

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

- \$63117. Recovery of Fish & Game.
- \$63118. Unprotected Wild Animals.
- \$63119. Unprotected Wild Birds.
- \$63120. Protection of Wild Birds.
- \$63121. Protection of Wild Animals.
- \$63122. License to Take Certain Wild Animals.
- \$63123. Special License.
- \$63124. Importation: Harboring.
- \$63125. Keeping Guam Deer.
- \$63126. Regulations.
- \$63127. Illegal Use of Nets; Seizure & Forfeiture of Vessels, Firearms, etc., used in Violation of Article; Proceedings; Destruction or Use.
- \$63128. Penalty.
- \$63129. Wildlife Conservation Fund.

\$63101. Definitions.

As used in this Article:

(a) *Angling* means fishing in a manner which lures the fish to swallow a hook in an attempt to pierce the body of the fish internally;

(b) *Firearm* means 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 and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives;

(c) *Fish* means any aquatic animal life, including but not limited to oysters, clams, mollusks, mussels, crustaceans, and other shellfish;

(d) *Fish Weir* means an apparatus for catching fish, consisting of a pocket or trap, with one or more wings or leaders, or both, and remaining in a fixed location. 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 types of fish weirs:

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

(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;

(e) *Game* means all native or introduced species of wild birds or wild animals;

(f) *Snagging* means fishing in a manner with jerking motions with hooks and line in an attempt to pierce the body of the fish externally;

(g) *Take* means hunt, pursue, catch, capture, angle, seize, kill, trap, would, 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;

(h) *Traditional Fishing Methods* means 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* (talaya),
- (2) *drag net/seine* (chinchulon mahala)
- (3) *surround net* (chinchulon umesugon)
- (4) *trap net* (chinchulon managam)
- (5) *butterfly net* (chinchulon ababang),

and

- (6) *lalago*.

(i) *Vehicle* includes 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;

(j) *Vessel* includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water; and

(k) *Waters of Guam* means that area of ashore and waters seaward of the mean high water line (mark).

**SOURCE:** GC §12300; added by P.L. 6-87; repealed/reenacted by P.L. 16-39:1. All

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

**SOURCE** references in this Article will be to P.L. 6-87 unless otherwise noted.

**§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.**

The provisions of this Article shall be enforced by the Director who shall be ex officio the Chief Conservation Officer, and suitable employees of the Department whom he 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 and to make arrests for violations.

**SOURCE:** GC §12302.

**CROSS-REFERENCE:** 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.

**§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.

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

**SOURCE:** GC §12304.

**COURT DECISION:** 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-REFERENCE:** 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.

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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

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)

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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.

**SOURCE:** GC §12308.1 added by P.L. 16-69:5.

**§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 §63126.

**SOURCE:** GC §12309.

**§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.

(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.

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(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 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.

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(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 in operation and every subsequent thirty-day period until its 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



**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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.

**§63116. Taking of Fish.**

Fish may be taken by lawful means at any time except as prohibited by regulation made under §63126; provided, however, that it shall be unlawful for any person to place or maintain a drag net (Chenchulu or tekín) within Agana Boat Basin proper; and further provided that angling and cast net (talaya) 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.

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(b) The use of the cast net (talaya) is prohibited from boat slips in the Agana Boat Basin. Within the channel and mooring area, the talaya 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 talaya 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.

**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.

**§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:

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

- (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 bird eggs, except as authorized in this Article or as authorized by regulations made under §63126.

**SOURCE:** GC §12314.

**§63121. Protection of Wild Animals.**

It shall be unlawful for any person to take, buy, sell, transport or possess any wild animal, or any part thereof, except as authorized in this Article or as authorized by regulations made under §63126.

**SOURCE:** GC §12315.

**§63122. License to Take Certain Wild  
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 animal or bird may apply to the Director for a license to take such wild animal or bird. The Director, upon satisfactory evidence of such damage or destruction, actual or threatened, may issue a revocable license for the taking of such wild animal or bird. It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this Section.

