deemed necessary."

1 Section 3. Section 26009(b) is hereby amended to read:

2 "Section 26009(b). 'Conservation Reserves', which
3 may be improved for the purpose of making them accessible
4 to the public in a manner consistent with the perpetuation
5 of their natural features as well as modification through
6 sound forestry and wildlife practices that will enhance and
7 protect the natural resources."

8 Section 4. Articles VI, VII, VIII and IX are added to
9 Chapter IV, Title XIII of the Government Code to read:

10 "Article VI - Forestry

11 Section 12390. Improving resources: responsibility.

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

26 Section 12390.1. Unlicensed tree-cutting on public
27 lands prohibited. The cutting, removal, or mutilation of
28 live trees (except tangantangan) on all government of
29 Guam lands without a license is prohibited. All
30 applicants for such license shall make a written request

1 to the Director designating the kind, size, and number
2 of trees to be cut or removed, and the use to be made
3 thereof. When the Director is of the opinion
4 that such cutting or removal will not materially injure the
5 forest resources of Guam, he shall issue a license stating
6 the conditions for cutting and planting of trees, and
7 provisions for inspection of the operation.

8 Section 12390.2. Penalty. Any person who violates
9 Section 12390.1 of this Article shall be subject to
10 penalties as described in Section 12393.7.

11 Article VII - Conservation Reserves.

12 Section 12391. Reserves. The Department, in coopera-
13 tion with the Department of Parks and Recreation and other
14 agencies of the government of Guam, shall control and manage
15 land and water areas that have been set aside by the govern-
16 ment of Guam as Conservation Reserves. Such control and
17 management shall have as its objectives, the wise use of the
18 soil, water, plants, and animals of the reserves. Consistent
19 with this objective, the Director, with the concurrence of
20 the Director of the Department of Parks and Recreation, may
21 establish and enforce rules for economic use.

22 Section 12391.1. Same: The Director shall consult
23 with and advise the Directors of Land Management, and Parks
24 and Recreation with respect to the reservation of government
25 land pursuant to Sections 26007 and 26009 of the Government
26 Code.

27 Article VII - Soil and Water Conservation

28 Section 12392. Conservation program: responsibility.
29 The Department of Agriculture, in coordination with the
30 Bureau of Planning, the Department of Land Management, Guam

1 Environmental Protection Agency, and Public Utility Agency
2 of Guam, shall be responsible for conserving, developing,
3 and utilizing the soil and water resources of Guam, and
4 controlling and preventing soil erosion.

5 Section 12392.1. Same: Authorization. In carrying
6 out its responsibilities under this Article, the department
7 is authorized to:

- 8 (a) develop plans for the conservation, development,
9 and utilization of soil and water resources, the
10 control and prevention of erosion, and to publish
11 and disseminate such plans for the land owners and
12 occupiers of land in Guam;
- 13 (b) conduct surveys, investigations, and research,
14 relating to soil and water conservation, the prevention
15 and control of erosion, and to publish and disseminate
16 information concerning such subjects;
- 17 (c) conduct demonstrations relative to the conserva-
18 tion of soil and water resources;
- 19 (d) prevent and control soil erosion on government
20 land;
- 21 (e) cooperate with other land owners and occupiers in
22 the development of soil and water conservation programs;
23 and
- 24 (f) construct, improve, and maintain any structure
25 necessary for carrying out the purposes of this Article.

26 Section 12392.2 Compliance with federal programs.

27 With the approval of the Governor, the department shall serve
28 as the appropriate agency for compliance with the terms of
29 any federal programs concerning the conservation, develop-
30 ment, and utilization of water, forest, and related land
31 resources as well as rural and wildland fire suppression.

1 Article IX - Wildland Fire Protection.

2 Section 12393. Definitions.

3 'Wild areas' are those areas designated such by the
4 Director and left undisturbed, except for occasional use
5 or influence by man in their natural condition.

6 'Wildland Fires' are the intentional, accidental, or
7 natural burning of the vegetated wild areas.

8 Section 12393.1. Responsible Agency. The department
9 shall take measures for the prevention, control, and
10 extinguishment of wildland fires on government of Guam and
11 private lands. It shall also cooperate with the Department
12 of Public Safety, other government of Guam agencies, and
13 the appropriate federal government agencies in developing
14 plans and programs as well as mutual aid agreements for
15 assistance in the prevention and control of wildland fires.