**SOURCE:** GC §12316.

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

**§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.

(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, issued 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.

**§63125. Keeping Guam Deer.**

(a) Notwithstanding any law, rule or regulation, residents of Guam are authorized to raise the Guam deer as pets and strictly for that purpose. Such pets may not be offered for sale, dead or alive.

(b) The Department of Agriculture shall establish and prescribe the necessary rules and regulations to insure that said species are raised strictly as pets and for no other purpose. Until the necessary rules and regulations are

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

promulgated, the Department of Agriculture shall issue temporary tags and registration papers to those persons who are raising the Guam deer as pets.

(c) The Department shall issue a Five Thousand Dollar (\$5,000) fine to those persons found violating this Act.

(d) The Department shall further provide for the issuance of tags, registration papers to those persons who register for the right to raise said species. The tags issued by the Department shall be renewed annually.

(e) This Section shall take effect upon the promulgation of the rules and regulations as prescribed for in subsection (b) of this Section.

**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.

**§63126. Regulations.**

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.

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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

(h) To set a fee for any license issued; however, in no event shall such fee exceed the sum of Five Hundred Dollars (\$500); and

(i) 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.

§63127. **Illegal Use of Nets; Seizure & Forfeiture of Vessels, Firearms, etc., Used in Violation of Article; Proceedings; Destruction or Use.**

Any net, vessel, including engines, motors and all vessel accessories, traps, firearms, electrical devices, and vehicles 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 proceeding in the Superior Court by petitioning the court for a judgment forfeiting the article or articles 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 Commissioner's Office of the village wherein the person from whom the article or articles were seized resides, setting forth the substance of the petition and the time and place fixed for its hearing. Upon proof that the article or articles seized were used in violation of this Article, the court shall order the article or articles 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.

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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

63128. Penalty.

Any person violating any provisions of this Article and supporting regulations shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished 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 such fine and imprisonment. Provided, that a person violating §63104, §63105, §63106, §63107, or §63109 of this Article is guilty of a felony punishable by imprisonment for 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.

SOURCE: GC §12323 amended by P.L.  
13-187:108, P.L. 16-39:10.

§63129. Wildlife Conservation Fund.

(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 in said Fund.

(b) The *Wildlife Conservation Fund* shall be used exclusively for the purpose of the administration of this Article. Said Fund shall be examined and reported upon by the Director of Administration as required by law.

SOURCE: GC §12324 added by P.L. 7-46.

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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.

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§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.

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.



5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

§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.

(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.

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

(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.

(n) *Wildlife* means any resident member of the animal kingdom including without limitation, reared in captivity or not, including any

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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 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;

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

(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:

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

(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.

(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

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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.

(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).

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(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.

(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.



**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(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.

(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

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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.

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5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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 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.

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- §63301. Improving Resources; Responsibility.
- §63302. Unlicensed Tree-Cutting on Public Lands; Prohibited.
- §63303. Penalty.

- - -

**§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

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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 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).

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

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

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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  
Soil & Water Conservation Programs**

**NOTE:** See NOTE to Article 3. The entire Article, as enacted by P.L. 16-62:4, was repealed and reenacted by P.L. 17-51:1. With this clear and major revision of the entire Soil and Water Conservation Program of Guam, the Compiler presumes that both previous articles, the original enacted by P.L. 6-64 and, obviously, that enacted by P.L. 16-62, are repealed in favor of the law as found in P.L. 17-51. All **SOURCE** references in this Article will be to P.L. 17-51:1 unless stated otherwise.

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**§63501. Legislative Findings and Intent.**  
**§63502. Definitions.**  
**§63503. Conservation Districts Established.**

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

- \$63504. General Powers & Duties of Department.
- \$63505. Additional Powers & Duties of Department.
- \$63506. Organization of Districts.
- \$63507. Composition and Responsibilities of Districts, and Appointment, Tenure, and Compensation of Directors.
- \$63508. Powers of Districts and Directors.
- \$63509. Budget.
- \$63510. Disposition of Unused Land.
- \$63511. Initial Reports Required.
- \$63512. Board Compensation.

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**\$63501. Legislative Findings and Intent.**

(a) As there continues to exist within the Territory of Guam a need for a policy which promotes soil and water conservation and which prevents erosion-related and water management-related problems to conserve and improve the use of the Territory's land and water resources, the Legislature finds the need to establish Soil and Water Conservation Districts while continuing the Department of Agriculture's role as the Territory's lead soil conservation agency, and the existing programs of conservation under the Public Utility Agency of Guam and the Environmental Protection Agency.

SOURCE: GC §12392.

**\$63502. Definitions.**

Whenever used in this Article:

(a) *District* or *Soil and Water Conservation District* means a governmental subdivision within the Department of Agriculture of this Territory organized in accordance with this Chapter;

(b) *Director* means a member of the government body of a district.

(c) *Land occupier* or *occupier of land* includes any person, firm, or corporation who holds title to or, in the case of leased land, the

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

person, firm, or corporation who holds possession of any lands lying within a district organized under this Article;

(d) *Farm land owner or occupier* means a person, firm, or corporation who is an owner or operation of land used for the purpose of commercially producing livestock, crops, fruit or nut-bearing trees, vines, bushes, or aquaculture products;

(e) *Cooperator* means a farm land owner or occupier who has entered into an agreement with a district requesting the district to provide aid under this Article.

SOURCE: GC §12392.1.

**§63503. Conservation Districts Established.**

A Northern Soil and Water Conservation District and a Southern Soil and Water Conservation District shall be created under the Department of Agriculture and shall work in conjunction with the Bureau of Planning, College of Agriculture and Life Sciences (UOG), Department of Land Management, Guam Environmental Protection Agency and the Public Utility Agency of Guam to conserve, develop and the use the soil and water resources of Guam in order to control and prevent soil erosion, flooding and to improve agriculture water management. Any project which is proposed by a District which involves the responsibilities of another government of Guam agency shall require that agency's review and approval before implementation. Project of one district may be jointly sponsored by both districts where feasible. The activities and operations shall be by the District Board and Department of Agriculture to assure compatibility with related programs. These activities shall comply with provisions of the Government Code including comprehensive plans, water management plans, and other pertinent planning documents.

SOURCE: GC §12392.2.



**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

**§63504. General Powers & Duties of  
Department.**

(a) The Department of Agriculture shall keep a record of its official actions, and may perform such acts and promulgate such rules and regulations as may be necessary for the execution of its functions under this Article;

(b) The Department of Agriculture may delegate to any member, agent, or employee such powers and duties as it may deem proper;

(c) Upon request of the Department of Agriculture, other agencies of the territorial government shall, insofar as available appropriations and resources permit, assign staff members of personnel to the Department, and make such reports, surveys, and studies as the Department may request; and

(d) The Department of Agriculture shall conduct the election of all District Directors and in conjunction therewith: (1) promulgate the necessary rules and regulations by which farm land owners and operators shall nominate and elect from among their number District Directors, and (2) the Director of the Department of Agriculture shall certify the election results and provide a copy to the Governor and the Legislature.

SOURCE: GC §12392.3.

**§63505. Additional Powers & Duties of  
Department.**

(a) The Department of Agriculture shall:

(1) provide appropriate assistance to the directors of districts in carrying out their powers and programs;

(2) keep districts informed of the activities of the other district and facilitate cooperation between them;

(3) coordinate district programs insofar as that may be done by advice and consultation;

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(4) obtain the assistance of the United States government and of local agencies in the work of the districts; and

(5) disseminate information throughout the Territory concerning district activities and programs; and

(b) The Department of Agriculture shall, in coordination with the Bureau of Planning, Guam Environmental Protection Agency, Department of Land Management, Public Utility Agency of Guam and the Soil and Water Conservation Districts, prepare and implement territorial soil and resource conservation and utilization plans which will conserve and improve the Territory's resources; and it shall review and provide determinations on plans submitted to it by districts and other entities eligible to receive federal assistance. In the execution of this responsibility, the Department is authorized to apply for and accept grants, loans, contributions, appropriations, and assistance from the federal government and from any other sources, public and private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the federal government such provisions as it may deem reasonable and appropriate and which are not inconsistent with the purposes of this Article and the laws of the Territory.