16 Section 12393.2. Powers and duties. The Director
17 shall be responsible for the development and implementation
18 of organizational plans and consequential actions related
19 to this Article. The Director shall designate qualified
20 personnel as Fire Prevention Officers within the department
21 to:

- 22 (a) zone the territorial lands under the department's
23 jurisdiction into fire districts;
- 24 (b) take necessary measures for the prevention,
25 control, and extinguishment of wildland fires;
- 26 (c) establish procedures, guidelines, and conditions
27 for the issuance of burning permits;
- 28 (d) issue fire warning notices during dry periods
29 or other seasons when fire hazards are great;

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

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

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

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

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

21 Section 12393.5. Fire danger periods. During periods
22 of weather when the Director determines that the risk of
23 fire is high, he shall establish a fire danger period by
24 issuing a fire warning, which contains information setting
25 forth the fact. This fire warning along with a designation
26 of areas within which burning is prohibited shall be
27 provided to the news media for presentation as a public
28 service. Notices of the fact may also be posted in public
29 buildings and on public lands. During such periods, no
30 fires other than those within a closed, screened container
31 shall be allowed.

1 Section 12393.4. Burning Permit Officers. The
2 Director, in cooperation with the Department of Public
3 Safety, shall designate Burning Permit Officers to issue
4 burning permits. The Burning Permit Officers shall be
5 qualified fire prevention personnel from the Department of
6 Agriculture or the ranking officer in charge at each
7 Department of Public Safety Fire Station. The Burning
8 Permit Officer from the Department of Agriculture will be
9 limited to issuing burning permits for wild areas only.

10 Section 12393.5. Burning permits. The Departments of
11 Agriculture and Public Safety shall be responsible for the
12 issuance of burning permits in wild areas. The issuance
13 of permits shall be at the discretion of the issuing officer
14 who shall take into account whether or not the issuance
15 of such a permit is compatible with the safety. Permit
16 holders shall not start fires during a heavy wind or without
17 sufficient help present to control and extinguish the fires.
18 Permit holders shall also maintain a constant watch over
19 the fires until all fires have been extinguished.

20 Section 12393.6. Offenses. Any person who discards
21 burning materials or who wilfully, maliciously, or
22 negligently sets a fire that burns vegetation on land not
23 owned, leased, or controlled by him shall be guilty of
24 incendiarism, which is subject to penalties as described
25 in Section 12393.7. Setting fires, causing them to be set,
26 or allowing them to escape, shall be prima facie evidence
27 of wilfulness, malice, or negligence under this Section;
28 provided, that nothing herein contained shall apply to any
29 person who, in good faith, sets a backfire to check an
30 already burning fire or who with a burning permit sets a
31 fire for forest management or land clearing purposes.

1 Section 12393.7. Penalties. Any person who violates
2 any provision of this Chapter shall be subject to any
3 combination of the following:

4 (a) a misdemeanor, punishable by a fine of not more
5 than One Thousand Dollars (\$1,000.00); or

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

8 (c) a misdemeanor, punishable by service to the
9 Alternative Community Service Program, but only with
1h the consent of that person; or

11 (d) a civil fine of not more than Ten Thousand Dollars
12 (\$10,000.00) and, in addition to any other penalties,
13 a civil fine of not more than Five Hundred Dollars
14 (\$500.00) per day for each day in which the violation
15 persists; or

16 (e) in lieu of a civil fine, a person may be subject
1d to service in the Alternative Community Service Program,
1c but only with the consent of that person.

19 Any person who successfully completes service in the
20 Alternative Community Service Program for a violation of this
21 Chapter may have his official record expunged.

22 Section 12393.8. Remedies: (a) Any person may
23 maintain an action for declaratory and equitable relief to
24 restrain violations of this Chapter. No bond shall be
25 required for an action under this subsection.

26 (b) Any person may maintain an action for the recovery
27 of civil penalties provided in Section 12393.7.

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

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

7 Section 12393.9. Expunge record. Any person who
8 successfully completes service in the Alternative Community
9 Service Program for violations of this Chapter and is a
10 first time offender may apply to the court for an order to
11 expunge from all official records (other than the non-public
12 records to be retained by the court solely for the purpose
13 of use by the courts in determining whether or not, in
14 subsequent proceedings, such person qualifies under this
15 Section) all recordation relating to his arrest, indictment
16 or information, trial, finding of guilty, and sentencing
17 pursuant to Sections 12390.1, 12390.2, 12393.6 and 12393.7.
18 If the court determines after hearing, that such person
19 successfully completed service in the Alternative Community
20 Service Program and was a first time offender, it shall
21 enter such order. The effect of such order shall be to
22 restore such person, in the contemplation of the law, to
23 the status he occupied before such arrest or indictment or
24 information. No person as to whom such order has been
25 entered shall be held thereafter under any provision of any
26 law to be guilty of perjury or otherwise giving a false
27 statement by reason of his failure to recite or acknowledge
28 such arrest, or indictment or information, or trial in
29 response to any inquiry made of him for any purpose.

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Section 12393.10. Wildland Fire Enforcement Officer:
Deputies.

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 § G. C. A. Section 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."

Section 5. This Act shall take effect thirty (30) days upon enactment.