SOURCE: GC §12392.4

**§63506. Organization of Districts.**

To complete the organization of a district, the Department of Agriculture, in accordance with the Administrative Adjudication Act, shall present to the Governor a statement setting out the name of the district and its boundaries and certifying that the procedures prescribed in this article for the organization of a district have been fully complied with. The statement shall request the Governor to issue a certificate of organization to the district. The Governor shall record the statement in his office and shall issue

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

to the Directors of the district a certificate, under the seal of the Territory, of the due organization of the district.

SOURCE: GC §12392.5

§63507. Composition and Responsibilities of  
Districts, and Appointments,  
Tenure,  
and Compensation of Directors.

(a) The Soil and Water Conservation  
Districts shall each:

(1) Be composed of five (5) Directors, each of whom is largely engaged in commercial farming and is land occupier of the district;

(2) Have an advisor assigned to it by the Department of Agriculture and by the College of Agriculture and Life Sciences, and shall request as required technical advisors from other agencies of the territorial government;

(3) Have a Chairperson and a Vice Chairperson, who shall be designated by the directors;

(4) Have a quorum in order to conduct business. Three directors shall constitute a quorum; and the concurrence of a majority upon any official matter shall be necessary; [and]

(5) Have monthly meetings; and semi-annually both districts shall have a joint meeting.

(b) The selection of Directors for each district and their tenure shall be as follows:

(1) Farm land owners or occupiers of the district shall nominate and elect five non-partisan directors from among their number. The first election shall be held within two months after enactment of this act; and commencing in 1985, elections shall thereafter be held on the second Tuesday in August. At the first election, one director shall be elected for one year, two directors shall be elected for two years, and two directors shall be elected for three years. Thereafter,

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

commencing 1985, each director shall be elected for a term of three years. No elected director shall serve more than three (3) consecutive terms.

(2) Vacancies shall be filled for an unexpired term. The selection of successors to fill an unexpired term of elected directors shall be made by the Governor with the consent of the Legislature.

(c) **[Repealed]**

(d) Each Soil and Water Conservation District shall prepare a long-range plan and an annual workplan with assistance from advisory members and agencies. Each District shall keep a record of proceedings, resolution, regulations, and orders issued or adopted and accounts of receipts and disbursement; and disbursements; and shall furnish to the Department of Agriculture copies of such documents, instruments or information concerning their activities as the department request. District activities shall be limited to the following types of land within the district:

(1) all public land leased for agricultural activities, including leased federal land. Any and all projects which are proposed for leased federal land shall require the review and approval of the federal agency which as jurisdiction over the land;

(2) public and private land which is designated for agricultural use of conservation; and

(3) land which is used for the purpose of commercially producing an agricultural commodity which is located in an area designated as urban or rural.

**SOURCE:** GC §12392.6. Subsection (c) repealed by the effect of §63512, enacted by P.L. 18-29:8.

**§63508. Powers of Districts and Directors.**  
A district organized under this Article, and the directors thereof, shall have, in addition to

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

other powers granted in other sections of this Article, the following powers:

(a) To provide for and encourage surveys, investigations, and research relating to soil and water conservation and to publish and disseminate information concerning such subjects;

(b) To provide for and encourage demonstrations relative to the control and prevention of erosion and the conservation of soil and water resources and carry out preventive control measures on publicly owned land within the district with the consent of the occupier of the land;

(c) To cooperate, or enter into agreements with, and to furnish aid to any agency or occupier of land within the district insofar as it is feasible to do so, for specific soil and water conservation activities not in conflict with or duplicating other activities of the Department of Agriculture or cooperating agencies. Such agreements shall be subject to such conditions as the district board may deem necessary;

(d) To review conservation plans prepared by farm land owners and occupiers, which are a precondition for a contract between the farm land owners and occupiers and the U.S. Secretary of Agriculture; to provide to the U.S. Secretary of Agriculture or his designee a recommendation concerning the acceptability of farm land owners' and occupiers' plans, such recommendation to be based upon the district's conservation plan; and to provide, when requested by the Secretary or his designee, recommendations on the contract;

(e) To acquire property such as equipment or machinery to introduce soil conservation practices to the agricultural community and to dispose of such property when appropriate;

(f) To acquire property such as equipment or machinery to introduce soil conservation practices to the agricultural community and to dispose of such property when appropriate;

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(g) To construct, improve, and maintain structures such as sediment ponds or earthen dams, following the requirements of the Guam Codes and proper engineering standards and specifications, when these structures are found necessary for carrying out the purposes of soil and water conservation;

(h) To develop conservation plans for cooperators of the district at their request;

(i) To have a seal which can be affixed to certificates issued to cooperators of the district and to any contract or other instruments;

(j) As a condition to the extending of benefits, or the performance of work upon land, the District may require contributions of services, materials or otherwise, to any operation conferring such benefits, and may impose any other reasonable condition, such as contributions of labor for the planting of trees and payment for specific erosion control materials secured by the district for the benefit of its cooperators. All such contributions would necessarily be determined by the District as a whole and would not be in violation of the laws of Guam or common practice.

SOURCE: GC §12392.7.

**§63509. Budget.**

The Department of Agriculture shall include in its annual budget request to the Bureau of Budget and Management Research a budgetary plan which shall include estimates of the financial requirements of the soil and water conservation districts.

SOURCE: GC §12392.8.

**§63510. Disposition of Unused Land.**

Any land acquired by the Department of Land Management under §63508(f) of this Article and not used for the purpose enumerated in

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

§63508(f) within five years of the acquisition, shall be returned to the original owners for the price paid by the Government when such property was originally acquired.

SOURCE: GC §12392.9.

**§63511. Initial Reports Required.**

Within six months from the date of passage of this Act, the Water and Soil Conservation Districts shall submit a progress report to the Legislature.

SOURCE: Section 2 of P.L. 17-51.

**§63512. Board Compensation.**

Members of the Soil and Water Conservation District shall be compensated in the amount of \$50.00 for attending a meeting, such compensation not to exceed \$100 per month.

SOURCE: GC §12392.10 added by P.L. 18-29:8.

Article 6  
Live Coral & Fish Nets

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- §63601. Taking of Live Coral Unlawful.
- §63602. Harvesting of Coral.
- §63603. Commercial Permits.
- §63604. Penalties.
- §63605. Enforcement.
- §63606. Fishing Nets; Net Size.
- §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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**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

**§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 outwards 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.



5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

(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 5 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

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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 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.

**§63607. Violation of Article.**

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

**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."

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

§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 specify (i) the name of the permittee, (ii) the device or compound for which the permit was issued, (iii) the area in which the device or compound is to be used, and (iv) 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:

(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.

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

(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.

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.

- - -
- §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.
- - -

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

**§63701. Definitions.**

*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.

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

SOURCE: GC §12393.

**§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 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

**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

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 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

**5 GCA Ch. 63. - Fish, Game, Forestry  
& Conservation**

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.**

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

**§63708. Penalties.**

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

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

(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.

**§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.



**5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation**

(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

5 GCA Ch. 63 - Fish, Game, Forestry  
& Conservation

arrest or indictment or information, or trial in response to any inquiry made of him for any purpose.

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.

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